MARKET NEWS, DATA AND INSIGHT ALL DAY, EVERY DAY

THURSDAY 12 JULY 2012

ISSUE 3,644

insuranceday

www.insuranceday.com

Munich Re considers lending direct to industrial clients

Guido Krzikowski/Bloomberg

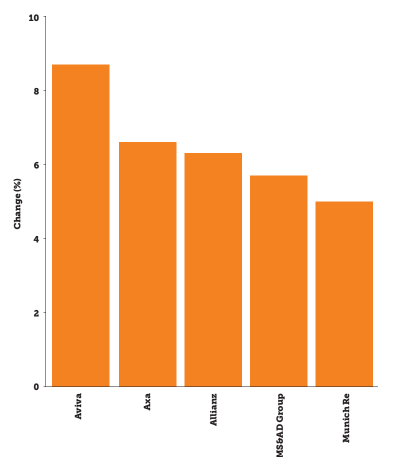
p3

Law & Order

UAE composites get three more years to split p11

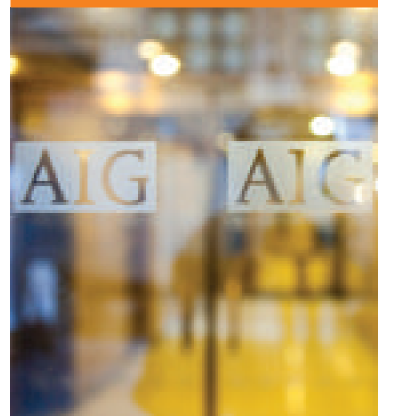
Financial World

Graph: This week's winners...



Stocks boosted by EU stimulation efforts p8-9

Loss Intelligence



AIG sues US government over federal taxes p6-7

NEWS

insuranceday
www.insuranceday.com

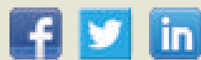
Market news, data and insight all day, everyday
Insurance Day is the world's only daily newspaper for the international insurance and reinsurance and risk industries. Its primary focus is on the London market and what affects it, concentrating on the key areas of catastrophe, property and marine, aviation and transportation. It is available in print, PDF, mobile and online versions and is read by more than 10,000 people in more than 70 countries worldwide.

First published in 1995, *Insurance Day* has become the favourite publication for the London market, which relies on its mix of news, analysis and data to keep in touch with this fast-moving and vitally important sector. Its experienced and highly skilled insurance writers are well known and respected in the market and their insight is both compelling and valuable.

Insurance Day also produces a number of must-attend annual events to complement its daily output. The London and Bermuda summits are exclusive networking conferences for senior executives; meanwhile, the London Market Awards recognise and celebrate the very best in the industry. The new Insurance Technology Congress provides a unique focus on how IT is helping to transform the London market.

For more detail on Insurance Day and how to subscribe or attend its events, go to info.insuranceday.com

Insurance Day, 119 Farringdon Road, London EC1R 3DA



Editor: Richard Banks
+44 (0)20 7017 4155
richard.banks@informa.com

Deputy editor: Scott Vincent
+44 (0)20 7017 4131
scott.vincent@informa.com

Senior reporter: Christopher Munro
+44 (0)20 7017 5796
christopher.munro@informa.com

Global markets editor: Graham Village
+44 (0)20 7017 4020
graham.village@informa.com

Global markets editor: Rasaad Jamie
+44 (0)20 7017 4103
rasaad.jamie@informa.com

Managing editor: Greg Dobie
+44 (0)20 7017 4145
greg.dobie@informa.com

Commercial director: Andréa Pratt +44 (0)20 7017 4708
Sales director: Andrew Stone +44 (0)20 7017 4027
Sponsorship manager: Josef Lanjri +44 (0)20 7017 6642
Senior account manager: Sirach Yeboah +44 (0)20 7017 7670
Marketing manager: Randeep Panesar +44 (0)20 7017 3809
Key accounts manager: Verity Blair +44 (0)20 7017 4998
Subscriptions: Lisa Gambino +44 (0)20 3377 3873
Head of production: Maria Stewart +44 (0)20 7017 5819
Advertising production assistant: Emma Wix +44 (0)20 7017 5196
Production editor: Toby Huntington +44 (0)20 7017 5705
Subeditor: Jessica Hills +44 (0)20 7017 5161
Subeditor: Ali Masud +44 (0)20 7017 5161
Production executive: Claire Banks +44 (0)20 7017 5821
Events manager: Natalia Kay +44 (0)20 7017 5173

Editorial fax: +44 (0)20 7017 4554
Display/classified advertising fax: +44 (0)20 7017 4554
Subscriptions fax: +44 (0)20 7017 4097

All staff email: firstname.lastname@informa.com

Insurance Day is an editorially independent newspaper and opinions expressed are not necessarily those of Informa UK Ltd. Informa UK Ltd does not guarantee the accuracy of the information contained in *Insurance Day*, nor does it accept responsibility for errors or omissions or their consequences.

ISSN 1461-5541. Registered as a newspaper at the Post Office. Published in London by Informa UK Ltd, Mortimer House, 37/41 Mortimer Street, London, W1T 3JH

Printed by Newsfax International, Unit 16, Bow Industrial Park, Carpenters Road, London E15 2DZ

© Informa UK Ltd 2012.

No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means electronic, mechanical, photographic, recorded or otherwise without the written permission of the publisher of *Insurance Day*.

Beazley revamps war risk and piracy offering

Combined product available at discount to separate covers

Christopher Munro
Senior reporter

Beazley, long held as one of the leading markets for marine and piracy cover, has developed a combined package that will provide shipowners with up to $75m-worth of cover should they suffer the misfortune of having their vessels hijacked.

The combined war risks and piracy cover policy is available from Beazley syndicates 623 and 2623 and will be offered at a discount compared with the two products being purchased separately.

Beazley holds a position of strength in the marine war risks market, having covered more than 10,000 vessels travelling through the Joint War Committee's (JWC) defined listed areas last year alone. The company's head of marine and energy, Clive Washbourn, is also the chairman of the JWC.

Michael Sharp, a kidnap and ransom (K&R) underwriter with Beazley, said: "Marine war risks and piracy risks frequently co-exist in the same waters. Our clients and the brokers we work with have consistently told us they wanted to be able to buy cover for both perils simply and conveniently under the same policy."

While the product will protect shipowners against normal war and piracy perils, it will also provide highly experienced negotiators should a vessel be captured and its crew or passengers be kidnapped.

Piracy continues to dog the global shipping industry at a time when owners are already struggling with the fallout from the depressed economic conditions. The waters off Somalia remain the hotspot, having emerged as an area of increased piratical activity back in 2007 and 2008.

While the number of successful attacks has decreased in recent years, the amount being paid out in ransoms has more or less remained constant, as pirates demand ever more for the safe return of vessels and their crew.

Figures from the International Maritime Bureau's Piracy Reporting Centre, which were last updated on June 25, indicate a total of 168 attacks have occurred across the world so far this year, with 19 having ended in hijack. Somalia accounted for 67 of these attacks, 13 of which ended up with the vessel being hijacked along with some 195 hostages.

At present, 13 vessels are being held by the pirates, with 185 hostages.

Piracy in 2012 – facts and figures

168
Vessels attacked this year, with 19 of these attacks resulting in a hijacking

67
Of the vessels attacked this year were near Somalia, with 13 hijacked

185
Hostages taken so far this year by pirates are still being held

195
Hostages have been taken so far this year by Somali pirates

Source: International Maritime Bureau Piracy Reporting Centre

Arthur J Gallagher's OIM unit buys Contego Underwriting

Arthur J Gallagher's (AJG) London-based managing general agent (MGA) OIM Underwriting has completed a deal to acquire Contego Underwriting, *writes Christopher Munro*.

Contego, itself an MGA specialising in the construction and engineering industries, has clients in more than 50 countries around the world, although it has a particular focus on Australia, south-east Asia and South America.

The company offers both insurance and reinsurance to its clients.

Chris Parmenter, managing director of Contego, will continue to lead the operation under its existing brand from its home on Fenchurch Avenue in London, although the business will now be under the direction of Sian Fisher, OIM's managing director.

The addition of Contego to the OIM brand is the first step the company has taken in branching out into the international area of the London market.

Contego was launched in August 2006 under the auspices of Parmenter, with the company originally backed by Brit Insurance. This agreement, which was initially set out for three years, was renegotiated and renewed in August 2008.

OIM offers a variety of coverages, including liability, property, commercial combined, personal accident and travel, personal lines and professional indemnity. The company was bought by AJG in September 2008 from London-based Oxygen Holdings, with Fisher saying at the time the buyout would facilitate further expansion of the business.

NEWS

Munich Re considers lending directly to industrial clients to hedge against sluggish investment returns

Herbert Fromme, Cologne
German correspondent

Munich Re is considering offering loans directly to industrial companies, without using banks, as it searches for appropriate yet robust non-insurance returns on its capital.

So far, no final decision has been taken on this plan.

Munich Re manages €212bn ($260.22bn) and has a dilemma: it invests very conservatively in accordance with its principles, but also because regulators and rating agencies expect it to invest carefully. Munich Re has enough large insurance risks on its books; it can do without especially large risks on the investment side.

At the same time, the group (to which Ergo with its life insurance business belongs) has to earn enough profit to be able to service customers' guaranteed interest rates. This is not problematic in the short term; however, low interest rates are a major problem in the medium term. "At present, we get just less than 3% for new investments," Munich Re's chief financial officer, Jörg Schneider, said.

For many years, subordinated loans to banks were the staple diet of German insurers' investment departments. However, the financial crisis has rendered such investments unfashionable. "We have significantly reduced our exposure to banks," Schneider said. He also remains sceptical about shares.

Against this background, it makes sense to grant loans directly to industrial companies. Munich Re could charge higher interest rates than can be achieved on government bonds. However, Schneider is still hesitating. "There is the difficulty of monitoring creditworthiness, which we would have to do for all the companies to which we lend money," Schneider said.

And he stressed Munich Re does not not aim to replace banks. The reinsurer needs good banks because it uses many derivatives to secure long-term capital market risks.

Schneider is satisfied with the state of the company after years of suffering from the financial crises. "We have had breathtaking upheavals," he said. However, that had very surprisingly little effect on Munich Re's equity base.

"We have always done that we could do best," he said. Certain advisers had tried to persuade Munich Re to try the same business model as AIG – hedging bank derivatives. "We didn't do that because we didn't understand how you could earn so much money with so little risk," he said.

"But we have to be careful we don't become complacent", he added.

Munich Re is seeking to extend its scope of business.

"We have to be careful we don't become complacent"

**Jörg Schneider
Munich Re**

High inflation and low interest rates pose greatest threat to reinsurers – Schneider

High inflation combined with continuing low interest rates poses the greatest threat to reinsurers in the ongoing economic turmoil, according to Jörg Schneider, chief financial officer of Munich Re.

The combination would put intense pressure on loss reserves, requiring reinsurers to spend more on claims without being able to rely on robust investment returns.

Still, Schneider is optimistic about the future of the euro, although he acknowledged one or two countries might have to stop using the currency.

He disagrees with the order in which political decisions are taken in Europe. "First of all, the political restructuring must take place, then the liability can be spread," he said. Munich Re will have to cope with more losses as a result of the crisis, he said. "However, we have spread our risks so we make our profit in other areas."

"First of all, the political restructuring must take place, then the liability can be spread... However, we have spread our risks so we make our profit in other areas"

**Jörg Schneider
Munich Re**

Schneider is proposing a different phasing-in period for Solvency II than the one being discussed by the European Commission. "It would be advisable not to jump completely into cold water," he said.

While the commission is talking about a step-by-step introduction with a seven-year period of grace for existing policies, Schneider prefers a completely parallel system of three to five years' duration. Within this period, Solvency II would have to be implemented completely, including reporting obligations. But the regulators would use Solvency I for determining the financial health of a company and deciding about consequences. In any case, Solvency II needs further adjustments, Schneider said.

Eiopa publishes final disclosure report

Eiopa has published its final report on the reporting and disclosure requirements for insurers,, *writes Peter Birks*.

In response to the industry's comments, it has doubled the threshold for financial stability information to €12bn ($15bn) in assets at Solvency II balance sheet. However, since this would mean for some countries very few insurers would qualify, this threshold will be complemented by a criterion for obtaining at least 50% coverage of the sector at the national level. Adjustments have also been made to the levels of quarterly reporting required.

Eiopa said it feels its final document represents "a balanced approach towards costs and benefits". It added it "strongly believes the industry should use the proposal as a basis to start the implementation phase".

Eiopa accepted ongoing discussions relating to the Omnibus II Directive, which still has to get through the European parliament, and future implementing measures are likely to lead to changes in the reporting requirements. Nevertheless, it is asking insurers to use the existing package as it stands to begin the implementation phase. The European Commission is coming up against an ever-more compressed timetable for the introduction of Solvency II, with the beginning of the transition phase postponed from January 1 2013 until June 2013 (*Insuranceday.com*, Apr 27), but the date for introduction of full implementation maintained at January 1, 2014.

Eiopa's request insurers proceed with its final report "as if" it were the final wording is an attempt to get the process going while the European parliament sorts out the final wording of Omnibus II.

Gabriel Bernardino, Eiopa's chairman, said: "The publication of this report is crucial because insurance undertakings and supervisors need to start as early as possible with the implementation of reporting and disclosure requirements. The proposed reporting templates are the result of a long effort by Eiopa and have benefited from contributions from the different stakeholders. This set of harmonised reporting templates represents a major step towards the consistency of supervisory practices in the EU."

Eiopa expects the full package on reporting and disclosure, with all changes incorporated, to be available "later in 2012".

NEWS

Catco raises Japan loss reserves to 100%

Peter Birks
IIN24 editor

Bermuda-based collateralised insurance vehicle Catco is to include a 100% loss reserve on exposures relating to the 2010/2011 disasters in New Zealand and Japan, following meetings between Catco Investment Management and the company's two retrocessional counterparties, and the rejection by those parties of a commutation offer. Catco had previously had a 30% loss reserve for the Japan event.

Catco said "both reinsurance counterparties have implemented a 100% loss reserve on their respective balance sheets associated with Catco Re's protections. As a consequence, the master fund's board of directors has resolved to include the same loss reserve provision in the net asset value calculation as at June 30, 2012, which will, in turn, be reflected in the company's net asset value".

Catco said this is still only a reserve, rather than a crystallised loss. Catco has paid in full one counterparty representing 31.4% of the Japan exposure, but has not yet been requested to pay on any of the New Zealand exposure nor on the remaining 68.6% of Japan exposure.

Catco said the investment manager had sought to commute the New Zealand and Japan exposures once the loss reserves at the counterparties were better known, but said the counterparties had rejected this offer, "owing to the expected size of their respective reinsurance loss reserves".

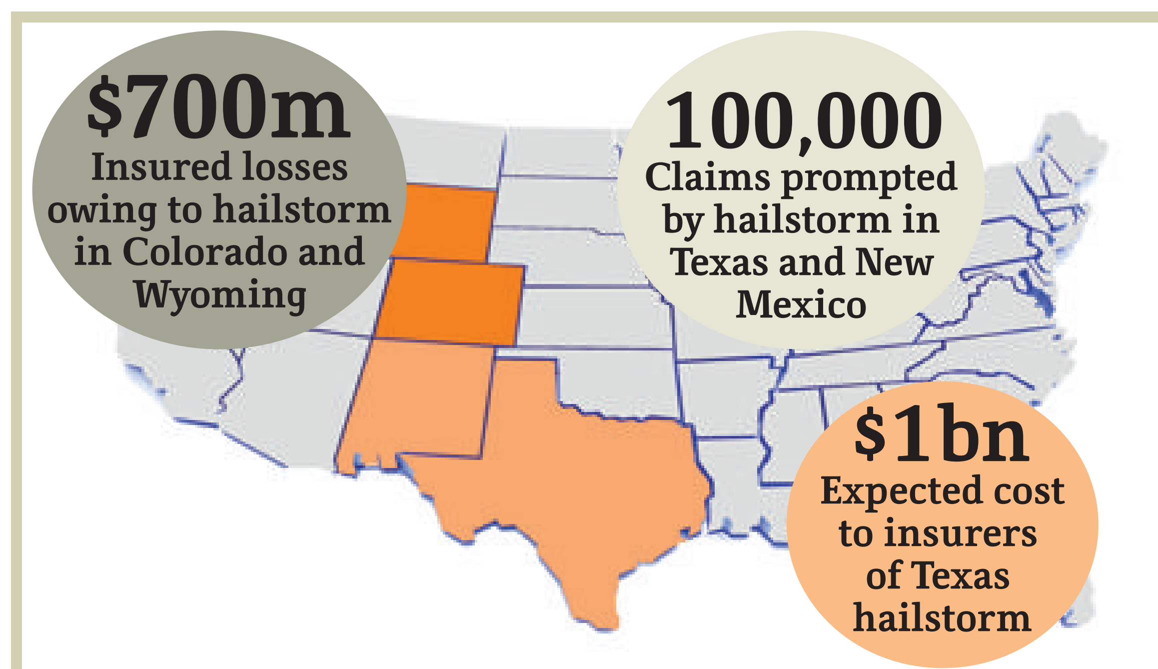
Previously, Catco had assigned a loss reserve of 30% of the Japan exposure. However, an increase in losses as a result of the March 2011 quake changed the situation. Had the 100% Japan loss reserve been in place on December 31 2011, this would have equated to an 89.5¢ hit on net asset value per ordinary share.

A man searches for his belongings in the town of Kesennuma, Miyagi prefecture, Japan, following the earthquake last year

AP Photo/Lee Jin-man

The "C" shares (those issued after the Japan and New Zealand events) have no exposure to those events. Catco said it is still assessing the best way to merge the two groups of shares.

Chubb faces second-costliest Q2 for catastrophes in five years



$2bn
Cost to US insurers of storms and wildfires in June, according to Aon

$200m to $240m
Chubb's Q2 losses, equivalent to...

48¢ to 57¢
Per share

Chubb is facing the second-largest second-quarter catastrophe burden of the past five years after the severe hailstorms and windstorms that swept through the US earlier this year, *writes Richard Banks*.

Earlier this week, Aon published a report suggesting storms and wildfires in June alone would cost US insurers a total of $2bn.

Chubb confirmed today it expects cat losses for the second quarter to total between $200m and $240m, equivalent to between 48¢ and 57¢ a share.

Last year – the costliest catastrophe year on record for the global insurance sector – Chubb's second-quarter cat bill was 72¢ per share. For 2010, 2009 and 2008 it was 38¢, 8¢ and 28¢ respectively.

According to the Aon report, the costliest event during June was a hailstorm in Texas and New Mexico that prompted more than 100,000 claims and will leave insurers will a bill of more than $1bn. A separate hailstorm in Colorado and Wyoming caused more than $700m in insured losses.

Capital boost for Labuan Re relieves rating pressure – AM Best

A $55m capital boost was enough to ease the short-term pressure on Malaysia's Labuan Re caused by losses from last year's Thai flooding and its participation in the run-off of Lloyd's syndicate 1965, according to AM Best, *writes Richard Banks*.

The rating agency has removed its A- (excellent) financial strength rating on Labuan Re from under review with negative implications, affirmed it and assigned a stable outlook.

It described the $55m capital raising – via the issuance of a subordinated bond – as sufficient to offset the losses from the Thailand flooding and from Labuan Re's indirect participation in the run-off of Lloyd's syndicate 1965, both of which had contributed to a net loss for 2011.

As well as the capital boost, Labuan Re has tightened its underwriting guidelines for overseas business and introduced a quota-share agreement designed further to relieve the pressure of the premium risk on its capitalisation.

$55m
Capital boost for Labuan Re, leading to...

A-
Rating affirmed with stable outlook

Labuan Re is a shareholder in ACAL Underwriting, the sole capital provider to Lloyd's syndicate 1965, which closed its doors to new business last November under the burden of the swathe of catastrophe losses, including the Japan and New Zealand quakes and Thai flooding.

The Malaysia reinsurer has also provided underwriting capital to other Lloyd's syndicates including three Chaucer syndicates – 1084, where it had a £32m ($49.8m) limited tenancy agreement; nuclear syndicate 1176; and ICM's catastrophe syndicate 4242 – as well as Argenta's syndicate 2121.

In 2010, Lloyd's accounted for close to 40% of Labuan Re's gross premium written.

Table: Satellites in orbit around Earth as of 2011

Name	Height of orbit (km)	Approximate number of satellites	Approximate number of satellites insured	Average insured value of satellite ($m)
Low Earth orbit	2,000	400	30	40
Geostationary orbit	35,786	370	200	200

Source: Allianz Global Corporate & Specialty

Fresh guidelines and technology limiting potential for space disaster

Christopher Munro
Senior reporter

New guidelines and emerging technologies are limiting the potential for insurers to suffer losses owing to collisions in space, although the sheer amount of debris now orbiting the Earth means the risk of disaster remains.

There are close to 370 active satellites operating in geostationary orbit (GEO) and some 400 in low Earth orbit (LEO), while at the same time close to 16,000 objects larger than 10 cm have been catalogued orbiting the planet. This is making it ever harder for operators and insurers alike to assess the true threat of collision.

While the larger objects can cause the total loss of a satellite, even smaller pieces of debris – categorised as being less than 1 cm in size – can cause irreversible damage. These estimated 35 million pieces of small debris can travel up to 10 km per second, making them just as dangerous as their larger counterparts, if not more so because they are very difficult, and in some instances impossible, to track.

"The space debris situation has become irreversible, according to the Kessler Syndrome, which claims the amount of debris is so high atmospheric drag is not enough to burn up all the floating objects. In fact, debris amounts are increasing as objects continuously collide, producing more and more fragments," the latest Space Risks report from Allianz Global Corporate & Specialty (AGCS) said.

Insurers are facing the prospect of considerable losses as the amount of debris rises, but with industry guidelines now calling for operators to undertake the systematic de-orbiting of satellites once they have gone offline, the rapid rise in the amount of debris in orbit is likely to slow. The de-orbiting manoeuvres involve raising the satellite to a new graveyard orbit some 300 km above GEO, which is itself some 35,786 km above the Earth's equator. LEO tends to be below the 2,000 km mark.

Other technologies designed to remove debris, perhaps through the use of lasers or using docking satellites to latch on to objects and force them into destructive orbits, are also being considered, as are space tethers. Furthermore, debris-removal methods involving electromagnetism, momentum exchange, capture or modification are all being analysed as well.

Not all satellites are insured; in fact, the vast majority are not. Of the 400 LEO satellites in orbit, AGCS said fewer than 30 were insured in 2011. A significantly higher proportion of GEO satellites are protected by underwriters, however, with close to half the 370 or so of these covered. The average operational life span for an LEO satellite is five years; for a GEO satellite it is 15 years.

While insurers are not covering the majority of these satellites, they are exposed to potentially significant losses, with the average LEO and GEO satellite insured for $40m and $200m respectively. Combined, these insured assets are valued at more than $20bn, AGCS said.

Sector insurers facing three major issues

Rising launch values, a decreasing premium pool owing to increased competition and growing risk exposures have been cited as the three main issues affecting the space insurance industry, *writes Christopher Munro*.

Total premium for space risks that launched last year amounted to close to $800m, but with losses incurred of close to $600m, the level of profitability often associated with the market was not achieved.

The space insurance market is one of the more obvious low-volume, high-volatility markets within the insurance industry. Satellites in low Earth orbits are usually insured for close to $40m, while those in a geostationary orbit are covered for close to $200m, Allianz Global Corporate & Specialty said in its Space Risks report.

Far and away the largest loss last year was the failed launch of the Express AM-4 satellite, which was successfully taken into space but failed to achieve its intended transfer orbit. Following an investigation, it was found the fault lay with the Breeze M upper stage programmer on board the Proton rocket. This brought an estimated $304m loss to the market.

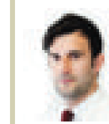
Other notable losses include the deployment anomaly on board Intelsat's New Dawn satellite and the solar array deployment anomaly on the Telstar 14R, also known as the Estrela Do Sul 2.

Table: Satellite insurance claims, 2011

Date	Satellite	Estimated loss ($m)
Mar 4	Glory	11
May 3	Intelsat New Dawn	146
May 21	Telstar 14R (Estrela Do Sul 2)	123
Aug 17	Express AM-4	304
Nov 8	Phobos-Grunt	40
Total		**604**

Source: Ascend

Final AF447 report will reinforce Air France's conviction to subrogate



Christopher Munro
Senior reporter

The final report into 2009's Air France Flight 447 disaster will only reinforce the airline's desire to subrogate claims against the manufacturer of the aircraft's Pitot tubes, with investigators citing the failure of the electronic components as one of the main causes of the accident.

Last Thursday, France's domestic aviation investigator, the Bureau d'Enquêtes et d'Analyses pour la Sécurité de l'Aviation Civile (BEA), published its final report into the accident, which claimed the lives of all 228 people on board. The lead insurer on the slip was Axa Corporate Solutions, with the accident likely to cost underwriters more than $650m.

As reported in Monday's *Insurance Day*, having studied the aircraft's black boxes, the BEA found inconsistent measuring of airspeed, which is likely to have been caused by a build-up of ice crystals in the Thales-manufactured Pitot tubes, was one of six major factors behind the accident.

Sean Gates, senior partner at specialist aviation law firm Gates and Partners, said: "An accident report isn't designed to be used in court as proof of what happened, [but] what you can do is see the conclusion and see if it gives rise to a legitimate inquiry. And it would seem from the report a legitimate inquiry could be made."

Several market sources said such moves are already under way, although whether the claim against Thales, whose liability insurance programme is led by Allianz Global Corporate & Specialty, is successful remains to be seen.

Indeed, one source said Air France itself would take close to 60% of the ultimate liability owing to the role the crew played in the accident, with Airbus, the aircraft's manufacturer, holding a 30% share. Airbus is insured by French aviation mutual La Réunion Aérienne. Thales would then be left with just 10% of the ultimate liability.

Mark Meyer, partner at Edwards Wildman UK, said: "Everyone accepts the failure of the Pitot tubes was a 'but for' cause of the accident – that's clear from the report – but whether or not that's the legal cause is a separate issue. The two don't follow – they are separate inquiries."

The "but for" element may have been what started the process of the accident, but it has not been cited as the legal cause.

The case against Thales is further muddied by the knowledge the Pitot tubes were prone to icing up. Consequently, questions have been raised as to whether Air France should have been using them in the first place.

The report itself says: "The blockage of the Pitot probes by ice crystals in cruise was a phenomenon that was known but misunderstood by the aviation community at the time of the accident."

As highlighted in *Insurance Day* shortly after the accident, Air France pilots had previously reported Pitot tube failures owing to a build-up of ice and the airline was replacing all the airspeed sensors with updated models when the AF447 disaster occurred.

At the time, Air France said it had launched its replacement programme for all of the anemometric sensors on its affected aircraft on May 29, only two days before Flight 447 left Rio de Janeiro for Paris. In the aftermath of the accident, the airline stepped up the replacement programme. ■

"An accident report isn't designed to be used in court as proof of what happened, [but] what you can do is see the conclusion and see if it gives rise to a legitimate inquiry. And it would seem from the report a legitimate inquiry could be made"

Sean Gates
Gates and Partners

WORLD LOSS INTELLIGENCE/LIABILITY

Lawsuit: AIG sues US government over federal taxes

WASHINGTON: Bailed-out insurer AIG has filed a lawsuit in the US Court of Federal Claims in Washington to recover a $30.2m alleged overpayment of federal taxes dating back to 1991. The company said the $30.2m sum represents the net difference between its overpayment of taxes that year and its underpayment of taxes in 1997, 1998 and 1999.

AIG said it filed the lawsuit because the six-year statute of limitations on resolving tax claims was about to expire. The tax discrepancies were discovered in the summer of 2006.

JB Reed/Bloomberg

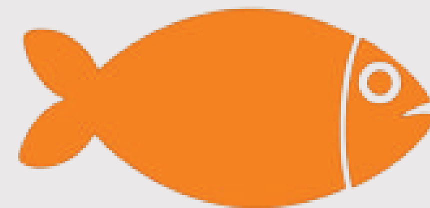
Environmental clean-up: Cerma

CANADA: Oslo-based fish-farming group Cerr
results to cover the cost of clean-up of the Dixor

The company detected IHNv – infectious ha
570,000 fish with an average weight of 1 kg.

The site is owned by Mainstream Canada, v
either from the federal government or its insur

"It has, however, not yet been possible to obt
mass insurance," the company stated.



Settlement: Aflac pays $700,000 to State School Fund

MISSOURI: State regulators have reached a settlement with American Family Life Assurance Company of Columbus – best known as Aflac – following a review of the insurer's activities.

The settlement follows an investigation by Missouri, alongside Minnesota and Idaho regulators, into a number of Aflac business practices.

In addition to Missouri's fine, Aflac will pay $700,000 in fines to Minnesota and $200,000 to Idaho.

The insurer was investigated for sales of duplicate coverage and the suitability of products, as well as overselling. Numerous other Aflac business practices were also examined.

Aflac must pay...

$700,000

Each to Missouri and Minnesota, and...

$200,000

To Idaho

Lawsuit: Oklahoma law firm settles wit

OKLAHOMA: A law firm has paid $600,000 to settle a lawsuit filed by the Federal Deposit Insurance Corporation (FDIC).

Oklahoma-based Andrew Davis Law paid the sum to settle a suit filed by FDIC last October.

In the lawsuit, FDIC accused the firm and its representatives of negligence and malpractice in representing Altus bank, which failed in 2009, and Altus' former chief executive and board chairman, Paul Doughty.

The law firm allegedly facilitated bad loans worth $13.5m from the bank to its subsidiaries.

$6

Amou
Law h
lawsu

IN TOMORROW'S WORL
LIVES & LIV

Y & SETTLEMENTS

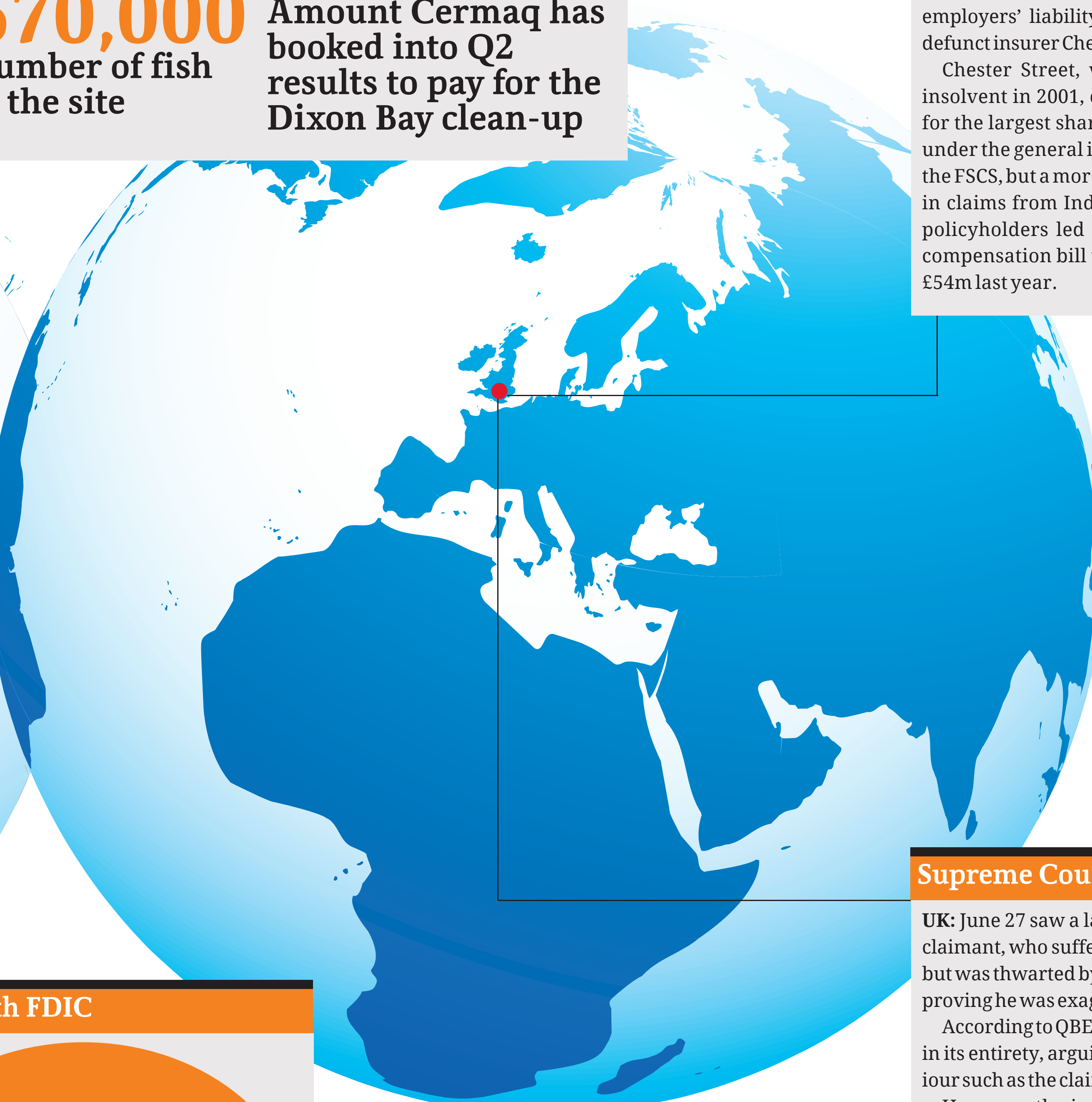
aq books Kroner27m charge

naq has booked a charge of Kroner27m ($4.4m) into its second-quarter
n Bay site on the west coast of Vancouver Island, Canada.
hematopoietic necrosis – at the site, which consisted of approximately

which said it is looking into the possibility of obtaining compensation
rance provider.
tain an agreement with the insurance company responsible for the bio-

570,000
umber of fish
the site

Kroner27m
Amount Cermaq has booked into Q2 results to pay for the Dixon Bay clean-up



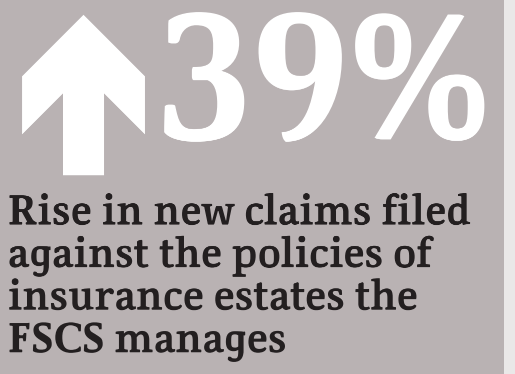
Compensation: UK scheme faces higher claims bill

UK: Total payouts by the UK's Financial Services Compensation Scheme (FSCS) stood at slightly more than £54m ($84m) last year, but the figure is expected to rise for the next financial year following a surge in the number of new claims filed against failed insurers.

The FSCS has seen a 39% increase in new claims filed against the policies of insurance estates it manages, most of which were related to noise-induced hearing loss, which raises the prospect of more claims and higher settlement costs in the future.

This follows a recent court ruling in Scotland on noise-induced hearing loss compensation, which prompted a dramatic increase in the number of claims filed on employers' liability policies written by defunct insurer Chester Street.

Chester Street, which was declared insolvent in 2001, continues to account for the largest share of payments made under the general insurance segment of the FSCS, but a more than £6m reduction in claims from Independent Insurance policyholders led to a fall in the total compensation bill to slightly more than £54m last year.



Rise in new claims filed against the policies of insurance estates the FSCS manages

Supreme Court ruling: Judge strikes out exaggerated claims

UK: June 27 saw a landmark judgment in the *Summers v Fairclough Homes* case, when the claimant, who suffered a genuine injury at work, attempted to exaggerate greatly his claim but was thwarted by the defendant's insurer, Zurich, which obtained surveillance evidence proving he was exaggerating and continuing to work.

According to QBE's latest claims briefing, the defendant applied to have the case struck out in its entirety, arguing the exaggerated claim was a substantial fraud and dishonest behaviour such as the claimant's should be stamped out as a matter of public policy.

However, the judge at first instance disagreed and awarded the claimant more than £88,000 ($124,515) based on the true extent of his injury – the claimant had originally sought more than £830,000, nearly 10 times this amount. He later reduced the claim to close to £250,000.

However, the judge also gave permission for an appeal to the Court of Appeal on the exaggeration issue.

Artur Niemczewski, chief executive at liability adjuster Garwyn, said: "We encounter cases that are similar to *Summers v Fairclough Homes* in which, following a genuine injury, the pleaded effects are significantly overstated or exaggerated. This places a great evidential burden on the defendant to detect and prove potential fraud."

Amount judge awarded to the claimant

Amount claimant had originally sought

h FDIC

00,000
nt Andrew Davis
as paid to settle
it filed by FDIC

LD LOSS INTELLIGENCE:
ELIHOODS

Sector stocks boosted by EU attempts to stimulate regional economies

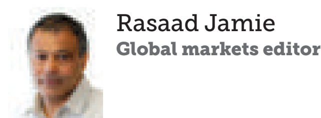
European Central Bank cut its key lending rate to 0.75% and the Bank of England announced a £50bn bond-buying programme

Jorg Hackemann/Shutterstock.com

Table: Share prices as at close July 5, 2012

Company/group	Currency
Ace	US dollar
AIG	US dollar
Alleghany Corporation	US dollar
Allianz	Euro
Allstate	US dollar
Alterra	US dollar
Amlin	Pence
Arch Capital	US dollar
Aspen	US dollar
Aviva	Pence
Axa	Euro
Axis Capital	US dollar
Berkshire Hathaway (A)	US dollar
Catlin	Pence
Chubb	US dollar
CNA Financial	US dollar
Endurance Specialty	US dollar
Everest Re	US dollar
Generali	Euro
Hannover Re	Euro
Hiscox	Pence
Insurance Australia Group	Australian dollar
Korean Re	South Korean won
Montpelier Re	US dollar
MS&AD Insurance Group	Yen
Munich Re	Euro
NKSJ Holdings	Yen
PartnerRe	US dollar
Platinum	US dollar
QBE Insurance Group	Australian dollar
RenaissanceRe	US dollar
RSA	Pence
Scor Paris	Euro
Scor Zurich	Swiss franc
Swiss Re	Swiss franc
Travelers Companies	US dollar
Tokio Marine Holdings	Yen
XL Group	US dollar
Zurich Insurance Group	Swiss franc

Source: Insurance Day



Rasaad Jamie
Global markets editor

After several months of consistent deterioration in their value, insurance and reinsurance stocks, particularly those listed in Europe, had by far their best week in 2012 for the period ending July 5.

A key development here for the financial markets was the decision by EU leaders at a meeting the previous Friday in Brussels to make it easier for banks based in an EU country to be financially assisted directly by the EU without such a loan having to be channelled through government and thereby further increasing the debt burdens of individual countries.

For the markets, the decision reduces the pressure both on the European financial services sector and on those countries such as Portugal, Ireland, Italy, Greece and Spain deemed to be on the eurozone "periphery". The decision was more or less forced on the EU by the near-collapse of the Spanish banking sector in the weeks leading up to the summit in Brussels as a result of the over-exposure of Spanish banks to the domestic real estate market.

The markets also took comfort in the announcement that EU countries, including a previously resistant Germany, had reached agreement on a number of fresh measures, which most notably included increasing the number and the size of bailout funds available to in-debt eurozone countries.

Biggest one-day gain in 2012

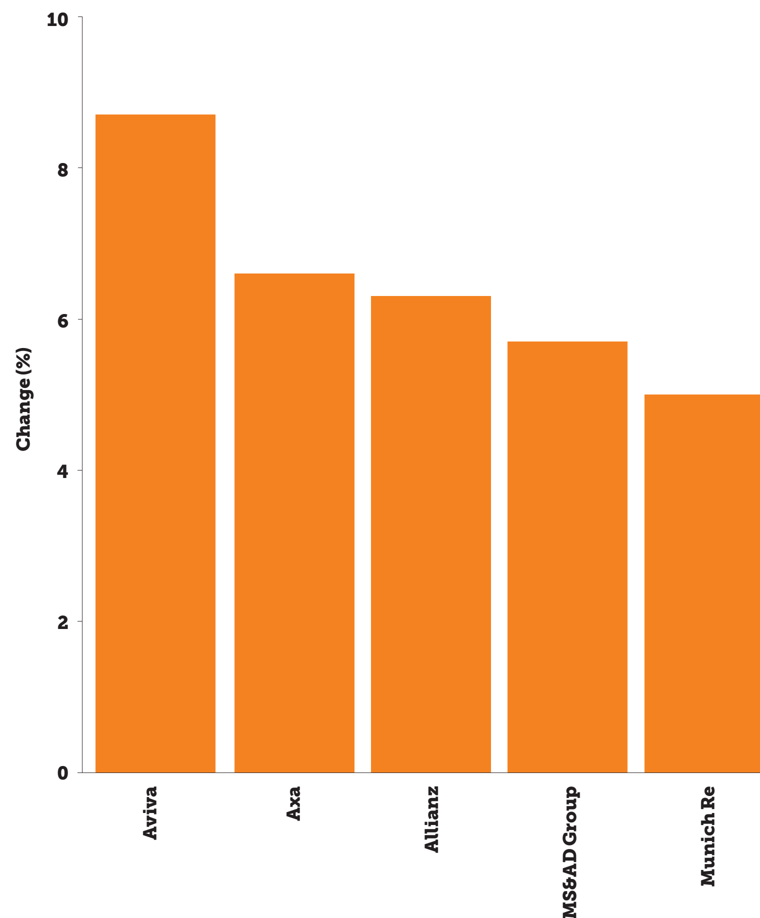
The news propelled the S&P 500 to its biggest one-day gain since December 2011, when another series of central bank and government supported measures for the banking sector had boosted the financial market. The latest initiative similarly boosted financial services sector stocks, including insurers. It particularly supported the stocks of European and Asian insurance groups, which, for obvious reasons, had been under much more pressure than their counterparts in the US and Bermuda.

But it was not entirely plain sailing for sector stocks during the week under review. After the major boost afforded financial

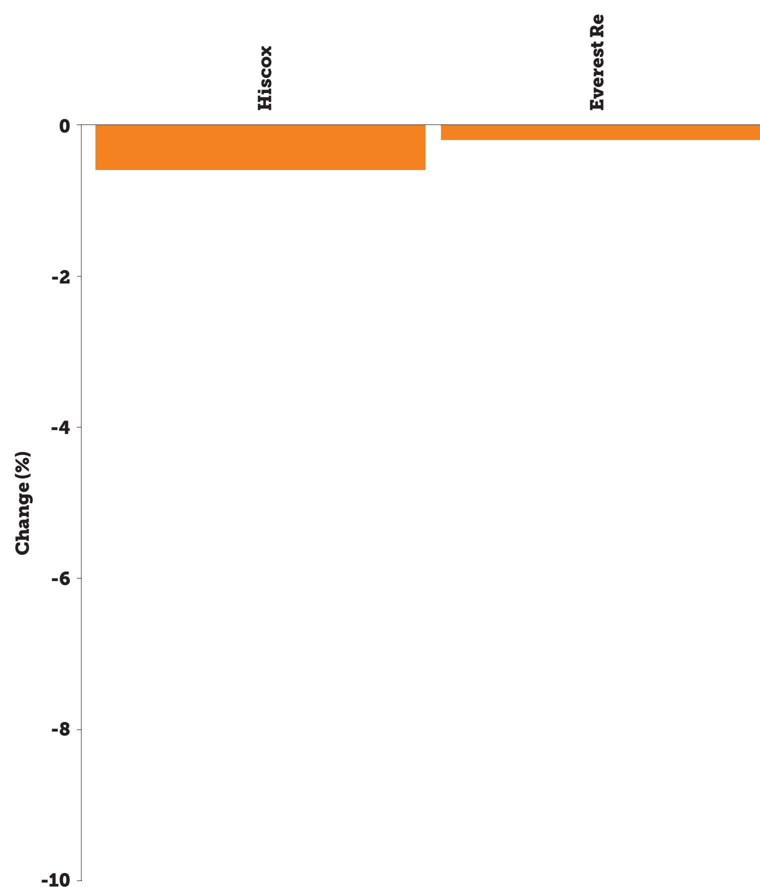
Francois Hollande, France's president, at the EU summit
Jock Fistick/Bloomberg

Dec 31, 2011	Jun 28, 2012	Jul 5, 2012	Change from Jun 28 (%)	Capitalisation ($m)
70.12	72.30	73.52	1.7	24,901
23.20	30.84	31.97	3.7	57,355
285.29	336.70	344.28	2.3	5,828
73.43	74.50	79.20	6.3	44,599
27.41	34.14	34.90	2.2	17,148
23.63	22.76	23.57	3.6	2,369
313.90	345.30	352.20	2.0	2,713
37.23	38.98	39.99	2.6	5,417
26.50	28.68	29.46	2.7	2,107
300.80	261.90	284.60	8.7	12,397
10.05	9.80	10.45	6.6	29,650
31.96	32.13	33.25	3.5	4,303
114,755.00	123,435.00	124,810.00	1.1	116,198
398.70	422.10	429.30	1.7	2,394
69.22	71.51	73.37	2.6	19,806
26.75	27.30	28.00	2.6	7,542
38.25	37.97	38.63	1.7	1,676
84.09	105.13	104.93	(0.2)	5,535
11.63	10.10	10.17	0.7	19,499
38.30	45.46	47.24	3.9	7,059
373.50	425.00	422.50	(0.6)	2,496
2.98	3.41	3.56	4.4	7,586
15,000.00	11,150.00	11,600.00	4.0	1,165
17.75	21.13	21.28	0.7	1,232
1,426.00	1,364.00	1,442.00	5.7	7,604
94.59	107.00	112.31	5.0	27,468
1,510.00	1,652.00	1,703.00	3.1	33,676
64.21	74.99	75.36	0.5	4,864
34.11	37.75	38.52	2.0	1,342
12.95	13.10	13.34	1.8	14,144
74.37	75.47	75.68	0.3	3,917
105.20	105.20	108.00	2.7	5,784
18.06	18.80	19.45	3.5	4,438
21.50	21.75	21.75	0.0	4,211
47.87	58.75	60.50	3.0	23,132
59.17	62.85	63.96	1.8	24,883
1,705.00	1,961.00	2,034.00	3.7	20,052
19.77	20.49	20.95	2.2	6,530
212.50	209.20	217.40	3.9	33,048

Graph: This week's winners...



...and losers



services stock by the Brussels summit policy announcements, these stocks soon came under pressure about two days into the period as a result of weak economic data from the US (manufacturing activity contracted in June for the first time in three years), China (manufacturing activity in China fell in June, with the country's export orders recording their biggest fall since December) and Europe (where eurozone manufacturing also shrank in June and jobs were being cut at their fastest rate in two-and-a-half years).

Reduced gains

However, while these developments notably reduced stock market gains at the start of the period, they did not entirely cancel them out, particularly for financial services sector stocks, which were much less badly affected than energy and manufacturing stocks.

In addition, the financial markets were given another semi-boost towards the end of the week when the European Central Bank cut its key lending rate to 0.75% and the Bank of England announced a £50bn ($77.84bn) bond-buying programme. There was also a notable improvement in the US employment figures with both the monthly and weekly data much more positive than during previous periods.

The financial market fortunes of insurer Aviva, which gained 8.7% during the period, were not entirely down to broader financial market developments. After initial reservations, the market responded very positively to the restructuring plans outlined by Aviva's new executive chairman, John McFarlane.

These measures include a new office of the chairman management group comprised of the five most senior executives in the company and the designation of 16 business units as not part of the core operations of the company and therefore to be sold or closed. These include Aviva's subsidiary in South Korea; a unit within its UK annuities business; and some of its businesses in Italy. ■

FSA finds 'serious failings' in the sale of interest rate swaps

John Bruce, partner, and Laura Brahams, solicitor
Kennedys' financial institutions group

Just when British banks would have loved some positive publicity at the end of June the Financial Services Authority (FSA) announced it had found "serious failings" by Barclays, HSBC, Lloyds and RBS in the sale of interest rate hedging products to thousand of small and medium sized businesses. The cost of the problem could be as much as £1bn ($1.55bn).

The products were essentially sold to protect customers in the event of interest rate rises. With interest rates now at an historic low, customers have found these products are very expensive to maintain and can be even more expensive to exit.

The FSA's investigation found a range of poor sales practices, which included:

i) Poor disclosure of exit costs;
ii) Failure to ascertain the customers' understanding of the risk;
iii) Non-advised sales straying into advice; and
iv) Employee rewards and incentives driving sales.

The four banks have agreed to pay "appropriate redress where mis-selling has occurred". The exact redress will vary from customer to customer, but could include a mixture of cancelling or replacing existing products, together with partial or full refunds of the costs of those products.

28,000
Number of interest rate hedging products that have been sold since 2001, according to the FSA

£1bn
Possible cost of the mis-selling of interest rate swap products

The FSA said 28,000 such products have been sold since 2001 although not all will have been mis-sold. Interestingly, of the 48 complaints against Barclays ruled on by the Financial Ombudsman Service (FOS), only 10% were decided in favour of customers. The courts – to whom many businesses will have to complain – are traditionally less pro-customer than the FOS.

It remains to be seen whether this will be a headache for financial institutions underwriters. Two types of claims might be made on policies – claims on the civil liability form in respect of customer redress; and claims for regulatory/investigation costs cover under both the civil liability and directors' and officers' wordings.

The process agreed with the FSA will inevitably result in payment of redress to customers where no claims have been made. This will call into question whether the banks truly owe a legal liability to customers or whether they are compensating more customers than they need in an attempt to curry favour with the FSA and to preserve their brand.

Claims are likely to be made on mitigation covers meaning issues raised in the recent *Standard Life* judgement may need to be revisited. Given the most questionable sales look likely to have occurred in 2008 and earlier, retroactive date exclusions may be triggered.

The timing of any notifications will also need to be scrutinised. Finally, that part of compensation representing the bank's fees and commissions will likely be excluded. ■

RICS proposes changes to valuers' insurance arrangements

The UK's Royal Institution of Chartered Surveyors (RICS) is proposing comprehensive changes to professional indemnity (PI) insurance arrangements for surveyors who carry out valuations.

The recommendations, published last month, follow a four-month consultation in response to concern secured lending valuation services were becoming unsustainable.

The problem

The over-heated property market, easy credit and arguably imprudent lending practices that preceded the global financial crisis have produced an avalanche of claims against valuers.

As a result, PI capacity has disappeared and what remains is only available at far greater cost, causing many surveyors to withdraw from the secured lending valuation sector.

RICS's key recommendations

- Agreeing more balanced standard terms and conditions of engagement regarding pricing and liability caps;
- Revising the RICS minimum terms to enable PI providers to exclude cover for valuations undertaken outside those terms and conditions;
- Approving a form of alternative dispute resolution for lower-value claims;
- Producing guidance on quality, claims handling and risk.

Will the proposals work?

Introducing a truly level playing field and pricing structure will be difficult.

Lenders that have historically paid little, and often nothing, to transfer their risk are unlikely to find such changes attractive and buy-in from the larger surveying practices may also be muted.

Insurers will welcome the drive for improved quality, as well as a possible tightening of the minimum terms, but the proposals include nothing to contain the present claims epidemic, ironically fuelled by retrospective valuations that all too frequently use sales data that would not have been available when the original valuations were carried out.

It is clear thought was given to different insurance products for valuation work; including "occurrence" rather than "claim" basis and single property/valuation cover; as well as liability capping based on defined multiples of the valuation fee. However, the RICS recognised its function was to focus on future claim minimisation rather than determining the insurance products for valuation work.

Clearly, reform is crucial if the existing imbalance is to be corrected, but implementation of the proposals might be easier said than done. ■

Settlement with insurer forfeits coverage under higher-level policies

Joseph Ruby and Mark Leimkuhler, partners
Lewis Baach PLLC, Washington DC

A New York court has held a bank has lost the right to pursue $95m in excess coverage by settling with underlying insurers. The settlements failed to satisfy the "actual payment" conditions in the policies of higher-level insurers, the court ruled.

Although the ruling interprets Illinois law, its reasoning also applies under New York law and is a significant precedent for application of excess policies with "actual payment" provisions.

JP Morgan Chase & Co v Indian Harbor Insurance Co concerned underlying lawsuits against a JP Morgan predecessor, Bank One, which had purchased a tower of bankers' professional liability coverage.

JP Morgan settled the lawsuits and then settled its coverage claims with two of Bank One's insurers. JP Morgan contended the non-settling insurers were obliged to respond because either it or the settling insurers had paid the underlying limits. The non-settling insurers denied coverage because the settling insurers had not paid limits.

The court found the "actual payment" clauses of the non-settling policies required, as conditions of coverage, the underlying insurers pay their full limits.

One policy provided liability attached "only after the primary and underlying excess insurers shall have duly admitted liability and shall have paid the full amount of their policies".

Others provided for coverage "only after all applicable underlying insurance has been exhausted by actual payment..." or "only after exhaustion of the underlying limit solely as a result of actual payment".

The court said these provisions were not ambiguous. Because the settling insurers had not paid their limits, the higher-level insurers had no payment obligation even though the policyholder had paid the shortfall.

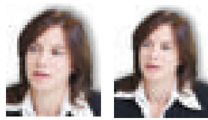
The decision casts doubt on the vitality of a 1928 decision by a federal appeals court in New York, *Zeig v Massachusetts Bonding & Insurance Co*, a provision requiring exhaustion by "payment" of "the full amount of the expressed limits" was ambiguous and could be satisfied by a less-than-limits settlement.

Zeig identified a public policy interest in promoting settlement, but that rationale did not sway the *JP Morgan* court, which focused on what it viewed as unambiguous provisions in the higher-level policies.

JP Morgan may seek review in New York's highest court. If the decision stands, it may complicate policyholders' efforts to settle coverage claims with lower-level insurers while preserving higher-level coverage and strengthen the hand of excess insurers seeking to enforce "actual payment" provisions. ■

A reprieve for UAE composite insurers

A delay in changing the rules for insurers in the United Arab Emirates explained



James O'Shea, partner, and
Allison Beirne, associate
Clyde & Co Dubai

A recent spate of articles in the press announced a "three-year solvency reprieve" for United Arab Emirates (UAE) insurance companies carrying on composite business (life and non-life) within the same corporate entity.

The "reprieve" refers to an extension of the deadline imposed by UAE Federal Law 6 of 2007 (the insurance law). The insurance law requires composite insurers split their life and non-life business, although failed to provide any guidance as to how this might be achieved.

The original deadline for existing composite insurance business was August 2012; the "reprieve" extends the deadline for another three years. The news coincides with efforts to revamp solvency rules for the UAE insurance industry, which are similarly on hold at present.

Composite insurance companies' reprieve

The "reprieve" relates to art 25 of the insurance law, which states "A company may not conduct life assurance and fund-accumulation operations and property and liability insurance operations at the same time" and not to specific solvency requirements per se.

The extension to the deadline means composite insurers now have until August 2015 to segregate their business. At present, there are 13 composite insurers in the UAE, 11 of which are UAE national companies; the other two are foreign companies.

According to reports, the decision to extend the deadline was influenced by the impact the global downturn has had on the industry. The minister of economy and chairman of the UAE Insurance Authority said the extension has been granted to allow composite insurers further opportunity to adjust their situation to foster a competitive environment in the UAE.

Composites have been allowed to postpone the costs and additional capital requirements that will inevitably be associated with the segregation of their life and non-life business through the establishment of two distinct undertakings.

Other than the operational costs of a new company, the solvency requirements of the business would have increased significantly as each undertaking would need to be capitalised separately.

At a practical level under the existing UAE companies law, such a separation would be difficult to achieve. The fact locally established insurance companies are also required to be publicly listed companies further exacerbates the practical difficulties associated with splitting a composite insurer.

A new UAE companies law is expected shortly, which may address some of the issues. However, the UAE Insurance Authority will need to consider how listed UAE insurers will deal with the new requirements.

It is hoped the relevant regulators (which will also include the stock market regulators) will issue timely guidance as to how it is envisaged the industry can comply with the new requirements within the next three-year period.

Recent efforts to strengthen the UAE insurance sector also include the issuance of Cabinet Resolution 42 of 2009, which came into force on January 31, 2010. This resolution changed the minimum capital requirements for insurance companies to Dirham100m ($27.2m).

At least 75% of this capital must be owned by a UAE or Gulf Co-operation Council (GCC) national or legal entities wholly owned by a UAE or GCC national. All insurance companies operating at the time of the issuance of this resolution have been given three years to rectify their status. This deadline has not been extended and will need to be met in 2013.

Abu Dhabi: composite insurers in the United Arab Emirates have until August 2015 to split their life and non-life operations

Other than the operational costs of a new company, the solvency requirements of the business would have increased significantly as each undertaking would need to be capitalised separately. At a practical level under the existing UAE companies law, such a separation would be difficult to achieve. The fact locally established insurance companies are also required to be publicly listed companies further exacerbates the practical difficulties associated with splitting a composite

New solvency rules

We are seeing the signs of a general shift in the approach to solvency in the series of solvency instructions the UAE Insurance Authority has waiting in the wings. Presently applicable legislation is not especially detailed in terms of solvency and reserving requirements.

The existing regime requires, in addition to a fixed capital requirement and security deposit, insurers maintain a solvency margin and a minimum guarantee fund related to the type of insurance transacted; technical provisions as estimated at the end of each financial year; and reserves the company must keep in the state.

Although these terms are defined in the insurance law, there is little other guidance provided by the UAE Insurance Authority.

The potential developments in solvency regulation in the UAE come in the form of three draft instructions, published by the UAE Insurance Authority, which provide more detail in relation to solvency issues:

i) Instructions pertinent to the solvency margin and minimum guarantee fund;
ii) Instructions pertinent to the basis of calculating the technical provisions; and
iii) Instructions pertinent to the basis of investing the rights of the policyholders.

These drafts suggest a move away from a "one size fits all" regime to one based on individual capital assessments initiated by insurers themselves and then considered by the regulator, backed up by actuarial and board certification.

The draft instructions in principle are intended to create a more sophisticated and risk-based approach to determining capital and solvency requirements than the existing regime. This is a positive move, in line with an international trend towards a risk-based approach that takes into consideration a wide range of risks and the interaction between those risks.

However, the draft instructions are themselves very high level and we anticipate further clarification of operational detail will be provided by the UAE Insurance Authority. Although the authority has held a number of consultation sessions with the industry, it has given no indication as to when the draft instructions will be issued into law.

Looking to the future

In three years' time, when composite insurers are segregating their business, insurance companies may be required to capitalise their undertakings in line with a radically different approach to solvency.

The new solvency regime may well intensify the forces of change that will be unlocked by the abolition of composites when it eventually occurs, triggering movements of books of business and corporate acquisitions and disposals.

It is hoped new companies legislation in the UAE, together with guidance from the regulators, will facilitate these transitions. However, it is clear there is much still to do to allow this to be achieved. ■

REGISTER NOW AT WWW.ITCEVENT.COM

ITC 2012 INSURANCE TECHNOLOGY CONGRESS

9-10 OCTOBER 2012
GRANGE TOWER BRIDGE HOTEL, LONDON

WHAT IS THE INSURANCE TECHNOLOGY CONGRESS?

It is **THE** most important gathering of insurance technology experts in the industry during 2012. By attending this premier two day event in London you will learn first-hand from the key stakeholders shaping the market how to plan and implement an effective technology strategy suitable for your organisation. If you don't register to attend now you will miss discovering how the latest technological innovations and initiatives are impacting your business, both today and in the future.

WHO SHOULD ATTEND AND WHY?

- **IT Systems Directors**
  Examine the next generation technology on show
- **Chief Information Officers**
  Find out how your peers are managing change programmes
- **Chief Executive Officers**
  See how companies are implementing their technology strategies
- **Project Managers**
  Discover what type of work you'll be doing next year
- **e-Business Directors**
  Hear how to bring market modernisation initiatives together as part of a coherent technology strategy
- **Heads of Claims**
  Review the latest automated claims developments
- **Managing Directors**
  Find out how companies are spending their technology budgets
- **Compliance Officers**
  Find out how regulatory change will impact your role
- **Consultants**
  What does the insurance industry want from you?
- **Analysts**
  Discover which companies are implementing technology most effectively

WHY YOU SHOULD ATTEND

- **Map out** your technology-purchasing decisions and strategy for the next 12 months and beyond
- **Transform** your business and gain the edge over your competitors by getting to grips with the latest technological developments transforming the insurance industry
- **Find out** where the market's technology priorities really lie and how they are being funded
- Have **direct access** to pose questions to key industry and technology leaders on their successes and the challenges they have faced. Learn from other industries' change programme experiences

TO REGISTER YOUR ATTENDANCE:

contact our hotline on **+44 (0)20 7017 7558**
or email **ITCbookings@informa.com**

OR scan this QR code to register

SPONSORS:

MOORE STEPHENS