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Willis Towers Watson warns on energy insurance market's 'perfect storm'

Falling oil price could force insurers out of the market

Sophie Roberts
Deputy editor

Oil rig: insurers could be forced out of the market if the premium income pool is further deleted, according to Willis Towers Watson

Cost-cutting in the energy market as oil prices fall could see insurers contemplate exiting the sector, Willis Towers Watson (WTW) has warned.

An over-supply of capital and falling demand from buyers is "heaping pressure" on insurers in the energy market, according to WTW's annual energy market review report.

These pressures could go as far as forcing some insurers out of the sector altogether or lead them to scale back their participation in the once-profitable business area.

For the tenth year in a row capacity has increased in both the up- and downstream insurance markets, according to the review.

With no meaningful withdrawals during the past 12 months, competitive pressures have intensified to the extent that some insurers may consider whether to continue participating in the market if the available premium income pool is further depleted.

Neil Smith, WTW's global product leader for natural resources lines, referred to the current state of the market as "perfect storm" conditions. Smith said falling demand from buyers was the insurance market's biggest challenge.

The collapse in the price of oil has forced energy companies to cut costs and self-insure more. At the same time, underwriters have had to compete even more fiercely for the reduced pot of premium available.

"Although at face value this is all good news for the beleaguered energy industry, as prices continue to fall we should all remember the market has provided a stable platform to enable the smooth transfer of risk in a predictable and manageable fashion," Smith said.

"It goes without saying any scenario which severely impacts this balance will have negative consequences for all parties involved."

The executive said "urgent product innovation" is needed, including a better service to help manage growing environmental liabilities. "Specialist insurance products can address this threat in part," Smith said.

"The lessons of both Macondo and the recent mining disaster in Brazil suggest more advanced risk transfer mechanisms, featuring limits in excess of what is offered by the conventional insurance market, are increasingly needed by the energy industry."

In addition, alternative risk transfer is now actively being considered by the energy industry as a risk management solution. This is in part, WTW said, because risk managers in the sector are confronted by emerging risks that are difficult to insure against using traditional insurance solutions.

These risks arise from areas such as non-damage business interruption, environmental risk, climate-related issues, reputational and cyber threats, all of which amount to billions of dollars of exposure.

Peter Armstrong, executive director of cyber at WTW, said cyber risk was becoming "more pervasive" and threatened the core operations of energy companies.

"Organisations have a fiduciary duty to understand and quantify their exposure and make appropriate provision for it. However, most organisations are not including the quantification of their cyber exposure in the overall picture," he said. "This means most organisations have unaddressed exposure on their balance sheets because of cyber vulnerabilities."

Oil reports net income of $30.9m for 2015

Bermuda-based Oil Insurance Ltd (Oil) has reported net income for 2015 of $30.9m, driven by $56.7m of underwriting income, *writes Michael Faulkner*.

The energy mutual's board of directors declared a dividend representing an aggregate amount of $200m, which will be available to shareholders on record as of January 1 this year and payable on June 16.

George Hutchings, Oil's chief operating officer, said this year marked the completion of a transformation, started in 2006, to overhaul the workings of Oil.

"The journey began with the restructuring of Oil's windstorm coverage and encompassed changes to virtually every aspect of its operations including the shareholder agreement, rating and premium plan, Oil's capital management framework, the policy and the fundamental way Oil markets itself to the brokerage community and the energy industry," he said.

Hutchings said this year Oil would complete a "strategic planning cycle" that will focus on how "best to improve the company's overall value proposition over the next five years".

NEWS

Pardus raises fresh capital as build-out continues

MGA extends board with non-executive appointments

Michael Faulkner
Editor

London: Pardus has secured £1.6m in equity capital to finance its expansion

Pardus, the London-based independent managing general agent (MGA), has raised £1.6m ($2.3m) in equity capital to continue its expansion into new classes of business.

The capital, raised from around 30 private investors, will also support the growth of the company's existing lines of business.

Pardus was launched in 2014 by former Advent executives Keith Thompson and Darren Stockman, with the aim of focusing on niche classes of business. It now has five product lines.

Thompson, chief executive of Pardus, told *Insurance Day* the new capital would provide the "financial power" to invest in new underwriting teams.

"We are looking to add new underwriting teams during the course of the year," he said.

Pardus will continue to focus on niche lines of business where it can "add value to the market", Thompson said.

Pardus commenced underwriting its first product – North American property – in July 2014. It subsequently launched underwriting divisions covering US commercial trucking, North America property facultative reinsurance, forestry insurance and accident and health, all backed by Lloyd's capacity.

Last year Pardus wrote nearly $11m of premium. Thompson said he expected to see further growth in 2016, subject to market conditions. Thompson said: "We are delighted to have secured new capital, which provides the additional financial strength needed as we continue the journey to develop Pardus as a meaningful MGA in the London market.

"We remain focused on taking the business forward and achieving our goal of operating a multiline MGA which offers clear value to the broking community and insurance markets."

The capital raise dilutes the shareholdings of the firm's original investors, including Capita, which at the end of last year upped its stake to 40% from 30%.

Pardus was advised by West Hill Corporate Finance and the capital raised through its growth capital arm, West Hill Capital.

West Hill has now raised around £28m for eight companies from private investors since the beginning of last year.

West Hill's Andrew Galloway said: "Pardus represents an exciting proposition in a vibrant segment of the insurance market. Businesses such as this play well to our knowledge and experience in this space where our funding is both wholly independent and from diverse sources."

Meanwhile, Pardus has expanded its board, appointing Simon Byrne its non-executive chairman and Brian King a non-executive director.

Byrne, a partner at Red River Debt Purchase Fund, was previously chief financial officer at Tawa and finance director at CNA Insurance. King has more than 49 years' experience in the insurance industry, including managing director of Morgan Read & Colemen and managing director of Arthur J Gallagher & Co (UK).

Thompson said Byrne and King would bring "further expertise and knowledge" to the company as it continued to grow.

PartnerRe appoints chief financial officer

Mario Bonaccorso, former managing director of Exor, has been appointed chief financial officer (CFO) of PartnerRe, subject to Bermuda immigration approval, *writes Sophie Roberts*.

He will replace Bill Babcock, who has served as executive vice-president and CFO at PartnerRe from October 2010. Babcock will remain as executive vice-president through the summer to help ensure a smooth transition period.

Bonaccorso, who has resigned from his position at Exor and from the PartnerRe board, will assume responsibility for all PartnerRe's financial operations and investments, as well as joining the executive management team.

He joined Exor in October 2007 and was responsible for investments and for the management of Exor's portfolio of companies.

In his new role, he will be based in Bermuda and will report to PartnerRe's president and chief executive, Emmanuel Clarke.

In addition to this change, Charles Goldie, chief executive of PartnerRe global, and Marvin Pestcoe, chief executive of life, health and strategic ventures, have been appointed to PartnerRe's executive management team.

PartnerRe's other executive managers – Tad Walker, president and chief executive of PartnerRe North America, and Laurie Desmet, executive vice-president and chief operations officer – will continue in their existing roles.

Clarke said: "The additions of [Bonaccorso], [Goldie] and [Pestcoe] to the executive committee further strengthen our leadership team, bringing new skills, deep experience and a fresh outlook as we seek to take PartnerRe to the next level. At the same time, we are sorry to see [Babock] go. He has been a highly valuable chief financial officer and member of our executive team, having successfully led a number of strategic initiatives during his tenure at PartnerRe."

US commercial insurers moderate rate cuts

US commercial insurers moderated their "aggressive pricing" in March, online insurance exchange MarketScout has reported, *writes Michael Faulkner*.

The Dallas-based company's latest rate index showed the pace of decline in US commercial insurance rates eased last month.

The index was down 3% in March after three consecutive months at -4%.

"One month certainly is not a trend but insurers did moderate their aggressive pricing in March," Richard Kerr, chief executive of MarketScout, said.

Rate reductions in commercial property, inland marine, general liability, umbrella, workers' compensation and professional lines all moderated by 1%, MarketScout said. Small accounts (up to $25,000 premium) were down 3%, compared to a 4% reduction a month earlier. Large accounts ($250,000 to $1m) and medium accounts ($25,001 to $250,000) were down 4%, compared to down 5% the previous month. Other accounts were unchanged.

By industry classification, rate declines for manufacturing, contracting and service moderated by 1% on the previous month. Habitational rates were down 4% in March, versus -6% in February.

Meanwhile, US personal lines rates were flat in March after months of price cuts.

US insurers have been hit by significant losses as result of bad weather. Severe weather in the US caused more than $1bn in economic losses and hundreds of millions of dollars in insured losses in February alone.

Bad weather losses over recent winter months have been running at a higher level than the long-term average. Over the past two decades winter storms have accounted for 6.8% of annual US catastrophe losses, according to the Property Claim Services division of Verisk.

Most major US insurers reported a deterioration in the performance of their private motor accounts last year as a result of worsening trends across the board.

Geico, the large direct insurer within Berkshire Hathaway, reported a rise in both claim frequency and severity affecting both vehicle damage and bodily injury in 2015. The loss ratio was 4.4 percentage points higher at 82.1%.

BIG INTERVIEW

Cushioning the terrorist threat

The amount of commercial retrocession bought by Pool Re will increase in the future but will never be big enough to allow the government to walk away, the company's outgoing chairman says


Rasaad Jamie
Global markets editor

Pool Re continues to serve as an example of best practice for terrorism risk pools in other countries according Tony Latham, who today announced his retirement as the chairman of the scheme.

Latham, who has served as chairman for the past 12 years and who has been an active and involved board member of the reinsurance mutual for the past 15 years, is by no means saying Pool Re has all the answers.

Pool Re was the first national reinsurance scheme in the world to focus solely on terrorism risks when it was set up in 1993 in the wake of an IRA bombing campaign on the UK mainland.

Latham points out there are no clear-cut solutions to the many challenges facing the public/private partnership response to the insurance and reinsurance of terrorism risks.

This is not least because of the unpredictable nature of the terrorism threat and the way in which the geographic thrust and the shape of that threat have changed over the past two decades, a period during which the risk exposures have escalated exponentially as terrorists have become more international, have broadened the range of their potential targets and have enhanced their abilities to deploy new threat vectors (most notably cyber technology) as a weapon.

For Latham though, the modernisation of Pool Re over the past two years has enabled the company to move more decisively in some of the more important emerging areas of the market, including provision of terrorism cover to small businesses and to corporate entities operating outside the major metropolitan areas, including a more risk-reflective rating structure for the four terrorism risk zones in the UK established by Pool Re.

Evolving threat

Here, Latham highlights Pool Re's development of a terrorism product for small to medium-sized enterprises (SMEs). This, he says, is Pool Re's response to an important strategic shift in the terrorist threat, which was very evident in the co-ordinated attacks in Paris in November last year: the emergence of a new category of target for terrorism in the form of small businesses, community venues, family-run restaurants, bars and cafés.

"There is very little penetration of our product in the SME area and the feeling, soon after Julian Enoizi was appointed chief executive towards the end of 2013, was some of the terms and conditions of our original retrocession agreement were holding us back in terms of the investment decisions we were allowed to make and to address the SME and other emerging issues," he says.

"When we began negotiating a new deal with the government, we also negotiated other changes in the agreement that enabled us, as the national terrorism reinsurance pool in the UK, to look into some of these new issues and to respond. For example, the penetration of terrorism insurance cover for SMEs is low everywhere in the world and other terrorism pools face the same challenges as Pool Re in this regard."

Indeed, France's terrorism scheme, Gareat, has established a separate pool for SMEs, but the penetration is still very low, notes Latham.

"The difference between the Gareat pool for large businesses and the SME pool is the former is covered by the government guarantee and the SME pool is not. The French insurers bear the SME risk themselves. They have been told to provide the cover and get on with it by the government," he says.

"Our approach towards SMEs is simpler, more straightforward and inclusive. We think our SME product, which we continue to refine, benefits hugely as a result."

To encourage further the take-up of terrorism insurance by small businesses owners, Pool Re has also introduced premium discounts of up to 40% for insureds with less than £2m ($3.1m) material damage sum insured.

"To date, the product has been reasonably well received by the market. The big challenge is the extended nature of the distribution channels through which SME insurance products are sold. Brokers' approach to their SME customers is very different from the way they approach the risk managers of large corporations," Latham says.

"Flow schemes, facilities and bancassurance play a big part in the distribution of SME insurance products. It is still early days, but how our members talk to brokers and to SMEs directly about the product and how they work through the distribution channels will be critical to the future success of the product."

The commercial insurance market is very familiar territory to Latham, who before becoming chairman of Pool Re served as a member of the group executive of RSA, where he held a number of senior executive roles over a period of 17 years, including as managing director of RSA's global risks division. He will be replaced as chairman of Pool Re by Geoff Riddell, previously chief executive and then chairman of Zurich Global Corporate, the biggest large corporate risk insurer in the world.

Tony Latham CV

Until today Tony Latham served as chairman of Pool Re. He is also a former chairman of Pool Reinsurance (Nuclear).

He served as group director of global relationships at RSA Insurance Group and was a member of the group executive of RSA Group, where he held a variety of senior executive roles over a period of 17 years. These roles included director of Sun Alliance International and managing director of Sun Alliance General Insurance.

Following the merger of Royal & SunAlliance in 1996, Latham served as managing director of the global risks division. He joined RSA Insurance Group in 1990.

Before that he worked for an international insurance broking firm for 19 years.

Latham on…

SMEs

"Our approach towards SMEs is simpler, more straightforward and inclusive. We think our SME product, which we continue to refine, benefits hugely as a result"

Cyber terrorism

"We currently exclude cyber terrorism but both you and I know the threat is expanding exponentially, so Pool Re is looking at that exclusion to understand the implications of it for the UK market"

Cyber terrorism

Although Pool Re, under its existing constitution, excludes cover for cyber terror attacks, the organisation is devoting significant resources to researching this new risk and any potential role Pool Re might play in addressing it in the future. Latham says Pool Re will work with its members to ensure that as far as possible the UK approach to the provision of terrorism insurance solutions is both seamless and effective.

"We currently exclude cyber terrorism but both you and I know the threat is expanding exponentially, so Pool Re is looking at that exclusion to understand the implications of it for the UK market in both the short and the long term," he says.

"The team is also looking at the issue of cyber attacks generally, particularly the circumstances under which a cyber attack is defined as an act of terrorism, an act of criminal intent or as an act of vandalism. There are a great many grey areas and questions here."

Pool Re is working with an academic institution to help it fully understand the issue. In the end, Latham says, it will be Pool Re's members who will need to agree whether or not to put a cyber terrorism product into the market. "Then it will be up to our ultimate retrocessionaire, the government, who will have to decide whether they are willing to include this kind of cover under the guarantee."

The reference to escalating terrorism exposures inevitably raises the question as to whether Pool Re (which was established with the objective to ensure the return, over time, of an efficient, commercial terrorism insurance market – that is, one that can exist without the need for a guarantee from the UK government) will actually ever be able to dispense with the government as its ultimate financial guarantor?

For Latham the answer is an emphatic no. This is despite his belief the private market, which writes slightly less than £2bn of Pool Re's retrocession with the present understanding of the risk and which, over time and with improved risk modelling and data, will get more comfortable and will increase its participation accordingly.

"There is not enough commercial capacity in the world to deal with the size of the exposures as we currently perceive them. The amount of commercial retrocession we buy will increase in the future but it will never be big enough to allow the government to walk away. This is mainly because if we have a big event, the number of retrocessionaires on our programme is going to reduce very rapidly," he says.

Pool Re, nevertheless, continues to distance HM Treasury and the UK tax-payer from any potential liability. For example, at the beginning of last month, the company increased the amount of retrocession cover it buys from the commercial reinsurance market to £1.95bn, up from the £1.8bn it bought last year when it approached the commercial market for the first time in the company's history.

The commercial market

Before 2001, there was no contact between Pool Re and the commercial reinsurance market. "However, for the past 10 or 12 years, the Pool Re chief executive and I have spent time talking to reinsurers about the provision of retrocession cover to Pool Re. Other risk pools, such as Gareat, for example, were formed with the active support of certain commercial reinsurers. Within Pool Re there was always an interest in obtaining some level of support from the commercial market.

"Not surprisingly, discussions with the market focused on the price we would pay for that support. Of course, the perception of terrorism risk in the UK was fundamentally higher than in many other countries and therefore, the prices on offer were really very high, several multiples of what we are paying for the same cover now," he says.

In terms of Pool Re's revised capacity structure after the renewal of its retrocession cover last month, Pool Re members have a market-wide event retention of £135m (capped at £270m any one year), which is borne by each member in proportion to their premium ceded. Pool Re then provides a layer of £500m. After that, there is the commercial retrocession layer of £1.95bn and above that is Pool Re's reserves of £5.5bn, after which the government steps in with its unlimited loan guarantee.

If the price of Pool Re's commercial retrocession programme was to increase in the future, the board would sit down with HM Treasury and address the issue. "This is because they need to understand the benefits of the cover are in proportion to the price we pay for it. They also need to be convinced any retrocession purchase we make doesn't significantly erode the premium we pay them for their unlimited guarantee and in fact affords them greater protection," Latham says.

Last year, as part of a broader modernisation of Pool Re, the UK government increased the levy it charges for the unlimited backstop loan guarantee it provides to Pool Re from 10% of the company's annual premium income to 50%. However in the event of a large terrorist incident wiping out Pool Re's reserves, these payments would be offset against any monies Pool Re borrowed and thus had to repay under the loan agreement.

Pool Re has paid out on 13 separate terrorism events since 1993, covering losses of more than £600m. "The government and the UK tax-payer have paid absolutely nothing and in terms of the retrocession premiums to HM Treasury and the corporation taxes we have paid to date to HM Revenue & Customs, the government has received something like £1.1bn. Up to now, Pool Re has very much paid its way and is rightly regarded as a world-leading example of successful co-operation between the government and the insurance industry in relation to insuring catastrophic risks," Latham says.

Although there is no direct co-operation between Pool Re and the alternative terrorism and political risk market, other than that some companies in that market participate in Pool Re's retrocession programme, there is nonetheless a great deal of mutual respect between the two, Latham says.

Indeed, two members of the alternative terrorism market, which is mainly based at Lloyd's, became members of Pool Re last year. "We don't co-operate as such. Our offering is different. Anybody can buy full-value, all-risks, CBRN [chemical, biological, radiological and nuclear] cover from us through our members and they will get unlimited cover to the total value of their assets.

"The alternative market is not in a position to do that because they don't have the government guarantee. In many of the metropolitan centres in the UK, the aggregate exposures are too much for them so they tend to be very competitive where there is a lower aggregate exposure, such as in Bradford or Bristol. Also, we are focused on the UK, whereas they write a worldwide terrorism and political violence book. If they were members of Pool Re, they would have to cede all their UK-based risks to us." ■

Intra-pool risk sharing still some way off

The idea of Pool Re entering into risk-sharing arrangements with other terrorism pools or accessing the alternative risk transfer (ART) market for retrocession capacity as potential ways of reducing the scheme's reliance on government support has been raised.

Other state sponsored catastrophe schemes such as the Turkish Earthquake Fund and the Florida Hurricane Catastrophe Fund have looked at the insurance-linked securities (ILS) and cat bonds market as the source of additional capacity.

Pool Re has to date put a financial buffer of around £10bn between itself and the UK government. According to a statement made by Pool Re chief executive, Julian Enoizi, last year, it needed to look seriously at alternative sources of capital because the ultimate objective of the company was to position the government further and further away from the risk until its support is no longer necessary.

While Pool Re continues to track developments in the ART market on this basis, Latham's personal view is the market has a long way to go before the nature of the capacity and the price are appropriate for the purposes of Pool Re.

"This is simply because securities markets work best where there is a fluid, liquid secondary market. There is currently a secondary market for ILS transactions, but it is far from liquid. Price matters, but so do the terms and conditions of the cover, particularly how that cover is triggered. It also depends on the appetite and commitment of the investors. As you know, many of the big issuers of ILS contracts, whether it be an Allianz, a Hannover Re, a Swiss Re or an AIG, have big investor followings. The big concern for Pool Re, as a reinsurer of terrorism risks, is that that kind of support can disappear overnight if there is a big event."

Until very recently there had been little communication between the 20 or so terrorism insurance risks pools around the world. In October last year, Pool Re (which has maintained close relationships with many of those terrorism risk pools over the past 10 years and found the regular discussions and exchange of information invaluable) organised the first congress for national terrorism re/insurance pools in London. The event was attended by 14 major national terrorism re/insurance pools, as well as by representatives of the Organisation for Economic Co-operation and Development, members of the security services, senior political figures and insurance industry professionals.

Latham says within the global political environment, it was extremely difficult to envisage a situation where national terrorism pools would share risks between themselves. "Imagine if the government had to borrow an additional £2bn because Pool Re was committed to pay for part of a terrorism damage claim in France. Politically, that would not be acceptable. To my mind, that is the main reason why terrorism pools don't share risks.

"Things may change in the future. In five or 10 years' time, national schemes like Pool Re may be able to share risks without affecting their governments. That is still some way down the line. Then there is an issue specific to Pool Re. We tend to deal with much bigger densities of exposure than other pools. The only other territory where the exposures are the same or bigger than ours is the US. Given the size of those exposures, our ability to be flexible and enter into risks-sharing arrangements may be less than other pools."

RISK FORESIGHT

Fighting on Azerbaijan/ Armenia border worst since 1994 ceasefire

Escalation of violence likely to be brinksmanship by Azerbaijan president

Heavy fighting broke out on April 1 along the line of contact separating the Armenian-controlled enclave of Nagorno-Karabakh from Azerbaijan proper. The fighting on April 2 and 3 represented the most significant escalation in the Nagorno-Karabakh conflict zone since the 1994 ceasefire agreement.

It is probably brinksmanship by Azerbaijan's president, Ilham Aliyev, intended to increase pressure on the Organization for Security and Co-operation in Europe's Minsk Group (co-chaired by France, Russia and the US), which has been mediating over Nagorno-Karabakh. As the only party to the conflict not satisfied with the status quo, Azerbaijan is seeking to change the negotiating format in its favour by expanding it to include its ally Turkey, in parallel with calibrated and controlled escalations which fall short of escalating to all-out interstate war. In this case, it is possible the escalation was designed to coincide with separate March 31 meetings by the Azeri and Armenian presidents with US vice-president, Joe Biden, in Washington DC.

An Armenian covers his ears while a howitzer fires at an artillery position of the self-defence army of Nagorno-Karabakh near Martakert

Aliyev's claims of territorial gains and a "big military victory" will probably play well with the Azeri public, which is frustrated by the lack of progress over more than two decades of stalled negotiations to reclaim control over occupied territories (Nagorno-Karabakh plus seven adjacent Azeri districts under Armenian control).

The Azeri authorities are likely to realise any further advance on Nagorno-Karabakh's capital, Stepanakert (Khankendi), would probably trigger Armenia's asymmetric retaliation focused on targets in Azerbaijan proper. This would put Turkey under pressure to honour its security commitments to Azerbaijan under a bilateral strategic partnership agreement. Hostilities spilling over into Armenia proper would theoretically lead to calls to honour the 1992 Collective Security Treaty between Russia, Armenia, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan – probably via the use of Russian forces at the Gyumri military base in Armenia. ■

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Libya: east/west split

Libya's prime minister-designate, Fayez Serraj of the UN-backed Government of National Accord (GNA), arrived in Tripoli by boat on March 30, having been denied access by air. Serraj has since secured the support of key institutions in the capital, including the central bank, the National Oil Corporation and the state broadcaster. Several key municipalities have also pledged their loyalty, including Sabratha, Zawiya and Zuwara in the west and Obari in the south.

Serraj's headquarters at the Abu Sita naval base is under the protection of several of the more powerful militias from Tripoli and Misratah, the support of which facilitated his entry into the city. The Libya Dawn-backed government, which was hostile to Serraj, dissolved overnight on March 31 without any fighting. Nonetheless, militia fighters loyal to the continuing General National Congress have fortified several positions in the city. Localised fighting between rival militias using heavy weapons took place near Mitiga Airport on March 28, forcing its temporary closure, and in Ras Hassan on April 3.

Tribal and municipal leaders in eastern Libya, including members of the House of Representatives (HoR), continue to oppose Serraj. On April 2 they insisted the GNA be approved by a HoR vote and reiterated a demand General Khalifa Haftar continue in command of the Libyan National Army (LNA). This condition will be unacceptable to the pro-GNA Tripoli and Misratan militias in the west.

The collapse of Libya Dawn's political authority in Tripoli will allow Serraj to take control of much of the machinery of government there. Nonetheless, powerful militia commanders including Salah Badi remain opposed to the GNA, ensuring a high risk of further fighting in the city centre using heavy weaponry. In eastern Libya the LNA is unlikely to support Serraj without guarantees on Haftar. This increases the likelihood that Libya's governance will remain split between east and west in the two-month outlook. ■

South Africa: impeachment vote unlikely to succeed

On March 31 South Africa's Constitutional Court ruled on president Jacob Zuma's failure to comply with the public protector's recommendations regarding non-security-related state spending on his Nkandla private residence was inconsistent with the constitution. The public protector's March 2014 report recommended Zuma pay back a portion of the Rand246m ($16.4m) spent.

The court also found the African National Congress (ANC)-led parliament had acted inconsistently with the constitution by failing to hold Zuma to account. The ANC has said it respects the court's judgment and the president indicated in February he was willing to pay back part of the money for the upgrades.

However, opposition parties and civil society groups have reiterated calls for Zuma to step down.

The main opposition Democratic Alliance has already begun impeachment proceedings, although these are unlikely to be successful as the ANC still holds a 62% majority in parliament. The socialist Economic Freedom Fighters party is likely to begin organising public protests over the next two weeks in major urban centres such as Johannesburg and Cape Town.

Zuma has already faced a series of challenges in recent months, including civil society-led protests, and controversy and market turmoil over issues such as ministerial appointments.

The ANC is likely to weigh the electoral impact of continuing to support Zuma, particularly in vulnerable urban municipalities amid local elections due between May and August, against the internal political instability a recall is likely to generate.

He is more likely to be increasingly sidelined by the party, thus reducing his political influence over both the government – and its policies – and his succession in 2019. ■

VIEWPOINT

Insurers cannot afford to think ‘it will not happen to me’

Carriers need to ensure they are actively engaging with their clients’ risk management cultures so the unforeseeable becomes less of a risk

Robert Iremonger
Abingdon Risk Consulting

In reviewing corporate structures, one often finds some style of risk assessment process firmly embedded within organisations, although in many cases this only goes skin deep and often, in reality, achieves very little.

Having high-level committees or a high level of documentation requirements internally is only a partial solution to the issue, although in reality the effectiveness of such regimes are often found to be of little value. All too often these represent meaningless talking shops or result in circumstances whereby organisations simply do not spread the required message through the organisation concerned.

In an insurance context, one can review both sides of the proverbial fence and provide consideration to both an insured’s and insurer’s attitude to risk mitigation issues.

In reviewing corporate structures, a multitude of cultures are found to exist. One of the most common is employees are kept “fully employed” to such an extent that as a consequence they simply do not have the time to devote to risk mitigation issues. Another example is the “it will not happen to me” culture: many simply do not understand that just because a specific style of loss has not previously occurred does not mean it is an unforeseeable event.

In some cases risk and audit committees do exist but recommendations are simply “put on ice” or ignored because of cost or operational issues. Many organisations are simply too small to be able to give active consideration to such issues and as a consequence risk mitigation issues do not form part of their active culture. In attempting to engender an active culture, successive governments have laid down such a plethora of rules and regulations they have become simply too multifarious to put into practice.

It is possibly to find in some instances captains in industry who persevere in attempting to embed an active risk awareness culture within their organisations. While some are successful in leveraging organisations in the right direction, others simply lose confidence when challenged by colleagues, fearful of losing influence or political clout within an organisation.

Many insurers, while aware of the issues, become wary of trying to present their clients with recommendations on risk mitigation issues for fear of losing the client’s business or entering into a heated discussion on particular risk mitigation issues.

Lack of connectivity

Some insurers feel risk mitigation issues fall outside their remit and as such it is not their responsibility to engender a culture that is aware of risks as present within their clients’ cultures. One of the biggest problems in this regard is a lack of connectivity between client and underwriter. All too frequently an insurer rarely if ever spends time on the ground together with its client, so will actually never have the opportunity to examine an organisation’s culture in any depth and thereby provide recommendations for improvements.

While some insurers possess dedicated surveying resources, all too frequently the inspectors are either in too much of a hurry to carry out a thorough examination of facilities or procedures, or simply do not focus on the right objectives.

Ostrich: insurers cannot afford not to attempt to help clients introduce risk mitigation measures

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Risk mitigation can arrive in two differing formats, the first being relative to physical risk. This can be relative to anything from fire extinguishing equipment in its simplest format, to how an organisation’s operational capabilities are managed. One case in point would be engineering inspection reports. In all too many instances, so long as equipment passes the proverbial test, the paperwork is filed away without attention being paid to faults the surveyor may have found upon inspection. In some cases, physical risks are simply not perceived to exist so are not acted upon.

The level of documentation within organisations is also of critical importance. One of the critical issues in this regard is the use of terms and conditions as a defence measure against potential third-party claims. Upon examination, few possess such measures. Better still, in many cases, few organisations possess formalised contracts together with other corporate vehicles with which they possess an active commercial relationship.

Another issue which is often found is relative to many organisations possessing the simplest of emergency procedures, which have never really been examined in detail. In some instances, one finds multifarious plans covering the same operational structures, none of which match with the other existent plans. Such styles of behaviour can only lead to uncontrolled disasters.

To promote a positive culture in this regard, insurers need actively to engage with their client base. This does not only mean site visits, but also creating a culture whereby risk enhancements are actively encouraged. The best fashion in which such an objective can be achieved is through financial inducements.

Some offer risk bursaries to their clients to engender an active risk culture. Some might argue this is simply a money-swapping activity, although such thoughts are not proven in reality. An insured will not necessarily be persuaded to spend money on risk mitigation issues, unless absolutely essential to the operation of their business. By offering the familiar “carrot” to their clients, the organisations at the receiving end are made to see some benefit in putting risk mitigation issues in place.

It is also essential underwriters get under the skin of their clients, not only to assess potential risks but also establishing such a relationship that encourages clients to improve their cultures. One must state categorically that financial inducements must be offered to insureds to attract their attention and ensure key measures are put in place. ■

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Wording of instructions has liability impact, ITIC warns

David Osler
Lloyd's List

The wording of instructions can potentially widen the scope of liability for marine service providers, the International Transport Intermediaries Club (ITIC) has warned, after a German court rejected a lawsuit for €1.56m ($1.8m) brought against a marine surveyor for alleged poor stowage.

The surveyor was engaged by charterers to attend the loading of a cargo and to report on any damage caused by the stevedores. The emailed instructions from the charterer contained the following provisions: "We hereby order the following: supervision of the loading/pre-loading survey; reporting of eventual damages to the coating or the material – and time of damage; reporting of negligence while handling the material and loading; detailed documentation, with photos, of the loading operations; no continuous supervision will be necessary, only during the important moments (commencement of loading operations – change of shift – securing of the cargo)."

Loading and lashing of the cargo was completed and the vessel sailed. Three days later there was a loud noise from the cargo hold and the ship developed a 30° list. The master reduced the list by ballasting and diverted to a port of refuge. The cargo was discharged, sorted on the quay, reloaded, lashed and secured. About 600 tonnes of damaged cargo was left behind. More than 10 days later, the ship resumed its voyage.

The owners alleged the cargo had shifted as a result of poor stowage and ultimately obtained an arbitration award against the charterers for €1.56m.

The charterers subsequently held the surveyor and the stevedores who had loaded the cargo jointly liable for this amount.

Lawyers appointed by ITIC represented the surveyor at court, where the claim was subsequently rejected on the basis the stevedores were responsible for the loading and stowage and the surveyor's instructions were limited to reporting on stevedoring damage caused during loading.

ITIC director Charlotte Kirk said: "The potential difficulty with this defence was the charterer's email instructions could have been interpreted as conferring a wider obligation. In the circumstances, it was agreed the surveyor would make a contribution of approximately 10% to the settlement of the claim.

"While this contribution was relatively modest in percentage terms, the claim is an example of how the wording of instructions can potentially widen the scope of a surveyor's liabilities. If the brief is understood to be restricted to a specific task, it is important to make sure this is clearly recorded."

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