MARSH

# APPROACH YOUR RISK WITH CLEAR DIRECTION:

## 2011 INSURANCE MARKET MIDYEAR UPDATE

### EUROPE, MIDDLE EAST AND AFRICA (EMEA)

LEADERSHIP, KNOWLEDGE, SOLUTIONS...WORLDWIDE.

MARSH & McLENNAN COMPANIES

# CONTENTS

1 OVERVIEW . . . . . . . . . . . . . . . 1

2 KEY ASSET CLASSES . . . . . . . 2

3 COUNTRY SPECIFIC AND LEGISLATIVE IMPACT . . . . . . 6

2011 Insurance Market Midyear Update—EMEA

Contributors

Information in this report was provided by numerous professionals throughout Marsh’s risk and industry practices, coordinated by the Knowledge Management Network.

For more information about the report, please contact your Marsh client executive or local Marsh office.

# OVERVIEW

1

Over the first half of 2011, the insurance market faced natural catastrophes, threats of political instability and legislative changes. This has led to the prospect of significant losses for insurers. As insurers look to recoup some of these liabilities through premium increases, clients face continued financial pressures in a time of ongoing economic uncertainty.

Whilst insurers are pushing for rate increases on almost all classes of business, excess capacity in the market is creating competition. This has enabled brokers to secure renewals as per the expiring premium, or even at a discount. At the same time, clients are looking to reduce their insurance premiums as part of their overall efforts to reduce costs. This is putting additional pressure on their brokers and the wider market.

Nevertheless, the market has imposed rate increases in some lines of business, such as motor, along with a tightening of terms and conditions. This trend will likely continue over the next six months, although premium reductions may still be achievable for well managed risks with a good loss history.

## TOPICAL RISK ISSUES

### POLITICAL INSTABILITY AND INSURANCE COVERAGE

Political instability, highlighted by recent events in the Middle East and Africa, poses challenges from a property, terrorism and political violence insurance perspective. In particular, concerning the manner in which these coverages interact.

At times of instability, many policies covering different aspects of property and different perils may be affected. This includes policies that are part of local/fronting, master property programmes, and any political violence, political risk and/or terrorism programmes. It is not always apparent how such policies will respond.

For insurance, events that are generally described as “terrorism” may actually be considered “war,” “civil war,” or another political violence peril. Political violence insurance should be considered by companies with exposures in high risk countries.

### CYBER RISKS

Recent multimillion-dollar privacy cases have highlighted cyber risks as a growing issue for firms. Large losses in sectors such as retail, credit card processing and financial institutions have caused insurers to review rates and terms. However, the cyber liability insurance market is competitive and has ample capacity.

### SUPPLY CHAIN

Companies’ supply chains face constant challenges, as exemplified by last year’s volcanic eruptions in Iceland and by the Japanese earthquake of 11 March and its ongoing impact on several major industry sectors. With supply chains lengthening, firms need to ensure they have comprehensive contingency plans in order to protect revenue and market share.

# KEY ASSET CLASSES 2

## PROPERTY MARKET

As with the global marketplace, the region has felt the force of increased natural catastrophe (NAT CAT) events in Australia (floods), New Zealand (earthquakes), Japan (earthquake and tsunami) and US (tornados). Further, Guy Carpenter anticipates a severe hurricane season. As a result CAT rates are increasing. There is some evidence of clients self insuring CAT exposures by choice (due to rate increases), and also by force (reduction in limits by insurers, plus exclusions becoming apparent).

Despite the increased frequency and severity of natural catastrophes, overall capacity in the market remains strong. Hardening of the market has been avoided so far as supply is still outweighing demand with new insurers continuing to enter the market. However, some insurers, particularly in France and Spain, have stated they will no longer be offering long-term agreements or premium discounts. Rates are starting to level off, although some discounts can still be negotiated on risks with a good loss history and where time has been spent in providing high quality underwriting data.

The indirect impact of Japan's natural catastrophes on EMEA through supply chain disruptions is becoming clear. Claims are possible under the supplier extension clause, although many offer only first tier supplier cover and restricted perils. Insurers are reviewing supplier limits and will be expecting more information on supplier exposures.

The importance of specialist political violence cover is apparent as a result of the continuing disruption in the Middle East and other parts of the world. There has been much discussion around whether the events should be described as terrorism. The important factor is to review the individual policy wordings to see which cover might apply. In areas perceived to be 'risky' we have seen property premiums increasing significantly.

## CASUALTY MARKET

As a matter of general trend, the casualty market in EMEA remained soft over the last three months. Global NAT CAT accumulation seems to have direct effects on that particular coverage of the property insurance. However, there have not been significant casualty losses with short-term effects that could trigger a change in the overall underwriting attitude. Insurers continue to diversify their offer, especially on the continent, where all segments, large accounts as well as lower-sized buyers, could continue to benefit from the competition. Average decreases of 5% to 10 % could be regularly noted.

This overall trend belied some noticeable exceptions:

- Pharmaceutical liability remains under great scrutiny, while line size and aggregation are being closely monitored. This trend could also be observed on some generic activities. However, a very recent US Court ruling in

favour of generics could reverse this trend, at least for activities with US exposures

- Energy offshore liability continued to see rate levels increasing, obviously influenced by the Deep Water Horizon loss
- Policies that were technically not profitable, unless protected by long-term agreements, were or are being re-underwritten by some insurers
- Depending on the countries, inflating costs of car repairs have a hardening impact on the automobile liability insurance sector

While questions were raised as to whether the market bumped the bottom or not, concern has been rising in some countries about the possible impact of inflation over reserves, a factor to which casualty insurers are sensitive, in light of the long-tail nature of this class of insurance.

## FINANCIAL AND PROFESSIONAL (FINPRO) MARKET

In EMEA, the market for FINPRO products has remained favourable for insureds. Some insurers have been aggressively growing their portfolio by improving both policy forms and pricing. Clients have strong expectations for renewals and by re-marketing and re-layering their programmes, Marsh has been able to meet their demands.

Financial institutions have benefited from this continued soft market, despite many claims still outstanding. Large commercial buyers of directors' and officers' (D&O) liability experienced rate reductions, whilst some primary insurers are resisting improvements. The small and medium enterprise segment is extremely competitive with many new insurers attracted by the perceived claims-free environment. Many insureds are still suffering from economic pressures and therefore are very price sensitive.

We expect the market to have a strong appetite to provide FINPRO products in the near future and therefore clients should anticipate continued improvement in terms and conditions. Technical discussions and clients' differentiation are increasingly critical to achieve set objectives.

D&O rates are still decreasing, with double digit reductions for financial institutions. For commercial clients, the pace of these rate reductions is slowing and some insurers have stronger underwriting discipline, albeit with flexibility depending on the insured's stability.

## MOTOR MARKET

The motor market continues to be competitive and some insurers are still producing soft market rates. There has also been extra capacity as Liberty and Ascot began to underwrite motor fleet business in 2010. In addition, in early 2010 Aviva set up a Corporate Risks Division with substantial growth targets. During the start of 2011, Aviva has not been as competitive as 2010, but it is expected that during the latter part of 2011 it will compete for motor fleets.

There is a considerable amount of pressure to increase rates. Commercial motor market net operating ratio is 110% after reserve releases of 7.3%. This ratio is partly due to the substantial losses sustained by HSBC, Mitsui, Equity and Jubilee. Jubilee has decided not to continue to underwrite motor insurance. Further, the cost of bodily injury awards has been rising faster than anticipated and has caught many insurers unaware. However, a recent Datamonitor report[1] forecasts bodily injury inflation at 3.7% for the next two years.

Whilst road accidents have decreased, the number of claims for injuries from these accidents has risen by over 13%. This is probably due to the claims management companies. Overall the number of fatalities and injuries sustained in motor accidents in 2010 is the lowest since records began in 1926. In 2010, however, a record bodily injury award was made in the UK of £13.75m for compensation in respect of a permanently disabled professional cyclist.[2]

There will be at least five markets that will be competitive in the UK during 2011 and therefore the overall loss ratio calculation that the market

1 UK Personal Injury Litigation 2011, Datamonitor, April 2011
2 Daily Mail, September 2010

uses will likely be maintained. Rates are, however, subject to: the performance of each individual fleet's claims experiences; increases in the claims experience due to a reassessment in the cost of injury awards; credit hire claims due to late notification and fraud; and increases in reinsurance rates.

## MARINE MARKET

The cost of marine insurance was driven by a variety of factors in 2010, the most influential of which was the availability of plentiful capacity to underwrite even the largest risks. This has led to an environment where insurers are tempted to trade underwriting profit for market share.

### MARINE HULL

The market climate has not developed at a consistent pace across the global marine insurance marketplace and on this occasion London has led the way down. This is unsurprising because London saw the greatest concentration of new underwriting capacity in 2010 with Scor, WR Berkley and Barbican all entering the market. Surplus capacity will become even more marked in 2011 with yet more insurers, including Liberty and Skuld in London, underwriting hull business as the year begins. With supply exceeding demand we anticipate continued market softness throughout 2011.

### BUILDERS RISK

The decline in new building contracts has meant the builders risk market has been quiet. Rating levels have stabilised recently and only yards with poor loss records have experienced stiffer rates and restrictive insuring conditions.

We calculate the total capacity for builders risk insurance is more than US$1.5bn and this will increase in 2011 as new entrants to the hull market also seek market share. The highest value risks continue to test the market in terms of both pricing and scope of available cover.

### PROTECTION AND INDEMNITY

Today we are looking at a 2011 renewal season characterised by general increases averaging below 5% for the second year running. These have been applied by clubs that have rebuilt free reserves, in some cases, to new highs.

### CARGO

There continues to be significant competitive tension, both within and between markets and rate reductions should continue to be available on good loss ratio business while distressed business should not experience major corrective action.

### MARINE LIABILITY

Global marine liability markets could be best described as benign. Marine liability business in general terms remains well regarded by most market participants.

## ENERGY MARKET

Whilst there is much talk amongst the underwriting community about the perceived need to push up prices, many insurance and reinsurance companies or indeed Lloyd's syndicates are still seeking growth through expansion.

The market is harder, negotiations take longer, more information is required and some segments of the market will show strong discipline. We are now witnessing numerous rises on natural catastrophe exposed assets, control of well, deepwater drilling and offshore liabilities.

The market is achieving rises of between 5% and 10% on a number of accounts. However, whilst the top coat of the market may appear harder, it appears to have a soft inside driven by too much capacity and excess capital available to the industry.

## POLITICAL RISKS AND STRUCTURED CREDIT

Client awareness of risk is high following the credit crisis, sovereign crises in the Eurozone, and ongoing political uncertainty throughout the Middle East and North Africa (MENA) region. As lenders and investors are cautious regarding their strategy in these regions, so insurers are also cautious in selecting which insureds to support in which countries. In particular, longer term investments and loans are being carefully scrutinised against a backdrop of potentially higher returns from short-term trade transactions.

Whilst we are aware of one insurer effectively closing their doors to new business in the MENA region, for most there are selective opportunities. Client awareness of political violence and business interruption as an extension to pure property/terrorism cover has increased, as has the awareness of payment risks from some of these countries.

Libya is an example of a country where we are witnessing losses to the market from physical damage, to forced abandonment (companies being required by their own government to evacuate personnel and abandon their assets), to confiscation, through to non-payment under contracts for both pre-shipment and post-shipment perils.

Capacity in the market remains strong, with some new entrants such as Brit in the second quarter of 2011. Whilst logically premium rates should be rising exponentially, no amount of premium makes a poor risk good. In reality, higher commodity prices mean that some insured borrowers are being chased aggressively by lenders. This is causing a reduction in rates as companies in, for example Russia, refinance their obligations. In some geographies insurers are seeing opportunities with new clients to the market.

## TRADE CREDIT

There are many signs that the world trading position is anything but stable. Trade credit insurers continue to battle on pricing, programme design and cover levels. The market has seen the addition of new insurers and increasing capacities. This activity drives reductions in premium rates, which have been very apparent over the last quarter.

The speed of change from hard to soft markets has been swift. The reduction in actual insolvencies is again driving business strategy for insurers. As inflationary pressures continue to rise and financial institutions attempt to stem any sudden surge, the recovery will remain weak and credit insurers will remain cautious, continuing to demand top-line growth.

## ENVIRONMENTAL MARKET

The environmental impairment liability insurance market has expanded, with new markets providing additional commercial terms and capacity. Overall, the environmental impairment liability insurance market remains competitive and commercial. A greater proportion of operational risk exposures is being underwritten. There has been an increase in demands for historic liability insurance for legacy environmental liabilities associated with transactions.

The Environmental Liability Directive in Europe continues to be a driver for interest in environmental impairment liability insurance, especially for companies with operations in countries where there is or will be a mandatory requirement to hold financial security for environmental damage liabilities. Outside the European Union, there is additional interest in environmental impairment liability insurance from multinational companies headquartered in countries where environmental regulations are developing.

# COUNTRY SPECIFIC AND LEGISLATIVE IMPACT 3

## UK: THE BRIBERY ACT 2010

On 30 March 2011, the Ministry of Justice published long-awaited guidance on the procedures that businesses ought to have in place to prevent bribery and corruption. The Act came into force on 1 July 2011.

The Act creates four offences of which only one is a new offence: (1) offering a bribe, (2) receiving or requesting a bribe, (3) bribery of foreign officials and (4) the new corporate offence of failing to prevent a bribe being paid on an organisation's behalf.

The law covers the actions of UK organisations, nationals and residents operating in the UK or abroad, and overseas entities carrying on business in the UK. The extra territoriality of this Act is unusual in UK law.

Insurers have indicated that when assessing a company for underwriting purposes, they will pay attention to anti-bribery and corruption procedures that a company has in place. The robustness of these procedures may have an impact on insurance coverage and premium terms.

A standard D&O policy will provide protection for directors and senior managers from the costs of defending bribery prosecutions up until the point they are found guilty.

## UK: FIRST CORPORATE MANSLAUGHTER CONVICTION

On 16 February 2011, a jury at Winchester Crown Court delivered a guilty verdict following the prosecution of a company under the Corporate Manslaughter and Homicide Act 2007.

The conclusion of the trial against Cotswold Geotechnical Holdings Limited represents a legal milestone in England and Wales, as the conviction is the first since the Act was introduced.

The conviction and sentence provides a timely reminder to all corporate entities to ensure health and safety strategies are up to date, fully embedded, implemented and adhered to within their organisation.

## RUSSIA: CLINICAL TRIALS

In 2010, a new Federal Law on medicines known as the 'Circulation of Medicines' replaced the 2000 Law. This Act specifies new terms and conditions which are to be applied to clinical trials occurring in Russia, the limits for which insurance is to be arranged for the life of patients who participate in clinical trials and the rating to be applied to the insurance contract.

The Act is detailed in describing and defining: the stakeholders in a clinical trial; their responsibilities; beneficiaries who can stand in place of the insured person; the limits/sum insured to be provided (by

what phase of clinical trial); the rating; deviations from the premium rates that are allowed; the information to be provided and how a claim should be made. The Act is prescriptive in what has to be provided by way of documentation and compensation. Other considerations are the increased risks created by the Act particularly concerning: privacy of data; contract periods cannot be limited to 12 months; introduction of "no-fault" insurance and the emphasis on the policyholder having their own legal liability insurance (as the Act permits in circumstances that are not defined) and the setting aside of the limits of compensation defined in the Act (thereby increasing the liability of the policyholder).

## INDIA: CLINICAL TRIALS

India is an "admitted" insurance market.  This requires an insurance policy for clinical trials taking place in India to be placed with an insurance company approved by the Insurance Regulatory and Development Authority (IRDA).

As per the new directive on clinical trials issued by the Drugs Controller General of India (DCGI) in December 2010, all Chief Risk Officers (CRO) should take responsibility for all injuries and medical treatments of patients enrolled for the clinical trial. This is a prerequisite to receiving an approval letter.

Previously, with clinical trials in India, the insurance and all responsibility for adverse reactions was the responsibility of the sponsor. However, the recent directive by the DCGI would make the CRO/local Indian entities wholly responsible to pay for any adverse reaction during a clinical trial conducted by them directly; they will not simply be able to pass on the responsibility to the sponsor.

The CRO can enter into an agreement with the sponsor to arrange suitable local insurance coverage. It would be prudent for the CRO to be named as an additional insured. In reality this has been the normal practice, but the new directive is explicit on where ultimate responsibility lies.

The cost of clinical trials insurance in India is high relative to other countries where similar trials take place. There is also a desire by the Regulator to use this change in the regulations to achieve a higher level of compliance with the requirement for "admitted" insurance for clinical trials. This has not always been the case.

For further information, please contact your local Marsh office
or visit our web site at:
www.marsh.com

This document and any recommendations, analysis, or advice provided by Marsh (collectively, the "Marsh Analysis") are not intended to be taken as advice regarding any individual situation and should not be relied upon as such. This document contains proprietary, confidential information of Marsh and may not be shared with any third party, including other insurance producers, without Marsh's prior written consent. Any statements concerning actuarial, tax, accounting, or legal matters are based solely on our experience as insurance brokers and risk consultants and are not to be relied upon as actuarial, accounting, tax, or legal advice, for which you should consult your own professional advisors. Any modeling, analytics, or projections are subject to inherent uncertainty, and the Marsh Analysis could be materially affected if any underlying assumptions, conditions, information, or factors are inaccurate or incomplete or should change. The information contained herein is based on sources we believe reliable, but we make no representation or warranty as to its accuracy. Except as may be set forth in an agreement between you and Marsh, Marsh shall have no obligation to update the Marsh Analysis and shall have no liability to you or any other party with regard to the Marsh Analysis or to any services provided by a third party to you or Marsh. Marsh makes no representation or warranty concerning the application of policy wordings or the financial condition or solvency of insurers or reinsurers. Marsh makes no assurances regarding the availability, cost, or terms of insurance coverage.

Marsh is one of the Marsh & McLennan Companies, together with Guy Carpenter, Mercer, and Oliver Wyman.

In the United Kingdom, Marsh Ltd. is authorised and regulated by the Financial Services Authority for insurance mediation activities only.

Marsh Ltd, trading as Marsh Ireland is authorised by the Financial Services Authority in the UK and is regulated by the Central Bank of Ireland for conduct of business rules only.

Copyright © 2011 Marsh Ltd. All rights reserved.

LEADERSHIP, KNOWLEDGE, SOLUTIONS...WORLDWIDE.