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EXCLUSIVE INSIGHT AND ANALYSIS FROM INSURANCETIMES, STRATEGICRISK & GLOBALREINSURANCE

David Blackman ■ Assistant editor

Even though it is just over a month since the general election delivered the UK's first coalition government for a generation, the sight of Conservatives and Liberal Democrats together has become a surprisingly familiar one.

The confusion surrounding the insurance sector's regulatory framework is one of the many muddy outcomes resulting from the agreement between the two parties.

The Conservatives went into the election with a firm promise to scrap the FSA and transfer its regulatory responsibilities to a combination of the Bank of England and a new body, the Consumer Protection Agency.

But Lib Dem opposition appears to have put paid to these plans. The coalition agreement is opaque, merely referring to the government's commitment to transfer macro-prudential regulation to the bank.

Chancellor George Osborne – understood to be pushing still for the FSA to be stripped of its powers – is expected to show his hand on regulation when he delivers his annual Mansion House speech next week.

Less than a week later, he will present his first emergency Budget in which there could be welcome news for insurance on the taxation of foreign branches. But both capital gains tax and insurance premium tax are expected to rise. A Tory-led government increasing CGT? It seems that expecting the unexpected is the main lesson from the first month under the coalition,

david.blackman@insurancetimes.co.uk

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Nathan Skinner • Associate Editor • StrategicRISK

A break with tradition

It's more than time to drag an age-old insurance law into the 21st century

It is time the insurance industry set aside a 100-year-old law that allows insurers to refute claims based on potentially innocent non-disclosure.

Airmic, the UK insurance buyers' association, has launched a campaign on behalf of its members to change the Marine Insurance Act of 1906 that imposes an obligation on consumers to anticipate what a "prudent insurer" deems "material" underwriting information. Insurers that can show there has been a breach in that duty, even if it is inadvertent and unrelated to the claim, can avoid the claim or even the policy itself.

"[Innocent non-disclosure] is a really important issue for our members," says Airmic chief executive John Hurrell. Insurance buyers are concerned because full disclosure is next to impossible to realistically achieve. It is hugely time-consuming with the average risk manager for a multinational company spending between three to six months every year preparing disclosure information to accompany an insurance request. And as soon as they submit their information, it is out of date or incorrect. This is even more true in the current climate, given the upheaval of the economic slowdown.

Insurers can refute a claim based on this innocent non-disclosure. But when they do – as is quite often the case – buyers become infuriated, say Airmic members. Insurers say that market practice dictates that they treat their customers fairly. Most insurers, however, accept that the dice are loaded too heavily in their favour, Hurrell says.

The authorities have taken an interest in the issue. In December, David Hertzell of the Law Commission published a report for the UK government that recommended clarification of the law. The report included draft legislation designed to replace the Marine Insurance Act, designed to protect merchant shipowners rather than modern-day businesses.

The current law requires consumers to volunteer information about anything that a "prudent insurer" would consider relevant. The Law Commission says that any failure to do so allows the insurer to treat the insurance contract as if it has never existed and refuse all claims under the policy.

UK rules are 'anti-competitive for insurers'

It is also argued that the onerous UK rules are anti-competitive for insurers based on these shores. If buyers knew the extent of the problem, they would surely prefer to place their business in the easier European or US jurisdictions.

For this reason, they say, insurance law reform is in the interest of the London market. The UK has the most customer-hostile disclosure legislation in any major western country, Hurrell adds, and it risks undermining confidence in the insurance promise.

Airmic is keen to highlight the issue and pressure the market to reform itself. It's unlikely that it will do away with such an established tradition overnight, but there's no reason to expect that both sides of the insurance market can't come to an acceptable agreement. Airmic is now working on supplementary clauses that could clarify the position for both parties so that it is clear what constitutes "material information" and on what grounds an insurer can refute a claim. You only need to look back a few years to the issue of contract certainty to see how age-old insurance traditions can be dragged, relatively quickly, into the 21st century.

Airmic hopes that it will have an agreement of sorts by December. It is in the interests of the entire market that this is achieved.

nathan.skinner@strategicrisk.co.uk

Key points

- Insurers and buyers should come to an agreement to reform the Marine Insurance Act 1906
- Insurers should not rely on technicalities to refute claims; it infuriates buyers
- Reform is possible – just look at the success of contract certainty

Archive

➔ Airmic hopes clause will ease disclosure headaches, 4 May 2010

➔ Optimistically crazy – or is that crazily optimistic?, 20 June 2008

➔ Balancing the scales, 6 June 2008

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Muireann Bolger • Features Correspondent • Insurance Times

Tales of the unexpected

Will the Irish regulator allow Quinn to make a much-promised return to the UK market?

The saga of Quinn keeps on rolling. In the latest development, the Irish High Court has given the go-ahead for Macquarie Capital Europe to oversee its sale.

No timeframe has been given for the controversial insurer's return to the UK, as the business plan for writing commercial lines is with Irish regulator Matthew Elderfield. Administrator Grant Thornton says the ball is now "firmly in the regulator's court".

However, Quinn's bid to return was bruised when it emerged that the insurer would have to increase prices in some commercial lines by as much as 3,000% to become profitable in the UK. Meanwhile, the administrators have ruled out renewing its old strategy of writing business as a loss leader, leaving many asking how the insurer could hope to better its sole niche – selling at a bargain price.

The big question is whether it can regain a foothold in the UK. The administrators are trying to strike an optimistic chord. "Obviously, the insurer has had good relationships with UK brokers previously, but it will depend on which lines of business they open up. If it is an incremental process, it will be easier to rebuild those relationships because it will be an incremental expanding of certain lines," says a spokesman.

But the market remains sceptical. While Aviva's intermediary and partnerships director Janice Deakin does not rule out a Lazarus-like comeback on these shores, she says that it is unlikely that the insurer could win back old customers and clients. "It is very difficult for brokers because many have been left with difficult conversations with their customers."

She believes that Quinn could grab market share again only by reverting to cut-throat pricing. "The price differentials would have to be so big that it would be worth the risk." This leaves the insurers with a Catch 22 situation: increase prices and lose any chance of building back UK business, or push down prices and face the wrath of the Irish regulator.

Old guard falls by the wayside

If Elderfield gets his way, the company will be sold and given a facelift. And the old guard of the company is falling by the wayside. Chief executive Colin Morgan announced his departure as Grant Thornton launched an overhaul of senior management. Meanwhile, founder Sean Quinn's share in the company has dwindled to 5%. Stakeholders undoubtedly hope the promise of a new brand and owner will help to restore the faith of UK brokers.

Workers hope for a takeover by the now nationalised Anglo Irish Bank, which is still owed £2.8bn by the Quinn family. It hopes to partner with a foreign insurer to overcome the financial regulator's concerns about its ability to run the company. The administrators say that up to 50 potential buyers have been circling including, it is believed, AXA, Allianz, RSA, Liberty Mutual and Sampo. Most recently it emerged that Germany's third-largest insurer, Talanx, could be set to bid for Quinn Insurance in a move to enter the Irish general insurance market under the HDI-Gerling brand.

But Sean Quinn has come out fighting. He recently indicated that Quinn may reverse its decision to sell its insurance arm, telling Irish TV station RTE that he could repay his family's €2.8bn (£2.3bn) debt to Anglo Irish Bank from profits from the insurance business.

First he would have to convince the Irish High Court and administrators of the plan's viability and, more importantly, bypass Elderfield's opposition to his regaining executive control of the business. No mean feat.

But as the story of Quinn rumbles on, only one thing is certain. Expect the unexpected.

muireann.bolger@insurancetimes.co.uk

Key points

- Quinn would have to lift prices by up to 3,000% to become profitable in the UK
- Other insurers say that it could only regain market share by reverting to cut-throat pricing
- Company workers are hoping for a takeover by the Anglo Irish Bank

Archive

➔ German insurer linked with Quinn bid, 7 June 2010

➔ Quinn workers queue to quit, 25 May 2010

➔ The Quinn files, 20 May 2010

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Ben Dyson • Group Financial Editor • Global Reinsurance

Picking up after a slow start

New issuers and more seasoned players have been tempted into the cat bond market

Anyone worried that the apparently low level of catastrophe bond issuance in the first quarter of 2010 was indicative of a slow year can rest easy. While only two deals were completed – Swiss Re's $120m (£82m) Successor X deal and The Hartford's $180m Foundation Re III transaction – compared with three deals in the first quarter of last year that accounted for $575m of risk capital, the second quarter more than made up for it.

A further eight deals in Q2 brought the total issuance for the year to around $2.35bn, compared with $3.5bn across 19 transactions in the whole of last year. And, as market participants point out, first quarters traditionally are quiet in the cat bond market, tending to pick up in the second quarter as companies prepare for the hurricane season and again in the fourth quarter in keeping with the run-up to the main renewal date on 1 January.

Q1 2010 may have looked quiet, but the financial crisis effectively had closed the cat bond market for the second half of 2008. Issuance spilled over into 2009, making the first quarter busier than usual.

Activity in the first half of this year seems to support estimates that issuance will at least equal last year – and could reach $5bn. However, the market still has some way to recover before it hits the highs of 2007, when 27 deals representing $7bn of risk capital were launched.

An encouraging sign is that the portfolio so far this year contains both regulars and those tapping the capital markets for reinsurance coverage for the first time.

Few will be surprised to see the return of US military home, life and motor insurer USAA. Residential Reinsurance 2010 is its 14th cat bond from its Residential Reinsurance special-purpose vehicle. The latest outing is a three-year, four-tranche $400m bond providing protection against US hurricane, earthquake, thunderstorm, winter storm and wildfire.

Chartis makes its debut

Meanwhile, AIG subsidiary Chartis made its cat bond debut in May, issuing $425m of bonds through Bermuda-based special-purpose vehicle Lodestone Re. The three-year, two-tranche bond provides the property and casualty insurer with fully collateralised coverage against US hurricanes and earthquakes.

Other deals include US insurer State Farm's $350m Merna Re II, Assurant's $150m Ibis Re II, the North Carolina Joint Underwriting Association and North Carolina Insurance Underwriting Association's $305m Johnston Re, Nationwide Mutual's $185m Caelus Re II, Munich Re's $80m EOS Wind, and Allianz's third Blue Fin bond, valued at $150m.

There are several reasons for the resurgence. Deals were expensive when the market reopened in 2009 as investors put a premium on any capital they were offering. However, as the year progressed, cat bond spreads tightened. The result was that, towards the end of 2009 and into the start of this year, capital markets coverage was available at a price comparable to that in the traditional market, tempting new issuers and more seasoned players to return.

Investors also have more capital, not least because of the high-level of cat bond maturity expected from the bumper crop issued in 2007 (most cat bonds have a three-year lifespan).

According to reinsurance broker Guy Carpenter's first quarter catastrophe bond update, $888m worth of bond matured in the first quarter, with $4.08bn due to mature before the end of the year. To the extent that happens before the end of the year, investors will have more capital to reinvest in the market.

However, an offsetting factor could be more attractive opportunities in other asset classes, which could lure investors' capital away from the market.

ben.dyson@globalreinsurance.com

Key points

- First quarters are traditionally quiet in the cat bond market
- Last year's Q1 was busier than usual after the financial crisis effectively shut the market towards the end of 2008
- Things still have some to go before they reach the highs of 2007
- Investors have more capital as 2007 cat bonds mature

Archive

➔ Replenished Re, March 2010

➔ $5bn new cat bonds predicted for 2010, January 2010

➔ Natural catastrophes review 2009, July 2009

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Ellen Bennett • Executive Editor • Insurance Times

Aviva bends in the winds of change

Commission bonus to brokers helps net written premiums lift 4% for UK's largest insurer

The first-quarter results for 2010 showed a slow but steady return to form for the UK's largest insurer, Aviva. Under the fresh management of Mark Hodges and David McMillan, the insurer is attempting to reverse Igal Mayer's 'scorched earth' policy that saw £1.1bn wiped off its commercial premiums over 2009.

Having since accepted that rates are not turning in the way it anticipated – and that burning its bridges with the largest brokers is too risky even for a company with its clout – Aviva has become markedly more flexible, resulting in a modest but welcome 4% rise in net written premium to £913m for the first quarter of the year.

This has been achieved through a mix of existing business winning new accounts. The new business drive has no doubt been helped by a 2% commission bonus for brokers bringing new customers through the door – an initiative that demonstrates the shifting power balance between insurers and brokers.

RSA also had a healthy first quarter, with net written premium up 7% to £697m. The insurer said its growth was thanks to rate rises and expansion in areas such as broker personal lines and affinity. RSA has steered a steadier ship this past year or two than Aviva, with strong relationships with the big brokers and a targeted approach to rate rises.

Out of the major composites, AXA came off worse with a rise of just 1.4% in its UK general insurance business to £982m. The French insurer said it had pushed up rates by 2%, but these were offset by lower volumes in commercial lines. Like Aviva, it has been offering a commission bonus to brokers bringing in new business.

Rates have room to rise

The insurers are united in their complaint that rates have not risen further enough. RSA takes a fairly bullish line, claiming that the average rise across its commercial book was 7%. Still wounded from last year's vain bid to turn the market, Aviva is less outspoken on rates, with McMillan saying simply that it will look at business case-by-case and reiterating that it no longer feels a duty to lead the market.

But there has been one glimmer of hope. The private motor market at long last shows certain signs of hardening – though given the level of reserve releases over the past couple of years, there were few other options.

Indeed, this market has bought some joy even to AXA, where motor revenues were up 31% in the first quarter, helped by double-digit rate increases and higher volumes from Swiftcover and AXA Direct. Of course, how much these gains across the market are swallowed up at the end of the year by rising claims costs remains to be seen.

ellen.bennett@insurancetimes.co.uk

Key points

- First-quarter results this year reveal a slow return to form for some of the major insurers
- Aviva and RSA had a good Q1; AXA had mixed results
- Rates have risen in some lines, but not enough, say the insurers
- Private motor has shown some hardening, but how much impact this will have on the wider market is unclear

Archive

➔ RSA reaps rewards from new strategy, 27 May 2010

➔ AXA motor revenues rev up as property and casualty idles, 13 May 2010

➔ Aviva claims GI recovery, 11 May 2010

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