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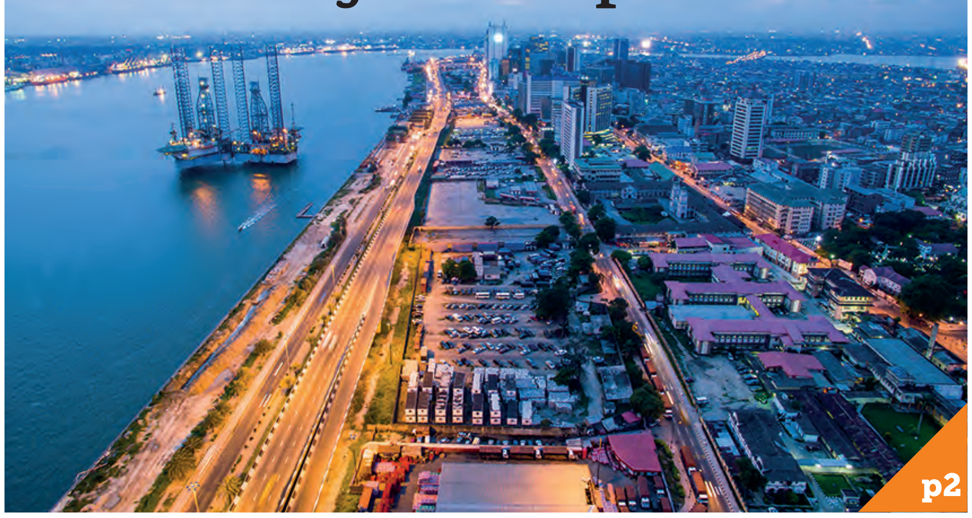

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NEWS

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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, including the *Insurance Day* London Market Awards, which recognise and celebrate the very best in the industry.

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Insurance Day, Informa, Third Floor, Blue Fin Building, London SE1 0TA

Editor: Michael Faulkner
+44(0)20 7017 7084
michael.faulkner@informa.com

Deputy editor: Lorenzo Spoerry
+44 (0)20 7017 6340
lorenzo.spoerry@informa.com

Editor, news services: Scott Vincent
+44 (0)20 7017 4131
scott.vincent@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

Business development manager: Toby Nunn	+44 (0)20 7017 4997
Key account manager: Luke Perry	+44 (0)20 7551 9796
Marketing services sales: Deborah Fish	+44 (0)20 7017 4702
Head of production: Liz Lewis	+44 (0)20 7017 7389
Production editor: Toby Huntington	+44 (0)20 7017 5705
Subeditor: Jessica Sewell	+44 (0)20 7017 5161
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

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Dive In 2019 launches with continued global expansion

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Lagos, Nigeria: just one of the new countries to be hosting events for the Dive In Festival

Global insurance industry diversity and inclusion festival opens for registration in its fifth year

Michael Faulkner
Editor

The Dive In Festival, which promotes diversity and inclusion in the global insurance sector, is set to launch with a record number of countries expected to host events.

Now in its fifth year, the festival will see events hosted in Nigeria, Bahrain, Turkey, Oman and Indonesia for the first time.

Registration opens today, when insurance professionals will be able to sign up for events in their nearest city via www.diveinfestival.com.

Headline speakers this year include Frank Bruno, Esther Rantzen, Mary Portas and Reggie Yates covering topics from mental health to stamping out bullying and harassment.

The 2019 festival, which has garnered global support with sponsors from across the industry, builds on last year's campaign of developing "awareness into action" inviting festival-goers to consider ways to make an impact, under this year's theme of #inclusionimpact.

Launched in 2015, the Dive In Festival seeks to accelerate the progress of diversity and inclusion within the global insurance industry, highlighting the business case for diverse and inclusive workplaces, providing practical ideas and inspiration for how to bring about positive change.

Jason Groves, chair of the Dive In committee, said: "The record number of cities and countries taking part this year shows that more and more people are committed to making their workplaces more welcoming and inclusive.

"By enabling everyone to use the breadth of their backgrounds and life experiences, not only will we become more innovative as an industry but also become the employers of choice for top talent," he added.

Dominic Christian, Inclusion@Lloyd's chair, said: "What started in London five years ago travels further every year with exciting new additions like Nigeria and Indonesia this year.

"Every bit as exciting as the geographic spread is the fact that Dive In has grown beyond the companies that work in the Lloyd's market to attract some of the biggest names in general insurance like Aviva and Zurich as well as professional services firms specialising in the sector."

Insurance Day is a media partner of the Dive In Festival

Brit expands US casualty business

Brit Global Specialty USA has continued the expansion of its casualty business with the appointment of two senior underwriters, *writes Lorenzo Spoerry.*

Garick Zillgitt has been appointed vice-president, primary general liability. He joins from Swiss Re, where he was responsible for wholesale excess and supply casualty business in the western region.

In addition, Brit has appointed Justin Magee as vice-president, excess casualty. He was previously a senior vice-president, focused on contractors' general liability at Redstone Underwriters.

> **'[These appointments] will build on the strong momentum we have seen in casualty classes over the past few years'**
>
> **Nick Davies**
> **Brit America**

They will be based in California.

Brit said the hires follow a period of "sustained growth" for its casualty and professional lines business in the US and follow the appointment of Mark Richards as senior vice-president, general liability in 2018.

Nick Davies, president of Brit Americas, said the appointments "will build on the strong momentum we have seen in casualty classes over the past few years".

NEWS

Lloyd's: Smart contracts can increase efficiency of claims payments

Technology could be a 'promising solution' for parametric and low-complexity products

Scott Vincent
Editor, news services

Smart contracts could play a central role in increasing the efficiency of claims payments on parametric and low-complexity products, according to a new study by Lloyd's.

But the report also warned automated payouts via smart contracts could be "completely unsuitable" for high-value, complex insurance cover.

Smart contracts are pieces of computer code that start to carry out tasks automatically in response to certain triggers. In cases in which human decision-making remains vital, Lloyd's said smart contract code could still be used to make processes more efficient, such as alerting claims handlers action needs to be taken.

For certain business classes, Lloyd's said smart contracts could have a role to play as part of insurance products.

This includes cargo, where the prospect of switching to products featuring smart contracts triggered by independent data is now "increasingly realistic".

The report said internet of things sensors could improve claims services by helping establish workflows that appoint the closest surveyor to inspect cargo immediately after it is discharged from a vessel.

In aviation, the report said smart contracts could be applied as part of an insurance contract for business interruption related to adverse weather development or technical defects.

In agriculture, smart contracts could play a role as part of parametric insurance covers against crop failure. Automatic payout could then occur when agreed damage thresholds are exceeded.

Smart contracts could play a part of insurance products, Lloyd's study suggests

metamorworks/Shutterstock.com

Similarly, parametric property catastrophe products could also feature smart contracts which would allow automatic claims payouts when events occur, helping insurers respond to disasters quickly and efficiently.

Smart contracts could also be used to develop retail parametric insurance products on the same terms as the reinsurance arrangements, Lloyd's said, as well as to trigger reinsurance layer notifications.

Convex launch helps return global reinsurance capital to record level

Global reinsurance capital has returned to its peak of $605bn, driven by earnings growth among traditional reinsurers during the first quarter of this year, alongside the launch of Stephen Catlin's Convex Group in Bermuda, *writes Scott Vincent*.

Analysis by Aon suggested total reinsurance capital available for insurers to trade risk grew 3% during the first three months of the year. The sector recorded a net combined ratio of 95.8% for the first quarter.

Traditional equity capital accounted for $512bn of this, up 5%, driven by earnings growth and the $1.8bn launch of Convex.

But alternative capital fell 4% to $93bn, driven by the payment of losses and investor redemptions. Around $15bn of collateral remains trapped on contracts that have been hit by losses from recent natural catastrophe events, several of which continue to develop adversely, Aon said.

Aon said reinsurer performance has been strong for the year so far, with catastrophe activity at its lowest level since 2006. During the first half of the year, catastrophe payouts of $18bn have represented around half of the 10-year average.

At the summer renewals total demand for reinsurance was flat to down slightly, Aon said. In Florida, several insurers took higher participation percentages for their Florida Hurricane Catastrophe Fund limit, with some non-core reinsurance layers eliminated from overall placements to maintain spend closer to previous years.

Earthquake remains the most significant uninsured peril globally, with just 12% of economic damage related to earthquake insured since 1990.

Most earthquake damage during this period has occurred in Japan, China, Italy, Algeria, Nepal, Indonesia and Iran.

This month has already seen California's two strongest earthquakes for more than two decades. Aon said California has significant vulnerability should a major earthquake hit a population centre with nearly 90% of residents or commercial structures not having earthquake cover in the state.

Across all catastrophe perils, the annual rate of growth in losses covered by insurance has been 1.2%.

This percentage growth translates to many millions of dollars of additional payouts in the aftermath of disasters. But even in mature insurance markets, there are several perils that remain highly uninsured, Aon said.

Zurich names Martin as Blanc's successor

Zurich Insurance Group has said Alison Martin will succeed Amanda Blanc, who resigned suddenly last week, as chief executive of the group's Europe, the Middle East and Africa (EMEA) and bank distribution businesses, *writes Michael Faulkner*.

Martin joined Zurich in October 2017 from Swiss Re and assumed the role of group chief risk officer in January 2018.

She will continue to oversee the group risk management function until a suitable successor has been found.

Last week Zurich announced Blanc had resigned after less than a year in the role. The *Financial Times* reported there was a "personality clash" between Blanc and the insurer's chief executive, Mario Greco. Blanc is reported not to have another position lined up.

Greco said Martin had the "right mix of customer focus, people management and commercial experience".

"She knows our culture, she knows our business and is well suited to take our EMEA business to the next level."

Alison Martin has been with Zurich since October 2017

ANALYSIS

Antony Ireland
Journalist

Market warms to Lloyd's delegated authority plans but devil is in the detail

New risk-based framework wins support although concerns have been raised over sub-delegation risks and the threat of a 'two-tier market'

Lloyd's unveiled plans for a new risk-based approach to delegated authority oversight last week and the market has responded positively – although some bumps need ironing out ahead of implementation in the first quarter of 2020.

The new framework, which aligns to the Future at Lloyd's vision, seeks to reduce compliance costs, reflect modern distribution methods and allow a more risk-based approach to oversight, Lloyd's said. Lloyd's will apply its new risk rating method for approving applications both to coverholders and now also third-party administrators – which are henceforth referred to as delegated claims administrators (DCAs).

A key move is that Lloyd's will also exert "flexible discretion" to allow firms to be given delegated authority without their having to obtain Lloyd's approval beforehand and also lift the prohibition on sub-delegation, subject to flexible discretion. According to Lloyd's, one of the key benefits of the changes is giving Lloyd's syndicates the opportunity to "access business that does not presently fit well into our coverholder model".

To support the changes, Lloyd's will also be rolling out a new integrated, online compliance system called Chorus, which will replace the existing ATLAS and BAR systems. The new risk-based approach to approvals will allow for an automated process for straightforward applications, Lloyd's said.

Lloyd's began consulting the market on its proposed changes in January and has found broad support for the changes. "Respondents overall agreed that the approach we are proposing will offer a balance between ensuring there is robust oversight and reducing the administrative burden that applications can involve," Lloyd's said, pointing to 87% approval of its risk-based approach overall – although only 77% of market respondents said the changes would make a positive difference to their firms.

77%
Percentage of market respondents that said changes planned by Lloyd's will have a positive impact on their firms

There are also some caveats to the market's support. When it comes to the risk rating of applications, for example, some respondents were concerned rating some managing agents as "strong" and others as "standard" could lead to a "two-tier market", and several asked for more information about Lloyd's expectations of parties if they are to benefit from the accelerated processes for lower-risk applications.

It was also suggested low-risk coverholders may see limited benefits if their managing agents are rated as standard.

Managing conduct risk

Respondents also sent a clear message that "careful consideration" needs to be given to the criteria to be adopted for permitted "distributor" appointments and sub-delegation.

> **'As a delegated coverholder we want to have total control of what we are doing – we wouldn't want to jeopardise the underwriting performance of the business by delegating authority to someone else'**
>
> **Gerry Sheehy**
> **Fiducia**

The new rules, which allow underwriters to appoint "distributors" to write high-volume, low individual premium risks, where the terms and rates are pre-set, will from 2020 make it easier for Lloyd's players to use new online distribution channels and also access low-hanging fruit outside the specialist London market.

"Syndicates want to broaden their nets beyond the dominant Lloyd's brokers and the managing general agent [MGA] model offers serious distribution into pockets of smaller provincial business," Gerry Sheehy, chief executive of MGA Fiducia, which he points out was set up less than three years ago but already has a database of more than 2,000 brokers.

"Occasionally we come across scheme business where the broker is not interested in being a coverholder but understands the business better than some underwriters. In this instance, a coverholder may be willing to delegate to capture that volume business," he says.

But Sheehy says his firm has no interest in taking advantage of the lifting of the sub-delegation prohibition. "As a delegated coverholder we want to have total control of what we are doing – we wouldn't want to jeopardise the underwriting performance of the business by delegating authority to someone else."

Indeed, sub-delegating raises natural questions about how to maintain oversight, quality and conduct. "Another step removed is another step removed from oversight," Damian Cleary, partner and head of London market and reinsurance at BLM, says.

Sub-delegation undoubtedly leads to the risk of breaches of authority – potentially a lucrative trend for insurance lawyers – and even Lloyd's admitted that sub-delegation is "undesirable in most cases" and that it should be allowed only "if appropriately controlled".

Most (88%) respondents supported lifting the prohibition, though several emphasised the need to roll it out cautiously; while the new rules remove some of the existing administrative burden and open new opportunities for Lloyd's, they also raise conduct risk, which requires careful management, they said. "We recognise this is an area that requires further discussion with the market," Lloyd's acknowledged.

Similarly, the market expressed strong support for Lloyd's' proposal to remove the need to identify in binding authorities all individuals with underwriting authority, but some cautioned against removing this control because it would reduce visibility on who are the individuals with underwriting authority.

> **'By moving to a risk-based oversight of delegated authorities, Lloyd's is saying it will only let you write a certain type of business... that is fairly restrictive'**
>
> **Damian Cleary**
> **BLM**

There was also general agreement that third party online selling platforms should be permitted, but that similar conduct risk issues may exist. 80% agreed with the controls Lloyd's set out regarding the use of distributors and third-party online platforms, but many believed more detail is needed on the controls it expects managing agents to exercise on distributors.

"Some companies monitor their sub-delegation very closely, and they can provide that facility because they feel they have the right governance processes and oversight controls in place. Lloyd's will choose an approach it feels is appropriate for its members," Helen Dalziel, senior legal and market services executive with the International Underwriting Association (IUA), says.

"There is a risk whenever you sub-delegate delegated authority, but while this may represent a fundamental shift for Lloyd's, the company market has been able to sub-delegate for years," she adds.

88%
Percentage of respondents to Lloyd's consultation that support lifting prohibition on sub-delegation

Questions remain

Ultimately, the new framework does open an opportunity for Lloyd's players to write new business. "Sub-agents give these players access to markets and help them penetrate certain markets more deeply and that should be welcomed," Cleary says.

However, some respondents expressed concern that allowing distributors could "cut across traditional coverholder business and undermine existing Lloyd's coverholders".

Meanwhile, Cleary questions whether Lloyd's is straying from its purpose as a specialist market.

"Lloyd's has always been a great place to write business that you can't place in the companies market, but now increasingly appears to be making itself another companies market player. There is some solidity and resilience in doing that, but it's not what Lloyd's is all about," he says.

Cleary also has concerns about Lloyd's risk rating approach, which he argues could restrict, not liberate, coverholders. "By moving to a risk-based oversight of delegated authorities, Lloyd's is saying it will only let you write a certain type of business. In my view that is fairly restrictive, and I know of MGAs that feel the same," he says.

"On the positive side, MGAs, coverholders and those who back them probably regard the new framework as light touch – provided Lloyd's opens the door for them to write certain lines of business. The big question is what is the key to unlocking that door? How prescriptive, narrow or wide will the Lloyd's assessment of each class of business be?"

Indeed, Lloyd's itself acknowledged it would need to provide greater clarity and detail on this and other aspects of the framework. "The approach to risk assessment by Lloyd's needs to be robust, fair and transparent and clearly communicated to the market," it said.

"Overall, we anticipate everyone will see some benefit from our risk-based approach and the benefits will not be limited to certain parts of the market," Lloyd's said, adding its proposed new processes would likely "evolve with experience… and as we collect better data". ■

LAW & ORDER

Bringing human smarts to artificial intelligence

Amy Bird
Clifford Chance

The lure of artificial intelligence (AI) for underwriters is clear: a powerful algorithm that has sucked up data can spit out sophisticated results that enable precision setting of premiums. Suddenly the risk appears almost removed from a risk-based business. But a report just released from UKFinance is a reminder of another risk: bias.

The report, Artificial Intelligence in Financial Services (June 2019), warns: "We need to ensure AI systems make recommendations without unnecessary bias and do not discriminate on race, gender, religion or other similar factors." As an employment lawyer, I have spent years guiding human decision-makers to be and appear free from bias, unconscious or otherwise. It now seems machines are not impervious to Equality Act breaches either.

In terms of data fed in, this could include past decisions on the setting of premiums, with future decisions to be extrapolated from past outcomes. The issue is the previous decisions are not necessarily "clean" – the computers absorb the biased and potentially discriminatory decisions of their human predecessors. Unless proper scrutiny is applied, insurers could find they have been inadvertently penalising particular protected groups.

In the application of data to results, statistical data may show an insured person having a particular characteristic or set of characteristics is more likely to lead to an insured event occurring. From an actuarial viewpoint, this may be valuable. However, discrimination law does not like assumptions that make protected characteristics (for example, race or sex) a shorthand for determining prejudicial outcomes. Case law shows when such data is used to justify differential treatment, legal equal treatment principles may be breached.

In the UK, direct discrimination occurs when a person is treated less favourably because of a protected characteristic. With a rogue algorithm that has machine-learnt insufficiently audited data, insurers could unconsciously be applying a machine's conscious bias.

Indirect discrimination occurs when a neutral provision, criterion or practice in fact places individuals with a protected characteristic at a disadvantage. It is easy to imagine a non-neutral outcome when data on communities or prosperity is drawn together in an algorithm. Indirect discrimination can be justified if it is a proportionate way of achieving a legitimate aim. Insurers should assess they meet such legal hurdles in the relevant jurisdiction in advance – not when the regulators come knocking.

AI is a valuable tool in setting premiums. Insurtech is booming. But unless carefully managed, it brings the legal risk of being successfully sued for discrimination breaches, with resulting regulatory censure and perhaps a negative treating customers fairly finding – not to mention the reputational cost.

Scrutiny, safeguarding and control can be built into contracts with providers. As UKFinance makes clear in its report, governance, oversight and explainability will also be crucial. In the nuanced world of bias and discrimination, demonstrating a decision has been reached on permissible grounds will be as important for AI-based decision-makers as it has been for human ones. ■

Amy Bird is a senior associate at Clifford Chance

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India set for overhaul of insurance rules

Government to increase foreign direct investment cap for intermediaries

Nikhil Narayanan and Rohit Ambast
Khaitan & Co

India's union budget 2020, announced on July 5, has proposed some significant changes for the insurance sector in India.

The existing foreign direct investment (FDI) cap of 49% applies to the entire insurance sector in India, including brokers, corporate agents, third-party administrators, web aggregators and other insurance intermediaries. The government has now announced FDI of up to 100% will be permitted for insurance intermediaries. This change does not apply to the remainder of the insurance sector.

The Insurance Regulatory and Development Authority of India (IRDAI) historically had concerns in relation to the potential relaxation of the FDI limit for insurance intermediaries, but more recently its position appears to have softened. The change announced in the union budget is a welcome move as the highly fragmented insurance distribution market in India could benefit from international investment.

To give full effect to the government's decision, there will need to be an amendment to the FDI policy clarifying the FDI cap of 49% is no longer applicable to insurance intermediaries; and an amendment to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations 2017 will also be required.

The government will also need to amend rule nine of the Indian Insurance Companies (Foreign Investment) Rules 2015, to exempt insurance intermediaries from the 49% FDI cap; and amend the guidelines on the meaning of "Indian owned and controlled" dated October 19, 2015, together with a clarification to the guidelines on Indian owned and controlled for insurance intermediaries dated November 20, 2015. These developments will need to be monitored.

The proposal to increase the FDI limit for insurance intermediaries to 100% is a welcome shift in policy and should encourage merger and acquisition activity in the sector. Insurance penetration in India is still low and the domestic insurance intermediary market is heavily fragmented. However, before a formal notification for the new 100% FDI limit is issued, the IRDAI will be consulted and may impose additional investment conditions. Therefore, the market awaits the detail of the changes.

The above change applies only to insurance intermediaries and for the remainder of the insurance sector, the FDI cap remains at 49%. However, the finance minister's budget speech included a reference to the fact the government will "examine suggestions of further opening up of FDI in aviation, media... and insurance sectors in consultation with all stakeholders". Although this is just a statement of intent, it does highlight a helpful policy shift.

For international insurers with existing joint ventures in India, it may be worth considering their strategic options with regard to India, including the role played by their local partner such as local support and distribution channels (although the IRDAI's corporate agents regulations prevent exclusivity), the costs of any upsizing of their stake and the benefits of control, consolidation and more optimal governance arrangements (assuming the FDI cap and the Indian ownership and control guidelines are amended).

Many joint venture agreements do contain change of law call options enabling the international insurer to raise its stake, so international insurers may wish to consider the mechanics and cost of exercising these options.A number of joint venture agreements contain governance provisions that were designed to be compliant with the existing "Indian ownership and control" regulations of the IRDAI, so these will also need to be reconsidered in the event there is a change in the regulatory position.

The finance minister also proposed lowering the minimum net owned funds requirement for foreign reinsurers opening branches in India from Rupee50bn ($728.8m) to Rupee10bn. The proposal is targeted at increasing onshoring of international insurance transactions.

For the insurance sector, tax changes were proposed on taxable payouts by life insurers, a 5% withholding tax to apply (on net basis) instead of the existing 1% withholding tax (on gross basis). The budget also suggested the deduction limit for medical insurance is increased to Rupee25,000 from Rupee15,000 (and Rupee50,000 from Rupee20,000, for senior citizens) and third-party insurance premium in respect of goods-carrying vehicles should fall under the 18% to 12% GST rate. ■

Nikhil Narayanan is a partner and Rohit Ambast a principal associate at Khaitan & Co

The proposal to increase the FDI limit for intermediaries to 100% is a welcome shift in policy and should encourage merger and acquisition activity in the sector

Insurance Act 2015 put to the test in court for the first time

Duty of fair presentation under act examined in Scottish case of Young v Royal & Sun Alliance

Andrew Tobin
Mills & Reeve

Scotland's Court of Session's ruling in Young v Royal & Sun Alliance may have made waiver harder to establish
AK-Media/Shutterstock.com

The case of *Young v Royal & Sun Alliance* is the first reported case to be decided under the Insurance Act 2015. The case contains an interesting suggestion the 2015 act may have made it harder for insureds to establish insurers have waived sight of risk information in some circumstances.

The insured claimed for a fire loss under its policy. The insurer sought to avoid the policy on the ground of breach of the duty by the insured to make a fair presentation of the risk under the 2015 act. The insured argued the insurer had waived such a breach and should pay the claim. The court agreed with the insurer there had been no waiver.

The Insurance Act 2015 was the most significant reform of insurance law in the UK for more than 100 years. The act reformed duties on placement of the risk and the effect of warranties, as well as rules relating to fraud and the late payment of claims. It came into effect throughout the UK for insurance contracts entered into after August 12, 2016.

Young concerns duties on placement of risk and waiver, although it appears to be the first case on any aspect of the new act. It was a case before the Outer House of the Scottish Court of Session, a first instance court whose decision will be persuasive in England.

Duty of disclosure

The act reformed the common law duty of disclosure while preserving its essence. The act requires "before a contract of insurance is entered into, the insured must make to the insurer a fair presentation of the risk" (s3(1)). The disclosure required is of "every material circumstance which the insured knows or ought to know" (s3(4)(a)); however the insured need "not... disclose a circumstance if it is something as to which the insurer waives information" (s3(5)(e)).

The Insurance Act 2015 was the most significant reform of insurance law in the UK for more than 100 years... [and] reformed duties on placement of the risk and the effect of warranties, as well as rules relating to fraud and the late payment of claims

The insured's broker prepared a market presentation that was emailed to the insurer. The software used to create the presentation contained an entry reading "select any of the following that apply to any proposer, director or partner... if they have ever, either personally or in any business capacity...", followed by various tick-box questions including one asking "...been declared bankrupt or insolvent or been the subject of bankruptcy proceedings or insolvency proceedings?", to which the insured had answered "none". The insurer received the presentation, although it was unaware of the text of the questions asked by the broker's software. The insurer replied by email on March 24, 2018 confirming cover was in place subject to its terms and conditions and a subjectivity that "insured has never been declared bankrupt or insolvent".

The insurer argued the insured had been a director of four companies that had become insolvent in the five years preceding the policy and the failure to disclose that information entitled it to avoid the policy. In response, the insured relied on the insurer's email of March 24, 2018. By referring only to the "the insured", it was argued, the insurer had waived any entitlement to disclosure of insolvencies or bankruptcies experienced by anyone other than Young and his co-applicant, neither of whom had ever been bankrupt or insolvent.

Types of waiver

The court identified two forms of waiver that arise in the context of risk placement. The first is where the insured submits information that would have prompted a reasonably careful insurer to make further enquiries and the insurer fails to do so. The second is where an insurer asks a "limiting" question from which an insured may infer the insurer has no interest in similar information outside the scope of the specific question. The classic example is where an insurer asks about convictions in the past five years, it is taken to have waived disclosure of convictions that are more than five years old. In both cases waiver is not to be readily inferred, a waiver must be "clear" and the burden of proving waiver lies on the insured.

The insured sought to characterise the March 24, 2018 email as the second type of waiver – a limiting question by which the insurer indicated it was not interested in the insolvencies of other businesses in which Young had been involved. The court was doubtful of the usefulness of the cases concerning that type of waiver because those cases concerned the use of proposal forms proferred by insurers to which insureds respond. In this case the insured initiated the market presentation and sent it to the insurer.

The court pointed out matters relating to moral hazard are required to be disclosed to insurers even in the absence of a specific question to elicit such matters. Construing the March 24, 2018 email in this context the court found "no reasonable reader... would understand it as waiving that part of the moral hazard declaration relating to 'any other business capacity' in which the claimant might have acted". Accordingly, there was no waiver by the insurer of information from the insured about insolvent businesses he had been involved in "in any capacity".

The court was reluctant to find the insurer waived information in circumstances where there was no questionnaire by it and the risk presentation was generated by the insured. The insurer was not therefore seeking to control the scope of information it sought or therefore to be signalling what it regarded as material or what information should be waived.

The enduring point from this case may be its intriguing suggestion that waiver may now be harder to establish in light of the Insurance Act 2015. The court said: "The 2015 act shifted the burden of identifying what is material to the insured in the form of the duty to make a fair presentation of the risk. One consequence is that this may affect the application of the second type of waiver, not least because there is no longer a proposal form that falls to be construed." ■

Andrew Tobin is a partner at Mills & Reeve

insuranceday

E&S pricing ‘set for prolonged hardening’

But improvement in property reinsurance pricing expected to be short-lived, UBS analysts say

Lorenzo Spoerry
Deputy editor

Excess and surplus (E&S) lines rates could continue rising for up to two more years on the back of strong demand and a squeeze in capacity, analysts have predicted, *writes Lorenzo Spoerry*.

Lloyd’s “Decile 10” initiative, which forced underperforming syndicates to take remedial action, along with re-underwriting at AIG and other US carriers, are expected to result in “sustained pricing momentum” in E&S lines for between one and two years, analysts at UBS said.

With rates rising faster than losses, this should result in carriers’ margins expanding, the analysts added.

But the bank said it is “more cautious” about predicting rate rises in the admitted commercial insurance market.

“While we expect pricing to hold around [first-quarter] levels, which were generally considered to be in line or slightly ahead of loss trend, the dislocation dynamics in E&S do not appear to apply to the standard commercial market and we see fewer positive catalysts,” the analysts said in a note.

US commercial insurance prices rose an average of 2% during the first quarter compared to prices a year earlier, according to Willis Towers Watson’s commercial lines insurance pricing survey.

Rates for most lines were similar to or slightly higher than those reported for the earlier period.

Four standard lines – commercial motor, commercial property, excess/umbrella liability and directors’ and officers’ liability – all showed material price increases.

The outlook for property reinsurance pricing is more challenged. Recent increases in rates are expected to be “short-lived”, UBS said, as alternative capacity increases to take advantage of better rates. This was despite marked increases in places at the mid-year renewals.

Loss-hit Florida and US-nationwide property catastrophe and per-risk exposures saw prices rise by up to 25%, according to Willis Re.

In contrast to previous years, when there was generally a “market standard” price increase across most programmes following loss events, clients seen as preferred trading partners were able to renew flat or with only small rises.

But reinsurers said rate increases have only kept pace with their increased view of risk.

UBS says E&S lines could see rates rise for one or two years

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McConachie quits Third Point Re

Bermudian reinsurance veteran Neil McConachie has resigned as a director at Bermudian hedge fund reinsurer Third Point Re, *writes John Shutt, Los Angeles*.

McConachie had served on the Third Point Re board since December 2017.

His departure, disclosed in a US Securities and Exchange Commission filing, comes less than two months after the company’s chief executive, Rob Bredahl, left to join boutique broker TigerRisk.

Before joining Third Point Re, McConachie was chief financial officer at Fidelis Insurance, where he was a co-founder.

He joined Fidelis from Lancashire Group, where he served as president, chief operating officer, chief financial officer and chief risk officer during his tenure.

Earlier this year, Third Point Re reported a record quarter’s profit on the back of investment gains and improved underwriting. Net income rose to $133m compared to a loss of $26m a year earlier, aided by “solid” investment returns.

EC3 Brokers hires two in US

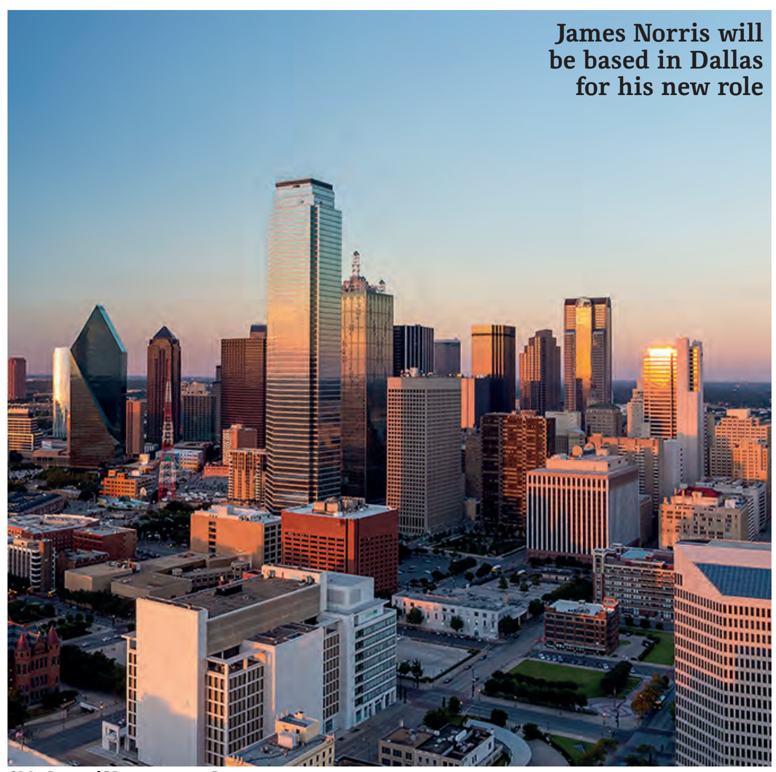
Lloyd’s broker EC3 Brokers has made two senior appointments to its US broking team, *writes Lorenzo Spoerry*.

James Norris has been appointed chief actuary, based in Dallas, Texas. He joins from Lapis Resources, where he was president.

Terry Holley comes on board as a senior vice-president, after spending the past year working as a consultant to develop a new start-up managing general agent (MGA). He was previously a director at Wellington Insurance Group.

Chris Hilton, president of EC3 Brokers US, said: “This is a great opportunity for EC3 Brokers to advance in a fast-paced market and excel in reinsurance business.”

Formed in 2013, EC3 Brokers is headquartered in London with subsidiaries in Dallas, the US and Dubai’s DIFC.



James Norris will be based in Dallas for his new role

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