THURSDAY 7 MAY 2020

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Printed by Stroma, Unit 17, 142 Johnson Street, Southall, Middlesex UB2 5FD.

Print managed by Paragon Customer Communications.

Hiscox tipped for growth as company raises £375m

Premiums rose in the first quarter and the company is looking ahead to continued rate hardening across many lines of business

Lorenzo Spoerry
Deputy editor

Hiscox has raised £375m ($464.1m) in a move analysts say will restore confidence in the company's capital position and allow it to grow in hardening markets.

The raise was done at a discount of only 6% to Tuesday's close, which Jefferies analysts took as a sign the market is willing to look beyond Hiscox's potential troubles in UK small commercial business interruption policies and instead focus on the company's positive long-term prospects.

Hiscox said it intends to use the capital to exploit opportunities for profitable growth in wholesale and reinsurance markets created by Covid-19. The pandemic is leading to capital contraction and rate improvement across many markets.

Jefferies analyst Philip Kett said although the group faces "headwinds" in the UK, the potential for growth in its US business "creates compelling upside potential".

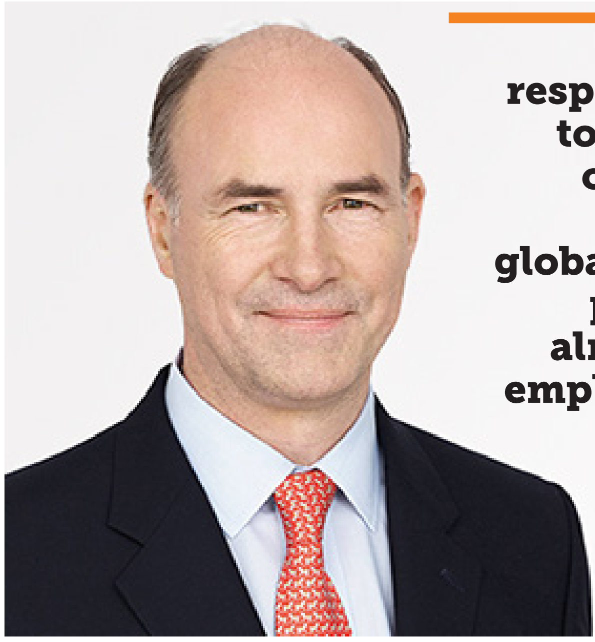
Numis analyst Nick Johnson also backed the capital raise, saying strengthening the balance sheet was "absolutely the right decision", given the need to remain "robust" if Hiscox faces further negatives this year, such as credit spreads or catastrophe losses, while also capturing future growth opportunities.

In addition to raising money, Hiscox said it will generate expense savings of between $60m and $90m versus the 2020 plan.

This will involve a recruitment freeze, curtailment of travel and expenses and existing efficiency programmes.

It also intends to adjust its business mix and catastrophe exposure and take on $100m of new reinsurance protection. Numis analysts said they believe it is "unlikely" Hiscox will pay a final dividend for 2020.

The company went to market with a question mark over the full extent of its liabilities for UK business interruption risks. About 10% of Hiscox's UK commercial customers purchase property insurance that includes an element of business interruption cover.



'The business responded rapidly to the changing circumstances caused by the global coronavirus pandemic and almost all of our employees around the world are working from home'

Bronek Masojada
Hiscox

Although the company believes Covid-19 losses are not included in this coverage, many affected policyholders disagree. Litigation against the firm for its refusal to pay out on these claims moved a step closer in the last fortnight after a litigation funder and City law firm were appointed by a group of more than 200 claimants.

While emphasising this is not a covered loss, Hiscox modelled the impact of a 12-week lockdown on business interruption losses and emerged with a range of between £10m and £250m, net of reinsurance. Jefferies said at the upper end, potential losses are significantly less than had earlier been speculated.

Concerns as to the true scale of Hiscox's business interruption losses, combined with a broader market rout, pulled down the firm's share price ahead of the share sale. Hiscox's stock price is down almost 60% from its July 2019 peak.

At the time it announced plans to raise fresh capital, Hiscox posted a trading update that showed growth in the first quarter and raised expectations for further expansion as the year progresses.

In the first three months of the year, the London market heavyweight saw its gross written premiums rise 2% at constant currency to reach $1.18bn. The results were marked by strong growth in Hiscox Retail, driven by the US and Europe. In Hiscox London Market, premiums were up 12% on a constant currency basis to $255m. Hiscox Re & ILS shrunk premium 15% to reach $292m.

"The business responded rapidly to the changing circumstances caused by the global coronavirus pandemic and almost all of our employees around the world are working from home," Hiscox's chief executive, Bronek Masojada, said.

"We are paying claims for event cancellation and abandonment, media and entertainment and travel, which are covered by our policies, and in the UK we welcome the positive steps by the Financial Conduct Authority to resolve disputes in the industry over the application of property policies relating to business interruption," Masojada added.

In Hiscox Retail, rates rose 4% across the US portfolio, with "notable increases" in excess and surplus lines including general liability, errors and omissions and terrorism. Terms and conditions are also improving. In the UK and Europe, pricing is stable.

In the London Market division, rates were up in 15 of 16 lines. These included US public company directors and officers' (D&O) liability, which is up 85%, US general liability up 26%, cargo up 23%, major property up 16% and household and commercial property up 11%. Further hardening is anticipated.

In reinsurance, Hiscox said pricing was below its expectations, despite large natural catastrophe losses over recent years. It recorded rates up 8% in the year to date, including the impact of the Japanese renewals in April.

Hiscox said any growth in its Hiscox Re & ILS business this year "will depend on pricing adequately reflecting recent loss experience".

ANALYSIS

Covid-19 duration uncertainty hampers reserving strategies

Re/insurers are taking a range of approaches to reserving as they grapple with uncertainty about how long disruption will last

Scott Vincent
Editor, news services

Cumulative claims from Covid-19 are likely to represent the largest catastrophe loss the re/insurance sector has experienced, with some estimates putting the claims bill as high as $100bn.

Several factors have combined to mean Covid-19 is also the most difficult loss event the industry has had to assess and re/insurers have taken a range of approaches as they try to quantify the impact of the pandemic during first-quarter earnings commentary.

Unlike a typical catastrophe event, Covid-19 is ongoing. The virus is continuing to claim lives and with the last global pandemic having occurred more than a century ago, there is no historical comparison for an event such as this affecting a globalised economy.

The event is also unmodelled, meaning the usual relative certainty about exposures provided by the industry's array of modelling tools is missing when trying to assess Covid-19.

Uncertainty as to the duration of the event and the lack of certainty about what exposures sit within portfolios has required insurers to take a ground-up approach to assessing its impact.

The outcome has seen the industry take a far from uniform approach to providing claims guidance for the event. Several companies have booked reserves for future claims in their first-quarter results, but these estimates remain highly uncertain.

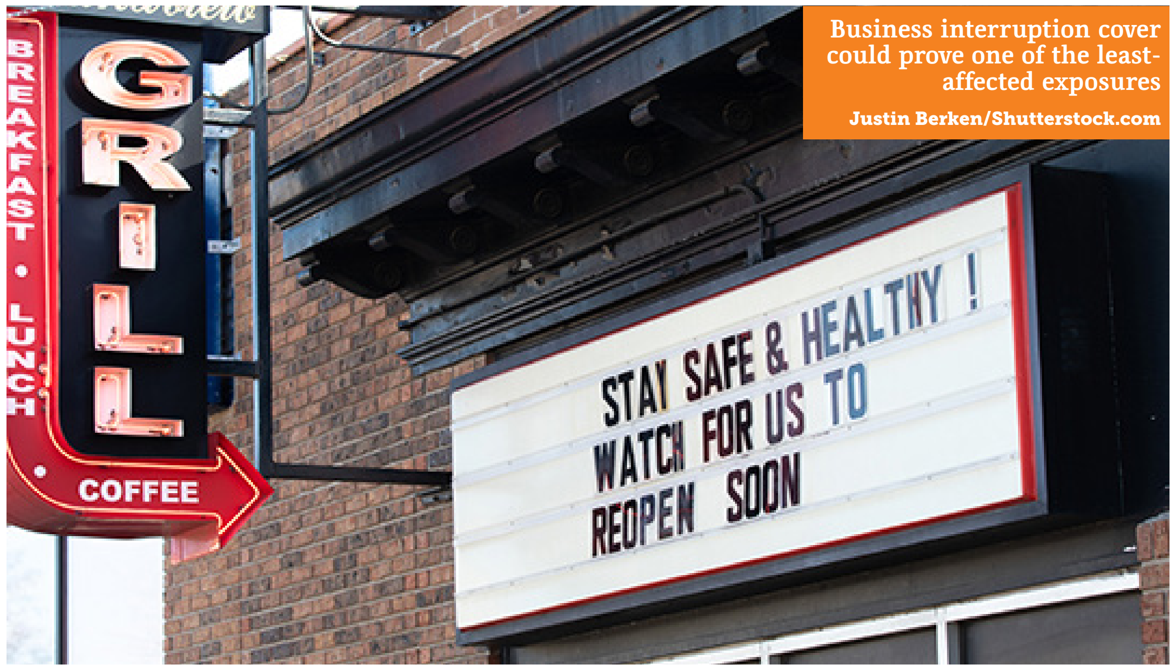
Duration is one of the major factors in determining Covid-19 losses and the largest source of uncertainty at present. The extent to which lockdown periods are extended will play a significant role in determining the ultimate insured impact on various covers.

The length of the economic disruption remains a major unknown given the uncertainty surrounding how major economies will exit lockdown periods and whether further restriction may need to be implemented should a second surge of virus cases emerge.

During first-quarter disclosures some companies have reserved for the impact of losses in subsequent quarters, while others have factored in only losses incurred during the first three months of the year.

Axis Capital, for example, established reserves of $235m during the first quarter but the majority of this was incurred but not reported (IBNR), with only a portion of that total paid to date.

Furthermore, the figure was based on the US keeping its "shelter in place" restrictions in force until July 31. An extension of that deadline could see additional covers triggered, but Axis did not disclose which covers and the likely financial impact.



Business interruption cover could prove one of the least-affected exposures
Justin Berken/Shutterstock.com

Business interruption may prove one of the exposures less affected by duration, as most covers in place have sub-limits that restrict cover to a certain time period.

What has become clear during recent weeks is the extent to which virus and pandemic exclusions are more explicit in the US than the UK.

Markel Corporation, which provided perhaps the most detailed disclosure regarding its Covid-19 impacts, said virus exclusions "are not prevalent in the UK market", with the firm analysing wordings to assess where it believes affirmative coverage may exist.

As is the case with Axis, Markel's $325m first-quarter Covid-19 claims bill is predominantly IBNR, reflecting expected business interruption and event cancellation losses in subsequent quarters – and, in Markel's case, the estimate factors in expected losses in these classes for the remainder of 2020.

Both Axis and Markel said they have made provisions within their reserving for additional legal expenses amid expectations of increased disputes over claims.

Hiscox is already facing several disputes regarding its decision not to pay out on UK business interruption claims, with more than 200 clients now preparing to launch a legal challenge to the decision. Hiscox has estimated its losses could be as high as £250m ($308.6m).

Secondary claims impacts will also emerge as a result of the pandemic, but it is too early to fully understand the extent of these impacts. Trade credit will have severe claims impacts should insolvencies accelerate, but these claims will take time to emerge.

Certain companies, such as predominantly US-focused insurers Chubb and Travelers, provided relatively limited disclosure on Covid-19 during their first-quarter earnings reports. Chubb estimated it faces a $13m hit for the quarter, while Travelers said it had recorded $86m of Covid-19 charges, which included a two-percentage point combined ratio impact from Covid-19 in its commercial segment results.

In both cases, the insurers are expected to record more material reserve charges in later quarters.

The full claims impact from Covid-19 will take several years to crystalise, particularly for losses emerging from recessionary impacts such as those in the trade credit and casualty space. ■

Selected notable Q1 Covid-19 reserve disclosures

AIG recorded a $272m Covid-19 hit in the first quarter, which again included a significant IBNR element. Travel and related accident and health losses accounted for $86m of the total, with the remaining $186m relating to business interruption, contingency, commercial property, trade credit, workers' compensation and losses at Validus Re.

Arch Capital recorded $87m of Covid-19 losses across its property/casualty (P&C) operations, of which 59% occurred in its reinsurance business and 41% in its insurance segment. These IBNR reserves related to occurrences up until March 31.

Axis Capital established Covid-19 reserves of $235m in the quarter, the majority of which was IBNR, with the figure based on the US keeping its "shelter in place" restrictions in force until July 31.

Hannover Re booked Covid-19 reserves of €220m ($237.6m) in its first-quarter earnings, with losses expected from event cancellation, business interruption, credit and surety. The reinsurer said it may incur secondary impacts from US casualty, directors' and officers' liability and errors and omissions.

Markel Corporation recorded a $325m first-quarter Covid-19 claims bill, which is predominantly IBNR, reflecting expected business interruption and event cancellation losses throughout 2020.

Swiss Re recorded reserves of $476m related to Covid-19 in the first quarter, split between P&C reinsurance ($253m) and Swiss Re Corporate Solutions ($223m). The reinsurer said its total event cancellation exposure is in the mid- to high triple-digit million-dollar amount for 2020, most of which will be booked in the first half of the year.

INNOVATION

Innovation brings commercial insurance closer to buyers’ daily experiences

Innovation champions have been appointed across Liberty Mutual
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Liberty Mutual is aiming to marry the service expectations created by online retailers with complex, bespoke risk solutions

Rodrigo Amaral
Journalist

Commercial insurance buyers need complex, often bespoke solutions that can hardly be delivered on a mass-market scale.

But the people who make decisions at companies increasingly expect their business partners to match the high standards of service provided by online companies. They want algorithms to help them choose between different products and the purchase process to be efficient and uncomplicated.

One of the main tasks of innovation departments at insurance companies is to balance those expectations, according to Brendan Smyth, senior vice-president for global risk solutions innovation at Liberty Mutual.

“Our clients expect seamless delivery and continuous improvement of products and services. It is the same as we have come to expect in our daily lives as well,” Smyth says.

“They are increasingly seeking trusted advisers to provide unique perspectives through analytics, industry insights and thought leadership, and strategic partners to collaborate in solving their unique needs.”

‘Since not all innovation is the same, we specialise in understanding the risk and our clients’ needs, according to their sectors and industries. We use existing products and services in a new way, and tailor them to our clients’ needs’

Brendan Smyth
Liberty Mutual

Smyth believes insurance buyers tend to blend their personal and professional experiences when it comes to choosing business partners and service providers. As a result, the standard insurers need to match is set by the likes of Amazon and Google, with their reliance on robotics, machine learning and other technologies that enable them to interact with consumers and anticipate their needs.

At Liberty Mutual, artificial intelligence and other tools have been deployed to achieve similar goals. These tools are used to identify the areas where clients face challenges and then crunch the data that is collected to develop solutions.

“Since not all innovation is the same, we specialise in understanding the risk and our clients’ needs, according to their sectors and industries,” Smyth says. “We use existing products and services in a new way and tailor them to our clients’ needs. A good example is our approach to autonomous vehicles, where we build solutions bringing together motor, commercial liability and E&O [errors and omissions].”

Partnerships

In June last year Liberty Mutual Strategic Ventures, the company’s venture capital unit, made an investment in Edge Case Research, a technology company that produces software that monitor safety systems installed in autonomous vehicles. The partnership, which is deemed as strategic by the company, works on the development of solutions for the emerging industry of autonomous vehicles, which is expected to create significant challenges for the insurance sector in the future.

Artificial intelligence (AI) is vital to this kind of initiative, Smyth says. AI tools are helping the company to boost the efficiency of its claims-settling process, for instance, by finding and analysing information that is available on social media and other online sources. In a similar vein, it is empowering underwriting by rapidly analysing the vast amount of information about risks collected from different sources.

“One of the areas where we are harnessing technologies is the enhancement of decision-making. We are using submission triage and subrogation models that leverage neural networks and other AI techniques that have led to signif-

INNOVATION

icant benefits," Smyth says. "We also use robotics to automate some of our claims tasks. We have bots that handle up to 20,000 transactions a month. Our workers' compensation bot cuts processing times from a day to seconds."

AI-derived tools such as weather data analytics and machine learning can also be used in conjunction with parametric methodologies to close coverage gaps in agricultural insurance.

When it comes to the new economy, Liberty Mutual is working to develop products and services that help clients to mitigate new kinds of risks.

For example, Liberty Mutual has partnered with REIN, an insurance portal specialising in the drone industry. Liberty Specialty Markets, the group's commercial insurance unit, underwrites a policy for drone operators, which allows them to pay out on liability coverages as they are needed. The policy is complemented by additional services such as digital surveys of operations.

Smyth says this type of initiative is part of Liberty's plan to offer bespoke risk management services to clients. They include new risk engineering and loss control services, as well as captive solutions. On the retail side, new projects have been developed with Helmsman, Liberty Mutual's third-party administration unit.

"We live in a world of converging macro trends, causing risks to shift, shrink and grow," Smyth says. "We look for innovative risk solutions to protect against new risks and to enable companies to harness change and create new business opportunities."

The company's innovation effort takes place across the group and synergies are sought between mass market and commercial insurance activities. Smyth says Liberty Mutual sees scale as a competitive advantage when it comes to innovation, both in developing solutions in house or via strategic partners, and that is why it tries to engage all parts of the company in the process.

Internally, Smyth works with a core team of innovation practitioners, data scientists and tech engineers. The team's work is supported by the range of different businesses the group has around the world. Input from staff members on the ground is considered essential as they are in a better position to understand clients' needs and to propose solutions.

Liberty Mutual has appointed innovation champions across the organisation and set up an innovation council to act as a clearing house of ideas. Other ways to encourage innovation include hackathons focusing on specific problems.

Liberty Mutual has also set up an innovation laboratory in Boston, called Solaria, which gathers underwriters, claims adjusters and other insurance professionals and combines their knowledge with experts such as innovation practitioners, data scientists and technology developers. Its mandate is to come up with disruptive, innovative ideas that meet emerging trends. The innovation department works with reinsurers, regulators, insurtechs, vendors and academics, Smyth says, while always trying to involve clients and brokers in the process.

New ideas

Third parties are another important source of ideas and concepts, and Liberty Mutual's venture capital arm makes investments in partners that can help the group develop innovative projects to tackle both old and new problems. In addition to REIN and Edge Case Research, Liberty Mutual has invested in B3i, the European-based blockchain initiative.

In Smyth's view, the scale of Liberty Mutual's business is an important draw for innovative start-ups, as it helps them to further develop their ideas, while opening a wide range of insurance expertise for the junior partners to accelerate their activities. "Working with insurtechs implies both teaching them about insurance and helping our teams to better understand technologies. It is a complementary relationship," Smyth says.

'When investing in innovation, we consider how we can evolve our core offering, how we diversify our revenue and how we seek to disrupt the industry'

Whether the company deploys internal resources or resorts to external partners to meet the challenge of innovating in the insurance market depends on the nature of projects, their goals and the capabilities required, so Liberty Mutual is open to different approaches to innovation under a single philosophy, Smyth says.

"When investing in innovation, we consider how we can evolve our core offering, how we diversify our revenue and how we seek to disrupt the industry," he says. "Across these we leverage a full set of dedicated capabilities via partnering, investing, buying and building innovation."

To put all those elements together, Smyth has adopted a methodical process that enables the innovation department to triage the most promising ideas and allocate resources. "We use a stage-gate approach to innovation, where we go out and understand what is happening in the world, which helps to define our focus," Smyth says.

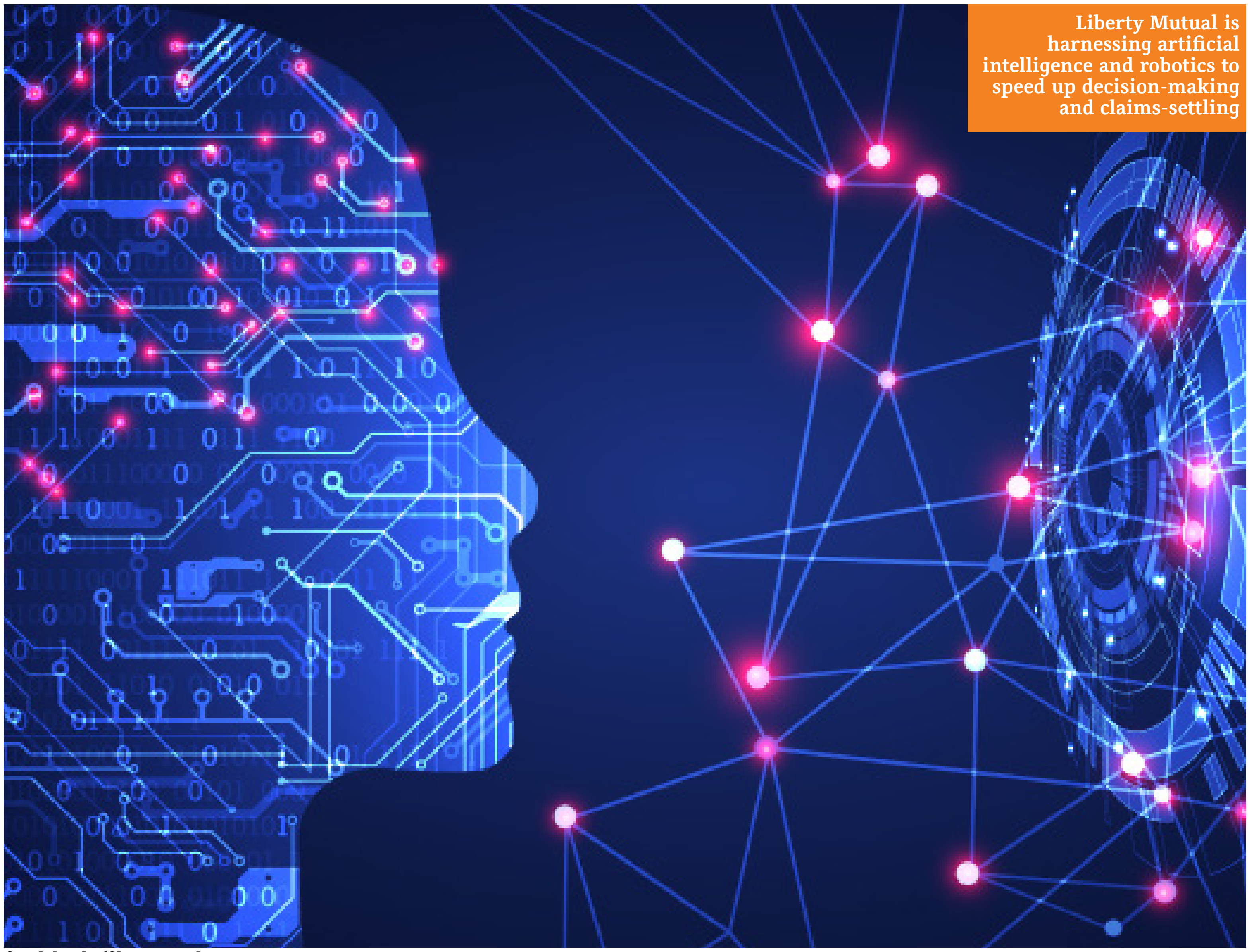
"With a defined focus, we move to different stage-gates. We focus on big areas like mobility and gather a team to develop ideas based on pain points."

He adds: "We use a mix of jobs-to-be done, lean start-up and design thinking methods to assess desirability, feasibility and viability. We design concepts and build prototypes for client validation. Once we validate a prototype, we will launch a pilot and, if the pilot is successful, we will scale it. Along the way, as part of the stage-gate approach, we bring on various leaders and we work with both internal teams and external clients."

Working with a clear method is important, not least because pockets of resistance can still be found in the traditional corners of the insurance industry. For that reason, Smyth stresses it is essential to have a committed support for change from leadership, even when the operations of the company are doing well.

"In any long-standing and successful industry, complacency can be a key hurdle to innovation. Liberty has addressed that by stating a clear vision towards forward progress and taking strategic risks," he says.

"It is hard to build the business of tomorrow when you are running the successful business of today. It takes different skill sets and focus. Like many in our industry, we look to ensure our approach is not fragmented. We manage innovation centrally, so we are able to ensure structure and co-ordination with our business units, avoiding duplication and allowing us to innovate at scale." ■



Liberty Mutual is harnessing artificial intelligence and robotics to speed up decision-making and claims-settling

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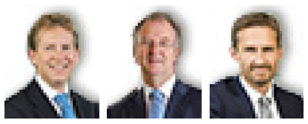
Insurers warned to keep abreast of changing regulatory emphasis

The Financial Conduct Authority has set out its expectations of insurers in the pandemic, which will have an impact on reinsurance, competition and bilateral investment treaties



Angus Rodger, Charles Whiddington and Matthew Coleman
Steptoe & Johnson

In a series of recent statements, the UK's Financial Conduct Authority (FCA) has set out how it expects the insurance industry to help consumers and businesses affected by the coronavirus.

This includes where a policyholder's circumstances have temporarily changed because of the coronavirus, the insurer should not penalise the policyholder for the change by enforcing policy terms strictly. For example, if a home insurance policy does not usually cover persons who work from home but the policyholder had to work at home because of the lockdown and a fire occurred as a result of the policyholder being distracted by work, the FCA may expect the insurer to pay the claim.

It has also suggested insurers should consider what other steps can be taken to treat their customers fairly, including assessing whether insurance products provided the expected value for money and possibly offering premium refunds or continuing to hold policyholders covered while premium remains unpaid. One major motor insurer has recently agreed to provide refunds of £25 ($31) to every policyholder because vehicle usage has reduced during the lockdown.

Finally, the FCA would like to see a degree of consistency across the industry in terms of how business interruption claims are handled. To help to achieve such consistency, the FCA is planning to ask the English court to make declarations about the scope of various business interruption clauses.

At this difficult time policyholders will welcome the FCA's approach. Insurers will want to treat customers fairly, but the statements give rise to various issues for insurers. Three very different issues are considered below: reinsurance, competition law and rights under investment treaties.

Claims not covered

The FCA statements will lead to claims being paid that, on a strict reading of the policy terms, are not covered. The question arises whether the insurers will be able to recover such payments from their reinsurers. As always, much will turn on the relevant reinsurance wordings, but as a practical matter it would be prudent for insurers to agree with their reinsurers how claims are to be treated where they are not within the policy terms but are made to comply with the FCA's expectations (or, indeed, simply to maintain the good will of customers).

Reaching such agreements should avoid situations like *Hiscox v Outhwaite* (1991). In that case, insurers made payments to asbestos producers using an agreed mechanism and formula: the mechanism and formula were entered into for very sound commercial and financial reasons. Nevertheless, the court ruled insurers were unable to recover from their reinsurers because they could not prove there was liability under the original insurance policies.

The FCA statements will also lead to insurers making changes to their existing insurance arrangements, including offering refunds to policyholders. Questions will arise as to how these affect existing reinsurance contracts. For example, where an insurer makes a payment to a customer after concluding a policy was of less value than expected, is that payment to be treated as a return

The FCA's approach to coronavirus claims could amount to a breach of bilateral investment treaties if it require insurers to pay claims they would normally not have needed to

of premium (in the same way as a return of unearned premium on a policy cancellation) or as a regulatory overhead of the insured?

Again, much will turn on the relevant reinsurance wordings – and again, the prudent approach is likely to be for insurers to seek agreement with their reinsurers as early as possible.

The FCA has said it "want[s] to see a degree of consistency for customers" in the way in which coronavirus-related claims and situations are dealt with.

Insurers could understand this to be setting out a desire by the FCA for co-operation between insurers on this issue (and not merely a reference to the FCA's plan to ask the court for rulings on the meaning of certain business interruption wordings).

It is critical for insurers to remember UK and EU competition laws prohibit agreements, arrangements and understandings between businesses that have the object or effect of restricting competition. Collaboration between competing insurers on, for example, the treatment of claims could fall foul of the competition rules.

Infringement of this prohibition is punishable by fines of up to 10% of the annual worldwide turnover of the insurer's entire corporate group. In competition law, it is not a defence that the infringement was well intentioned nor that it was encouraged by a state authority (although it may be a mitigating factor when setting the level of any fine). There are many examples where industries behaved in a manner that was encouraged by national authorities but were subsequently condemned by competition authorities.

Obligation to pay

One effect of the FCA's statements is the UK insurance regulator is (by reference to the duty to treat customers fairly) effectively imposing an obligation on insurers to pay claims that are outside the scope of those they contracted to pay.

Where foreign investors in a state suffer losses as a result of action attributable to the state (for example, an expropriation of the investor's assets), the investor may be entitled to claim damages if there is a bilateral investment treaty between the state and the investor's home state. Such treaties are agreements between states under which investors from each state are given certain rights and protections when investing in the other state: these usually include rights not to have assets expropriated without prompt, adequate and effective compensation and to be treated fairly and equitably.

In the past 30 years bilateral investment treaty arbitration tribunals have ordered compensation to be paid to many companies, including some of the world's leading insurers, for breach of those protections.

The FCA is an independent, non-governmental body, but it is mandated by the UK government (under the Financial Services and Markets Act 2000) to maintain the integrity of financial markets in the UK. It is arguable its acts should be deemed to be those of the UK and therefore covered by bilateral investment treaties entered into by the UK.

It is also arguable the FCA's requirement to pay claims that are not actually covered under a contract amounts to a confiscation of an "asset" (namely the value of the insurance contract to the insurer) and that it fails to treat investors fairly and equitably (in that it does not fulfil the investor's legitimate expectations).

In summary, where an insurer is incorporated in a country that has a bilateral investment treaty with the UK, there may be scope to claim the FCA's approach amounts to a breach of the treaty, depending on the terms of the treaty in question and a more detailed examination of the scope of the FCA's approach. ■

Angus Rodger (reinsurance), Charles Whiddington (antitrust) and Matthew Coleman (investment treaties) are partners at the London office of Steptoe & Johnson

When can betterment be applied?

Court of Appeal examines measure of indemnity and betterment under a property damage policy

Mark Stiggelbout
Quadrant Chambers

In *Endurance Corporate Capital v Sartex Quilts Textiles* (2020), the UK's Court of Appeal gave important guidance as to the correct legal test for assessing the sum payable under a property damage policy and the circumstances in which a discount may be made for "betterment" when damaged property is reinstated.

A policy issued by the defendant covered the buildings, plant and machinery at the claimant's manufacturing premises. The defendant agreed "to indemnify the insured against loss or destruction of or damage to property caused by or arising from" perils including fire. In May 2011, a fire damaged the buildings and the plant and machinery were destroyed.

The defendant admitted liability. However, the claimant had not commenced reinstatement – even some eight years after the loss – and the parties disagreed about the measure of indemnity. The claimant contended for the cost of reinstatement, whereas the defendant contended for the (lower) diminution in the market value of the property caused by the fire.

The defendant also contended that, if the reinstatement measure applied, a betterment discount should be made, as reinstatement would be "new for old". The claimant argued as it would have no choice but to incur betterment, no discount should be applied.

The main question was whether to recover damages on the reinstatement basis, an insured must show a genuine, fixed and settled intention to reinstate the property after the peril. This arose because, although the claimant had intended to use the premises for manufacturing, it had explored other options in the years after the fire (including alternative premises for its business and alternative uses for the original site).

Post-loss intentions

The trial judge focused primarily on the claimant's intentions immediately before and at the time of the fire, but also considered it relevant to assess the claimant's intentions after the loss, to decide what measure would provide fair and full compensation (without overcompensating).

The Court of Appeal upheld the judge's decision but took the following, more direct approach, limiting the relevance of post-loss intentions.

First, any measure should aim to put the insured in the position it would have been but for the loss. With property damage/destruction, this can be achieved through awarding either the cost of replacing or repairing the property or the market value of the property in its condition immediately before the damage occurred (less any residual value).

Second, which of those two measures is appropriate depends, at least initially, on the use to which the insured intended to put the property at the time the damage occurred. If the intention was to use a building, the cost of repair/replacement is generally appropriate but if the intention was to sell, the reduction in market value is appropriate (for example, *Leppard v Excess* (1979)).

Third, it is generally irrelevant what an insured does or does not intend to do if awarded damages or if damages are calculated on any particular basis.

Fourth, what remedial action, if any, the insured intends to take is only capable of being relevant if there is a dispute about what action it would be reasonable to expect the insured to take to put them in the same position as before the peril. For example, an insured may contend some feature of the property has subjective value to it, even though its cost of reinstatement would not otherwise be reasonable. In that context, it can be relevant to assess whether the insured has a genuine, post-peril intention to reinstate before such damages are awarded (see *Reynolds v Phoenix* (1978).

Court of Appeal's decision in Endurance v Sartex clarifies when 'betterment' discount should be applied to a claim

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The Court of Appeal has clarified an insured's pre-peril, rather than post-peril, intentions will generally dictate the appropriate measure of indemnity

In the present case, the claimant had intended to use the property and there were no special factors such as features of alleged subjective value. The appropriate measure was therefore the cost of repairing the buildings and of buying replacement plant and machinery. The decrease in market value was irrelevant.

Betterment

The Court of Appeal also considered the circumstances in which it may be appropriate to make a deduction to reflect the "betterment" an insured may enjoy from reinstatement. In doing so, it stressed the need to distinguish between different senses of that word.

First, an insured may decide to make improvements at additional cost, rather than simply reinstate (for example, adding roof insulation or installing double glazing). Here, the additional cost is not truly part of the cost of reinstatement and is accordingly irrecoverable.

Second, the insured may derive a benefit as an incidental consequence of adopting a reasonable reinstatement scheme (for example, using modern materials that, although cheaper, achieve better thermal insulation or buying a new machine because the original model is no longer available).

Within this second category of betterment, the court highlighted a further distinction must be drawn. If the benefits achieved are pecuniary (for example, cost savings because a new machine is more efficient to run), a deduction should be made. This is because "the financial benefit of this saving reduces the amount of money required to put the insured into an equivalent position in money terms to the position in which it would have been if the property had not been destroyed". If, however, the benefits achieved are non-pecuniary (for example, having a new factory rather than an old one, but without cost savings), no deduction should be made because "it would force the claimant to pay for an advantage it has not chosen and which makes it no better off in money terms".

On the facts, while the claimant might achieve pecuniary savings in rebuilding the manufacturing works with modern materials, the defendant had not provided satisfactory evidence for these to be quantified. Therefore, no deduction was made.

The Court of Appeal has accordingly clarified an insured's pre-peril, rather than post-peril, intentions will generally dictate the appropriate measure of indemnity. Where the insured proves it intended to use property before its damage/destruction, the reinstatement basis will generally apply. As to any "betterment" resulting from reinstatement, a deduction should be made if the insured will achieve cost savings. However, if an insurer contends for such a discount, it must provide satisfactory evidence of any alleged savings. A court will only make a discount if some rational or evidential basis is provided for establishing a figure (even if it is only a rough and ready one). ■

Mark Stiggelbout is a barrister at Quadrant Chambers

insuranceday

Hannover Re's COR misses forecasts after Covid-19 hit

German giant has reserved €220m for claims arising from the pandemic in the first quarter

Scott Vincent
Editor, news services

Hannover Re head office in Hanover, Germany

Covid-19 related reserving of €220m ($237.9m) contributed to a 4.1 percentage point deterioration in Hannover Re's first quarter combined ratio, which rose to 99.8%.

A quarterly major loss bill of more than €283m, including the Covid-19 reserving, was significantly higher than the €59m in major losses Hannover Re recorded for the first quarter of 2019.

The reinsurer missed analysts' consensus estimate by 2.2 percentage points as a result, with losses from Australian bushfires (€22.4m), European windstorm Sabine/Ciara (€17.6m), and Australian hail (€15.1m) also contributing to the quarter's catastrophe bill.

The group's property/casualty reinsurance segment saw its underwriting profit fall to €7.2m for the quarter, down from €124.8m during the first quarter of 2019.

Although underwriting profit was down in its property/casualty operations, revenue went up with Hannover Re growing its property/casualty reinsurance portfolio at the January 1 treaty renewals.

Gross written premiums grew 3.5% to €5bn during the quarter, with the reinsurer reporting a slight improvement in overall pricing and conditions.

At January 1, when 67% of Hannover Re's traditional reinsurance portfolio renews, the reinsurer said rates for catastrophe covers "remained on a low level, especially in Japan, Latin America and the Caribbean, and there is therefore still a need for improvements".

Hannover Re said the average price increase at January 1 was 2.9%, with particularly attractive opportunities in North America, the London market and for agricultural risks.

The German group said it had continued its premium growth at the April 1 renewals, with the total premium volume from the renewal rising 25.1% with an average rate increase of 4.4%. Loss-affected accounts in Japan saw price increases of between 40% and 60%.

Despite the deterioration in its first quarter property/casualty underwriting performance, Hannover Re reported a 2.5% increase in its quarterly net profit, driven by investment returns and an improved life and health result. Operating profit fell 5.2% to €426.6m.

Group gross written premiums rose 9.4% to €7bn.

Jean-Jacques Henchoz, chief executive of Hannover Re, said the first-quarter result had, "on the whole, lived up to expectations".

The reinsurer had previously withdrawn its full-year earnings guidance as a result of uncertainty around the impact of Covid-19.

Hannover Re said it expects to be impacted through event cancellation, business interruption and credit and surety losses, with potential secondary impacts through US casualty, directors and officers, and errors and omissions.

Former Hiscox COO joins Cytora

UK insurtech firm Cytora has appointed former Hiscox chief operating officer Juan de Castro to its executive team, *writes Michael Faulkner*.

De Castro joins the firm as chief commercial and operating officer.

In addition, Dr Liuben Siarov joins Cytora as chief data scientist to lead data strategy and innovation.

Cytora said the two hires would help to expand its global operations and "drive customer success".

The firm helps insurers improve their underwriting process by building a "unified" view of risk and distribution relationships.

At Hiscox, de Castro led the digital transformation of the insurer. Previously, he was a senior manager at McKinsey & Company's Silicon Valley office, where he led growth strategy and operational improvement engagements for Fortune 100 companies.

Siarov is the former chief data scientist at Coya, a German full-stack digital insurer, and was the co-inventor of one of the world's most advanced credit risk comprehension and measurement systems at German lender Kreditech.

Richard Hartley, chief executive at Cytora, said: "As we look to grow into new markets and expand our technology offering, their breadth of experience and industry knowledge is set to propel us – and our customers – to the next level."

Cytora already works with insurers such as QBE, Axa XL and Starr Insurance Companies, and is backed by more than $40m of venture capital.

Nexus launches US in-house claims team

Managing general agent (MGA) Nexus Group has appointed Mike Fried to lead its new in-house claims team for its Nexus Specialty business in the US, *writes Michael Faulkner*.

Fried was most recently managing director and chief claims officer of third-party administrator LVL Claims Services. Before that, he managed high-value complex claims at Chubb and AIG.

Nexus said the US claims offering follows the group's virtual insurer model and compliments the international MGA's established claims offering in the UK and Europe. It also follows the launch by Nexus of a financial lines division in the US.

Adam Kembrooke, Nexus Group US president and chief executive, said Fried's appointment "shows our ongoing commitment to secure talent for our ambitious business, which continues to expand in the US specialty insurance market".