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# Global Risk Manager

MULTINATIONAL & SPECIALTY **INSURANCE** PERSPECTIVES

Launch Partner ZURICH

## REGIONAL REPORT

As part of our Americas focus in this issue, we look at the impact of US natural catastrophes

## RIOTS AND TERRORISM

Businesses take cover amid escalating political violence

## TAKING THE PAIN OUT OF CLAIMS

Improving the claims handling process for multinationals

## OUTLOOK FOR LIFE SCIENCES

Not an easy market but capacity is available for the sector

Global Risk Manager
MULTINATIONAL & SPECIALTY **INSURANCE** PERSPECTIVES

There's no hiding from the fact that we appear to have gone from one crisis to another. Just as the Covid-19 pandemic seemed to be slowly coming under control and supply chains began getting back to some normality, the Ukraine crisis hit.

It is early days but the impact on the global economy is likely to be considerable (though nothing compared to the impact on Ukraine and its people). It is the latest example of the global nature of risk and underlines again the need to take a coordinated and global approach to risk and insurance programmes.

In this spring edition of *Global Risk Manager*, our regional focus is on the Americas, and the US in particular. Two very different risks stand out, one on the property side and one on the casualty side. Firstly, natural catastrophes, which are increasing in size, severity and frequency, driven largely by climate change. Inflation is also impacting the commercial property market in the US, together with the continuing hard market.

Secondly, social inflation continues to be a growing problem, especially in the US. So-called 'nuclear verdicts' are becoming more common and litigation funding is fuelling the issue. Class actions are seeing billion-dollar settlements increasingly hit the headlines, and not surprisingly, the market continues to respond with price increases.

On the plus side, price increases in the US are moderating almost across the board (with the notable exception of cyber). Capacity is also entering the US market, and for good risks the immediate future is looking a lot better than a year ago. In response to the hard market, US multinationals have turned to captives, and *GRM* reports on record growth in the sector. And global programmes remain popular in the US, with more non-traditional risks being added.

*GRM* also reports on the Latin American market, where the hard market is making it clear to local buyers that a good risk management structure is well worth the investment.

Elsewhere in this issue of *GRM*, we look at political violence and terrorism insurance (PVT), and highlight how insurers are adapting their PVT products to protect clients against changing terror risks. We also have a special report on the life sciences sector, where most multinational insurance buyers are able to get the cover they need for key risks, and new capacity is moderating price increases.

And finally, *GRM* examines the increasing focus on improving and speeding up the claims process for multinationals, and the vital role for claims data and analysis to improve their risks.

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# Businesses take cover amid escalating political violence

**Insurers are adapting their political violence and terrorism (PVT) products to protect clients against changing terror risks, says *Garry Booth***

**Floral tributes in Nice following a terrorist attack on the city in 2016**

Intense political instability, inequality, nationalism, pandemic and even climate change are fuelling strikes, riots and civil commotion risks around the world, from South Africa to Brazil. Meanwhile, terrorists' tactics and targets are changing, with deadly armed attackers creating as much disruption as planted bomb "spectaculars".

The changing risk profile of political violence and terrorism (PVT) is reflected in the evolving coverage now available to businesses to protect against property damage and loss of income.

Bomb attacks have a major impact in terms of property damage and also through the shock factor on the population, but problems for terrorists with purchasing and moving explosives, as well evading local intelligence and security services, have reduced their frequency.

Nowadays, "low-cost terrorism" by individuals randomly attacking people by means of handheld weapons or vehicles, like the 2016 truck attack in Nice, is more common than it used to be.

François Barriol, senior underwriter terrorism and political violence at Liberty Specialty Markets, says that despite a significant number of victims,

such attacks result in little (if any) property damage. But major business interruption remains, which is not usually covered.

"In situations like Nice, the tourism industry was severely impacted. Hotels suffered a 10% reduction in attendance, but up to 25% reduction in turnover in the 30 days following the attack, despite it being the peak season. That's the reason why many multinational companies with worldwide operations are more frequently integrating loss of attraction coverage into their programme," he tells *GRM*.

## Active-shooter alert

Chris Parker, head of political violence and deadly weapon protection at specialty insurer Beazley, says that while the PVT insurance market's emphasis is still on offering cover for physical damage to scheduled assets and the resultant loss of income due to the interruption of the insured business, clients are broadening their insurance coverage from sabotage and terrorism to full political violence.

"We are also seeing an increase in the number of clients purchasing deadly weapons protection and active-shooter coverage, especially in the US due to the increased number of mass shootings and the number of shooting deaths the country experienced in 2021," he adds.

Deadly weapons protection insurance triggers without the need for any physical damage to an insured asset and will respond as soon as a weapon has been brandished, Parker explains: "The coverage is aimed at protecting people as well as physical assets, and combines an insurance policy with the services of a crisis responder who will help a client before, during and after a deadly weapons attack."

According to Corinna Walter, terrorism underwriter at Liberty Specialty Markets, European businesses used to rely on protection against civil unrest or political violence that was included in all-risk policies. In Germany for example, insurers usually had smaller, localised events in mind, perhaps resulting in a few broken windows. "Riots and civil commotion, as we often experience them today, are characterised by greater violence and higher loss potential. Given the multiple examples of political violence and strikes, riots and civil commotion we see today, the demand for such coverage is growing, especially for companies with assets in riotous regions."

In the French market, coverages granted under all-risks policies have been shrinking in the hard market, adds Barriol. Terrorism, riots and civil commotion, which used to be covered perils, are now regularly sub-limited or sometimes excluded.

**"Riots and civil commotion, as we often experience them today, are characterised by greater violence and higher loss potential"**

*Corinna Walter, Liberty Specialty Markets*

## Holistic coverage on offer

Tim Strong, head of international crisis management at Aspen Insurance, says the changing nature of terrorism means insureds need to make sure that they have suitable coverage in place. He says most terrorism products available in the market have a clear

**UKRAINE WAR FALLOUT COULD SPREAD**

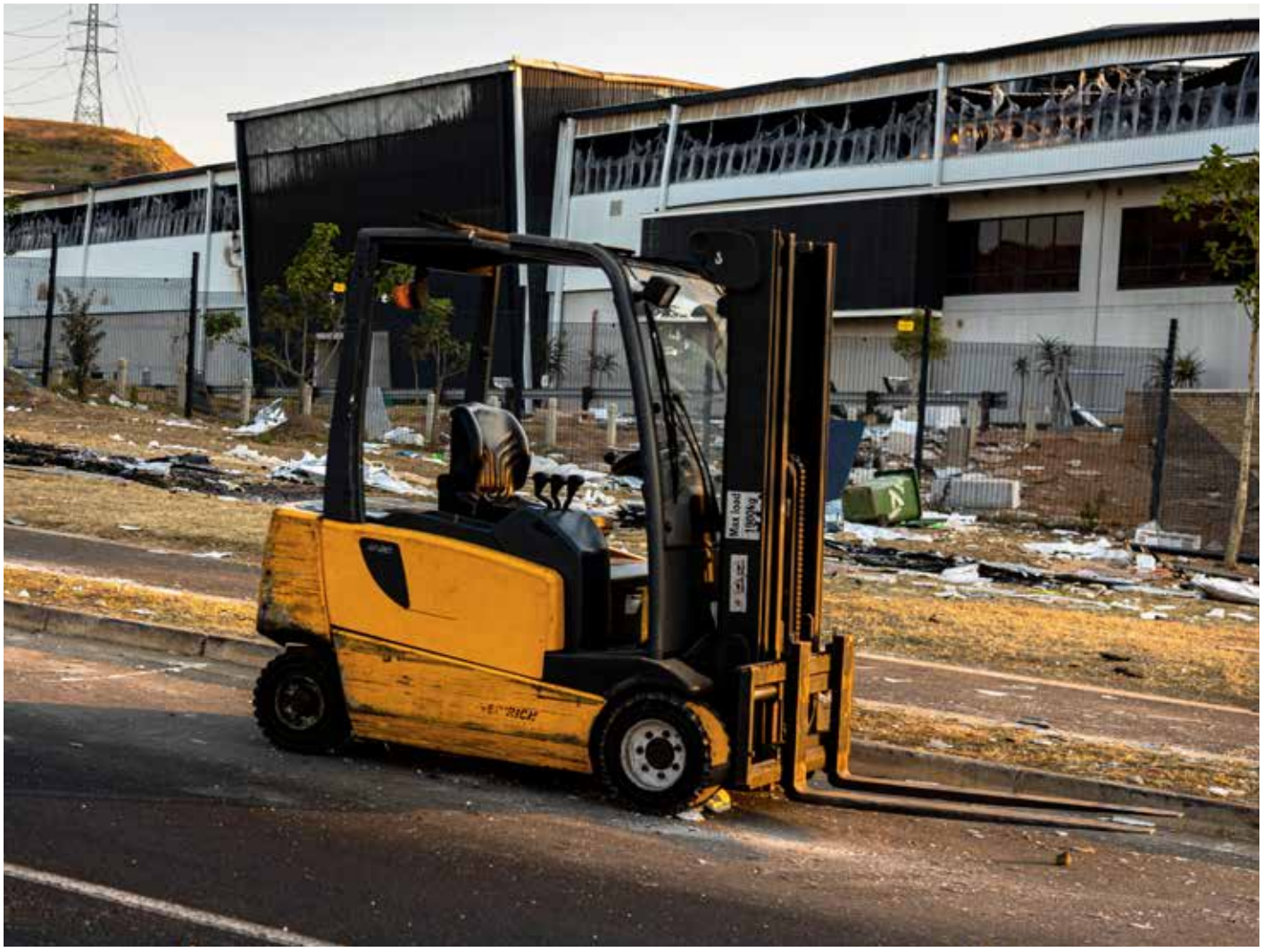
Terrorism and political violence insurance is not intended to cover the type of full-scale war seen in Ukraine, and the cover only responds when relevant nations are not at war. But (re) insurers will likely incur some direct and indirect losses as a result of the conflict, despite the standard policy exclusions that exist for war and economic sanctions.

These provisions should limit liability for (re)insurers in some lines such as energy and marine. Other coverages, such as trade credit and political risk, typically do not contain these exclusions, according to a note from KBRA, a US ratings agency.

KBRA says higher claims could also develop from cyber risk, because the war in Ukraine has significantly changed the future cyber threat landscape: "While (re)insurers with eastern Europe exposure are more directly exposed to cyber claims, allies of Ukraine, as well as companies that cut ties with Russia, could become exposed in a scenario where sanctions against Russia are exhausted and the war shifts to cyberspace."

Regardless of the line of business, ambiguous wordings may generate some litigation and associated costs for (re)insurers, KBRA adds.

Addressing the effect of sanctions, while no (re)insurer has yet voluntarily ceased underwriting Russian oil and gas exposures, energy bans may force such an outcome, KBRA says. "However, avoiding a more proactive stance on the war's humanitarian crisis may cause reputational damage to the insurance industry over the medium term. Moreover, a protracted and intensified conflict may cause unpredictable ripple effects across other business lines and domiciles."



The aftermath of rioting in Durban, South Africa, July 2021

definition of terrorism – an act committed for political, religious or ideological purposes.

"But what happens if the assailant is killed during the attack and their motive(s) can't be easily identified? For example, the motive behind the Mandalay Bay [Las Vegas casino] shooting in 2017 in which 60 people were killed is still not clear. Should this event be classified as terrorism? What was Stephen Paddock's motive for the attack? The solution is to broaden the trigger on terrorism products to avoid any potential gaps in coverage," he says.

Aspen developed a product, called Active Assailant, which responds to most physical attacks and provides a more holistic coverage solution, Strong says.

Beazley's Parker expects to see a further increase in demand for the deadly weapons protection and active-shooter coverages, and believes that more insurance carriers will move into the space offering greater capacity and product choice for clients. "Market conditions remain similar to 2021, with increased demand for PVT insurance especially for emerging market risks, and plenty of available capacity to cover the demand," Parker says.

PVT risk has moved up the risk agenda for European risks managers, according to Liberty Specialty Markets' Barriol, and they're eager to work collaboratively with underwriters and brokers

"This proximity has given us the possibility to find specific solutions to industry or client-specific concerns. We have also been acting proactively

> **"At this stage we do not know the final quantum of the South African losses, but they will certainly be the largest loss this market has seen since the Twin Towers attack of 2001"**
>
> ***Chris Parker, Beazley***

to raise awareness about the volatility of those perils in all territories, in order to avoid receiving last-minute requests for cover in regions where the situation is already extreme, such as Ethiopia in mid-2021 and Ukraine at the beginning of this year," Barriol says.

"We also notice an increase in submissions from middle-market companies, which weren't used to buying such cover in the past and now feel concerned about such problems," he adds.

The PVT outlook in developed economies isn't good, as Liberty's Walter points out, taking Germany as an example: "Trust in politics and the economy has suffered. Many companies are threatened with insolvency despite government aid, and the German economic recovery process is behind other European countries. This is leading to frustration and radicalisation among some groups of people, which is being discharged in demonstrations, sometimes accompanied by violent riots."

## Risky countries and renewal trends

Loss-making events in 2021, for example in Kazakhstan, Senegal, Colombia, Brazil and Myanmar, altered the renewal dynamic for Liberty Specialty Markets and its multinational company clients. One challenge was offering acceptable terms for long-term insureds who had losses or with a retail exposure in very risky countries, while ensuring the long-term sustainability of its offers.

The other was managing its war and political violence aggregates at an acceptable level, even for insureds with a good risk profile and no loss. Barriol says: "On various occasions, we suggested layering the most challenging PVT/war insurance programmes in order to offer an affordable capacity while mitigating insurers' exposure. A huge effort was also made to integrate the PVT and war insurance programmes with both insureds' captives and all-risks programmes. In the end, the large majority of accounts were renewed and some of the best risks even benefited from a rate reduction, so a hard market is not inevitable."

Beazley's Parker concurs that 2021 saw significant PVT loss activity, the largest loss being the South African riots in July. "At this stage we do not know the final quantum of the South African losses, but they will certainly be the largest loss this market has seen since the Twin Towers attack of 2001.

"The market also saw losses in other countries such as Senegal, Mali, Yemen, Lebanon, Myanmar, Chile and Colombia to name but a few. This has caused premium rates to increase for risks located in those affected countries – but overall the market pricing for PVT insurance remains stable," he says.

### THE BROKER'S VIEW OF PVT

*Ciara Appleford, director International property & casualty and head of political violence at Tysers, gives a broker's view of how geopolitical instability is shaping PVT protection*

**PVT insurance typically covers damage to insured property and the ensuing loss of income. Is the emphasis changing?**

*Ciara Appleford (CA):* Terrorism and political instability have entered a new era. While the fundamental purpose of cover remains the same, recent events have called for an upgrade in conditions and expansion in cover. Off-the-shelf products have been claims-tested through numerous events that have highlighted gaps in cover.

Terrorists have found new ways to create fear and cause harm to the public. Bombs have been replaced by more sophisticated weaponry including drones and ballistic missiles, and there are more 'lone wolf'-style malicious attack events using a variety of weapons including knives, firearms and vehicles.

**How is that influencing the cover that businesses can buy?**

*CA:* Insurers are partnering with specialised security companies to develop bespoke products that provide compensation cover for victims of an event, damage to insurable property, including loss of revenue and legal liabilities, with access to crisis response teams before, during and after an event.

These products differ from the standard terrorism products as they automatically provide cover for victim support, medical and psychiatric treatment, retraining of staff, relocation and rebranding costs which, previously, would have been uninsured or a cost to the client, unless otherwise specifically covered.

Non-material damage business interruption covers, such as denial of access, loss of attraction and threat, are becoming more relevant and clients are looking to their insurance policies as a risk transfer mechanism. Insurers have recognised the increased risk and responded by developing bespoke products that are readily available to global clients.

**What's changing in the strikes, riots and civil commotion (SRCC) space?**

*CA:* The geopolitical situation is unpredictable and can escalate rapidly. The internet and social media are breeding grounds for radicalisation and for political activists to spread their message. This virtual space benefits from freedom of speech, enabling political movements to gain momentum at a rapid pace. The 2021 underwriting year saw losses due to demonstrations over government responses to the pandemic.

It is concerning that in any slightly unstable environment, protests that start as peaceful can gain sufficient momentum that damage to street-level assets, infrastructure and human loss of life are a high risk.

Clients are more aware of the nature of risks, and the purchasing of wider coverage will continue for the foreseeable future.


Ciara Appleford

**What does the insurance supply/demand balance look like going into 2022?**

Historically, soft market conditions saw property insurers provide strikes, riots and civil commotion (SRCC) cover for a nominal increase in premium. However, following the politically motivated uprisings in Chile in 2019, where the property market carried a high quantum of the losses, there has been a market shift to cover SRCC exposure.

After losses in Chile, Colombia, and more recently the riots in South Africa, the property market is expected to continue to approach the SRCC exposure with caution through either high rate increases, sub-limiting exposure or excluding the perils in their entirety. This increases the relevance of the standalone PV product and highlights the importance of levels of coverage.

**What was the market's underwriting experience in 2021 and what's the outlook for buyers in 2022?**

*CA:* Few to none of the PVT markets would have made it through the 2021 underwriting year unscathed as losses hit the market from every corner of the world, including South Africa, Lebanon, Yemen, Saudi Arabia, Hong Kong, Australia, the US and Kazakhstan. Underwriters are under pressure to approach risks with more caution and increase rates.

The Ukraine conflict is another major loss event for the PVT market, with the London market likely to face a costly fallout. A wide array of businesses with operations in Ukraine have cover insured or reinsured into the London market, and losses are expected to come into London through open market placements as well as facilities. Sources estimate that London's gross exposure to the conflict could be up to $5bn.

# Taking the pain out of claims

**The hard market has been driven growth in claims across the board. But claims are a part of life and the insurance market, and there is an increasing focus on improving and speeding up the claims process for multinationals, as well as ensuring compliance with tax and regulatory authorities, writes *Tony Dowding***

Multinationals need policies to respond both at the central and local subsidiary level, so the claims process is inevitably more complex and they have many different requirements when it comes down to it.

Graham Smart, chief commercial officer, McLarens, says consistency of service, technical delivery and data quality are key elements of a global claims service. He says local customs, practices and jurisdictional requirements must all be respected and observed but the same standard of service is expected, irrespective of where a loss occurs.

"With global programmes, there is always the need to consider the differences in cover between that set by the master policy with that which exists under any local wordings, balancing the requirements of the insurer writing the master with those of any fronting insurer," he explains. "As ever, regular and effective communication is vital to ensure that there is always a clear understanding of claims strategy, with proper stakeholder engagement."

James Rayner, global relationship leader, Crawford & Company, believes that when serving multinationals, "you have to harness technologies to deliver a digital claim solution from every stakeholder's standpoint", adding: "This includes, for example, communications and engagement between policyholder, claimant and carrier, fulfilment engines that facilitate repair and replacement, or payment-processing engines that provide customers with more accelerated payment outcomes and greater transparency in the claim process."

He also points to specialist expertise that can be mapped to the diverse and complex risks and strategic demands of multinational clients. "The challenge is to pull all these capabilities and tools together into a seamless and cohesive customer

**Local practices and jurisdictional requirements must be observed but the same standard of service is expected, irrespective of where a loss occurs**

experience that easily recovers from unexpected outcomes or failures in the life cycle," he adds.

## Improving the claims-handling process

There are many ways in which the claims-handling process can be made more efficient and less stressful for all concerned, ranging from early involvement of claims teams to claims protocols.

Perhaps the most crucial is communication, as Andrew Schütte, partner, London, head of reinsurance at law firm Keoghs, points out: "Constructive engagement and good communication between risk management, claims broking teams and insurance claims professionals (including adjusters) makes for smooth claims handling. Agreeing in advance templates for claims reporting, the information insurers need and managing expectations on timescales on all sides can aid this. Good communication by brokers 'up the tower' in layered programmes can also reduce the risk of bumps in the road as layers are eroded."

## Pre-loss involvement

A common complaint from claims teams is that they are only ever involved with the insured once a claim is presented. Being involved from the inception of the policy can help to facilitate the claims process, as Schütte notes: "We recommend risk managers meet claims leads as well as underwriters during the placement process. Increasingly, claims professionals form part of the insurers' client-facing team. That is as it should be – claims are where the product delivers value."

Smart says that advance preparation, and specifically pre-nomination of adjusters, can have a major bearing on how a loss scenario plays out. "When nominated to an account, we will seek to meet the insured's key personnel and visit major sites to build trust and gain an understanding of the business, processes and business continuity plan," he says, adding that loss-scenario testing is an important pre-loss activity.

An insured's engagement during pre-loss planning is often limited to their carrier's or broker's claims resources, says Rayner. However, he believes even large companies with experienced risk management processes and business continuity plans can underestimate the complexity of the claims process. "Incorporating the perspective and expertise of a claims handling firm usually strengthens the resiliency of their pre-loss scenarios and response plans," he says.

"Working with a technical, strategic and experienced adjusting team that understands the importance of planning, timeliness and responsiveness of communication at the pre-loss stage can go a long way to improving claim outcomes. Partnering with an adjusting firm that understands the insurance ecosystem also gives insureds access to data-driven insights, and assurance that a comprehensive plan and team are in place to respond," Rayner adds.

**"We recommend risk managers meet claims leads as well as underwriters during the placement process"**
*Andrew Schütte, Keoghs*

He adds that adjusting teams will often be involved in pre-loss planning at the inception of the policy, and this includes introductions between the multiple parties involved with a claim, assignment of roles and responsibilities, policy wording reviews to ensure everyone is prepared when a loss occurs, and reviews of locations and any business information relevant to the response.

## Claims handling protocols

Pre-loss nomination of adjusters and the establishment of claims handling protocols are vital in the delivery of an effective and efficient claims handling service and something that insurers and insureds see great value in, according to Smart.

"Alongside strong relationships and the establishment of clear communication channels with key stakeholders, the determination of claims handling protocols and pre-nomination of adjusters enable an immediate post-loss focus on

the claims response. This allows decisions to be made sooner, both facilitating loss mitigation and ultimately reducing the claim lifecycle," he says.

However, Schütte warns that a well-drafted claims protocol is no guarantee of well-run claims. "Claims protocols can help set out ahead of time how the claims process will operate. On the other hand, claims protocols that are unrealistic, inappropriate to the claim, or raise uncertainty about their meaning or legal effect can be counterproductive. Sometimes, a five-minute phonecall is more valuable than a five- or 50-page protocol," he says.

## Using the claims data

There is, of course, a vital role for claims data and analysis to improve the risks for multinationals, allowing problem areas to be identified and managed, together with targeted risk improvement spend, as well being crucial when taking risks to the insurance market. As Smart points out: "With resources stretched, meaningful risk data allows insurance buyers to hone in on the issues of greatest significance and implement risk improvement strategies that have the most impact."

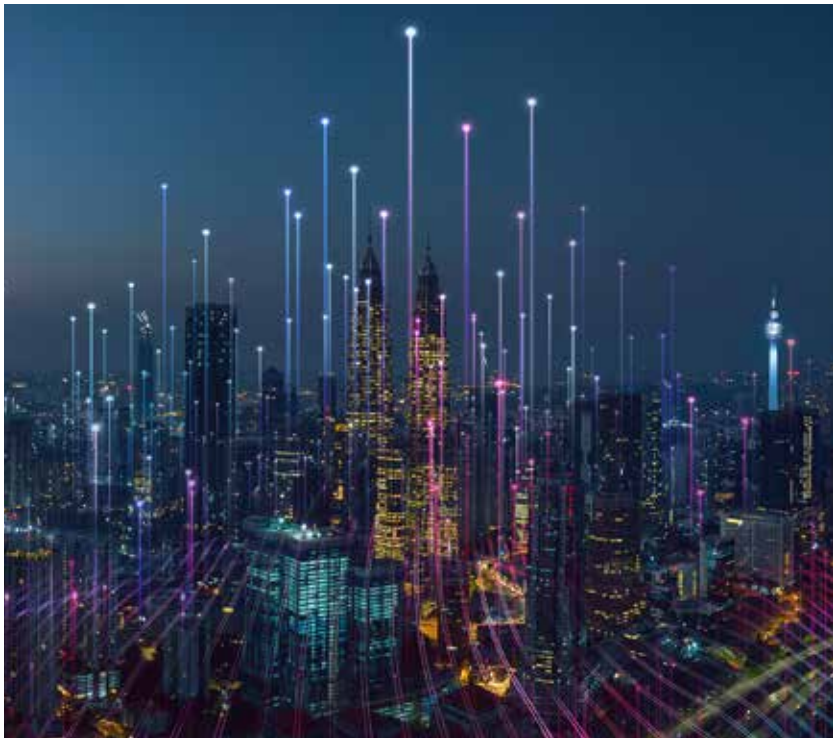
The volume of loss data captured in the claims process has grown exponentially, according to Rayner, and feeding relevant data back to clients, in combination with risk engineering advice, is critical in helping them spot loss patterns and vulnerabilities, mitigate risks and market their risk to insurers in the most efficient way.

"It is essential to capture all relevant loss data in this process, including 'near misses' and uninsured losses – not just insurance claims – as this can help companies take risk management actions or obtain insurance coverage proactively rather than reactively. Many multinationals self-insure through captives and the feedback loop created through the capture of this data is mission critical to the performance and value of these vehicles," says Rayner.

He adds: "Leveraging data from insurance partners and loss adjusting firms can also help corporate risk managers look beyond their own organisations and benchmark their risk management and loss performance against the wider sectors in which they operate. This can help multinationals identify, for example, the types of losses most frequently seen at an industry or regional level, common triggers for large losses within a sector, supply chain bottlenecks or areas becoming more vulnerable to extreme weather."

## Value of technology

Technology and digitalisation are becoming increasingly important in the claims arena, as with other areas of risk and insurance. Rayner notes that the claims process is becoming increasingly data-driven and automated. "As well as bringing improved speed and accuracy to individual claims, this also enables global solutions and the responses to complex multinational claims to be coordinated far more efficiently and cost-effectively," he says.



**The claims process is becoming increasingly data-driven and automated**

"The challenge is to leverage that data to improve customer experience and loss performance, but the adoption of technology and digitalisation means the insurance industry has never been better placed to do this. We have invested heavily in systems and analytics that enable us to aggregate data and glean insights at a macro or granular level, in a way never before possible. By applying AI to that data reservoir, we drive improvements in the claims process much faster than before, while also achieving better outcomes for both policyholder and carrier," says Rayner.

Smart agrees that technology plays a key part in effective claims management, in terms of media capture, data collection, reporting and analytics. But he notes: "While it also assists with process efficiency, communication and claim calculation, it will not deliver the empathy and the innovative loss-mitigation solutions that a good adjuster brings, nor will it sell policy response, repudiation or conduct settlement negotiations. The foundation of successful claims handling is the ability to build trusting relationships with the claims stakeholders."

# Brighter outlook for life sciences sector

**The global life sciences market may not be easy for multinational insurance buyers but most are able to get the cover they need for key risks, writes *Ben Norris***

There are signs that new capacity in the life sciences market is beginning to flatten rate increases while expanding options, experts say. A similar story seems to be playing out for risk managers at pharmaceuticals with US exposures, where recent ligation, particular over the opioid epidemic, saw the market harden, but again things are starting to look a bit brighter for buyers.

Insurers, brokers and alternative risk transfer experts also say that Covid-19 hasn't had as big an impact on the life sciences market as some might think, with the sector better prepared for the pandemic than many others and one of the few to thrive financially.

Walker Taylor IV, senior managing director of AJ Gallagher's life sciences practice, says broadly speaking, the life sciences insurance market is "open and stable" for multinationals, with "rates flattening for most lines of coverage after two years of sharp increases".

"There is ample capacity and new players are still entering this market segment, which is keeping rates flat. We are even seeing rate decreases in some areas," the broker explains. "Some recent communicable disease and opioid exclusions are starting to loosen as capacity continues to expand."

Carriers are increasing their limits for pharmaceuticals, continues Taylor. "Where they used to offer a maximum of $5m primary, they may now offer up to $15m or $20m for good risks, with excess capacity readily available for attractive risks," he says.

## Increased selectivity

But Taylor notes that underwriters are carefully examining life sciences companies with poor loss history, as well as those involved in higher-risk activities or domiciled in higher-risk locations. "Marine cargo, cyber, management liability and certain property risks, depending on their exposure to natural catastrophe perils, can be more challenging. For instance, cyber coverages are being stripped out of packages and require standalone policies," he says.

**Carriers are increasing their limits for pharmaceuticals**

Ana Maria Insua, underwriting manager for life sciences in France at AXA XL, agrees that, like most areas of the commercial insurance market, the life sciences sector has seen an upward pricing trend over the last few year with tightened terms and conditions.

She says buyers can still get capacity but things remain more tricky. "Capacity is still available but most carriers are showing increased selectivity, especially for new programmes," says the insurer.

Global life sciences product leader at Beazley Marc Amis says the market was soft for many years and suggests rates need to go higher still. But life sciences carriers are "dialling down" their limits or terms, he adds. "That said, most carriers are still willing to provide up to $10m coverage limit in many instances," says Amis.

He and Insua both note that carriers are tending to exclude products containing cannabis, including cannabidiol and tetrahydrocannabinol. Amis also explains that carriers have been putting exclusions for N-Nitrosodimethylamine (NDMA) in polices related to nutraceuticals and pharmaceuticals. NDMA is a by-product found in the manufacturing process of nutraceuticals and pharmaceuticals that potentially causes cancer.

## Different classes

Neil Campbell, senior consultant in Strategic Risk Solutions' risk consulting team and former risk manager, says his life sciences clients report a range of different markets for various risks.

He says the wider hard market has restricted capacity and increased rates for nat cat risk. D&O cover been a challenge after some big claims at the smaller end of the life sciences industry, explains Campbell. "D&O rates have gone up across all industries, and life sciences have certainly been at the worst end of that spectrum," he says.

The former head of JLT's global life science practice adds that cyber has become as tough for pharmaceuticals as it has for other sectors, with some of his clients facing "huge" premium increases and capacity reductions alongside much higher retentions.

Campbell, who was a risk manager at Zeneca and AstraZeneca for more than ten years, says the product liability class has long been tough for the life sciences sector, so this area hasn't been as adversely affected by the recent wider hard market as some others. "Market conditions haven't really changed that much compared to how the hard market might have affected other industries, because you were starting from different positions," he says.

## Covid-19

And Campbell doesn't think that the life sciences liability market has been hugely impacted by Covid-19, or that other coverages have been hit that hard by the pandemic. "Clinical trials, which is a very important and often legally required coverage, has not really been adversely affected. There have been a lot of trials fast-tracked on vaccines but I haven't heard much about disruption of trials, or inability of companies to buy insurance. So I don't think the liability market has really changed through Covid," he says.

"The whole vaccine push meant many pharmaceuticals were doing a lot better in terms of revenues. The higher valuations and dependence on suppliers will certainly have tested market capacity where product revenues were increasing substantially. A lot of manufacturing is outsourced, so I imagine there has been a shrinking of CBI appetite. But at the end of the day, I wouldn't say there has been anything remarkable from a first-party manufacturing or even a transportation standpoint from Covid-19," he adds.

Gallagher's Taylor explains that insurance costs are now slightly higher for Covid-19 clinical trials, with underwriting focusing on protocols, informed consent, stage and country location. But he says there is market capacity.

AXA XL's Insua says that while clinical trials can be covered under general liability policies, there are sometimes shortcomings with this approach. "If a claim not related to the clinical trial occurs, this could exhaust the limits of that general liability policy, potentially leaving the pharmaceutical company exposed," she explains.

Insua adds that many life sciences companies saw a strong or sharp increase in sales during the pandemic, which had a knock-on effect on coverages. And the pandemic has impacted employers liability claims from life sciences firms, says Taylor.

"Covid-19 has definitely had an impact on management liability, clinical trial enrolments, workers comp litigation for employees, and new employers liability claims within workers comp policies, particularly related to healthcare or pharma employers, where employers liability claims were extremely rare before Covid," he says.

## Litigation

Another big risk facing pharmaceuticals is US litigation and the recent focus on widespread misuse of prescription and non-prescription opioid drugs. Several US states, counties and cities have brought lawsuits against pharmaceutical manufacturers, distributors and retail pharmacies for their alleged contribution to the opioids epidemic.

**"Covid-19 has definitely had an impact on management liability, clinical trial enrolments, workers comp litigation for employees, and new employers liability claims within workers comp policies"**

*Walker Taylor IV, AJ Gallagher*

Taylor says this litigation has definitely impacted the insurance market but things are beginning to look a bit better for buyers. "Exclusions are common for opioids but there is new capacity to underwrite new risks. With the increase in capacity and more certainty based on litigation settlements from past acts, underwriters are willing to have a conversation and provide capacity for well-controlled opioid risks," he says.

Insua says Australia seems to be heading in a similar direction with opioid litigation, which could lead to claims. But with opioids more tightly regulated in Europe, the phenomenon hasn't crossed over to this side of the Atlantic. "It has however become more difficult for clients to find coverage for these types of products," says the insurer.

Beazley's Amis says there has also been a fair amount of recent litigation in the US around Continuous Positive Airway Pressure machines, and allegations that their tubing can cause cancer. "This of course has an effect on the component parts manufacturers and electronics manufacturers as well. And following the high-profile opioid litigation and settlements, many carriers will be monitoring these particular exposures carefully," he says.

Taylor adds that it is now difficult, if not impossible, for life sciences companies, like most others, to obtain coverage in Russia and Ukraine, not least with marine cargo sanctions in that region.

"Businesses with activity in those countries should pay close attention to the performance-delay coverage carve-backs and war exclusions, which may apply if a company's failure to act, or take action, is the reason for the delay in service or performance," he advises.

**"Capacity is still available but most carriers are showing increased selectivity, especially for new programmes"**
*Ana Maria Insua, AXA XL*

## Underused captives

SRS's Campbell, who is an expert in corporate risk financing and alternative risk transfer strategies for large, global companies, says many life sciences firms are now looking to make better use of their captives, with a wider range of risks being considered. But he believes many aren't utilising their captive as well as they could. In particular, he makes the case for using structured reinsurance to ensure captives add more value.

"The life sciences industry is fairly mature in terms of captives. They have well-capitalised captives that have often been operational for years, but I think many aren't using captives to the full extent they could be used," says Campbell. "During the long soft market, captives were used tactically, sometime not even tactically, simply to manage a retention on a monoline placement. Now, companies are trying to remember why they set up the captive, what can they do, and how can they add value to the corporation."

Campbell explains that life sciences companies are now looking to bring more lines of business into their captives and are even focusing on difficult risks such as cyber, D&O Side-B and Side-C, and trade credit.

"A lot of my clients are also now looking at employment practices liability, fiduciary and crime terrorism, which are lines that generally haven't come into the captive because they are seen as low frequency and potentially high severity. But there is no reason why low-frequency, high-severity risks should not be part of the captive's portfolio, given that they actually enhance the diversification value," Campbell continues.

And he says many clients are either using structured reinsurance or are looking at this option to enhance their captive's ability to take risk on a gross basis and then manage the unwanted volatility.

"So, with structured reinsurance you can start to think about how you can buy reinsurance from the market a little differently. You can control and can redeploy capacity from lower down where the market is still inefficiently priced, and you can extract the diversification value of that portfolio, which otherwise you are giving to the insurance market if you buy on a monoline basis," says the captive expert.

# Bach on the front foot in London

***Adrian Ladbury* talks to *Carl Bach*, now chief executive officer for international, The Hartford, about the integration of Navigators and the way forward**

US insurer The Hartford made its big move into the London and international specialty market in May 2019, with the $2.1bn acquisition of Navigators. Through that deal, The Hartford acquired Syndicate 1221 and a growing business in mainland Europe, Asia and Latin America, which complemented its existing mainly middle-market US commercial business. The integration in London has been led by Carl Bach, and has not been simple, but he tells *Global Risk Manager* that the job is now done and the next journey begins.

Bach has kept a low profile for the past couple of years as he led the integration of the Navigators business during the pandemic and as the commercial and specialty insurance market underwent a significant shift from soft to hard.

This was clearly some challenge to undertake during a highly uncertain period. But Bach believes that the fundamentals are now in place and it's time to step back onto the front foot from the group's Lloyd's base.

The historic work that the Lloyd's market leadership is carrying out with renewed vigour to digitalise and modernise the market – and crucially demystify and make the market more transparent, accessible and cheaper to use – gives Bach confidence that the foundations are firmly in place.

The fact that the market shows few signs of softening, despite the excellent 2021 results posted by leading international insurers and reinsurers including The Hartford, will obviously also help Bach and his team look to grow in a profitable way, as is determined by The Hartford culture, he says.

"This is a results-driven company, deeply embedded in the culture. This is just the start of the journey – it is not job done. We are now backed by a company like The Hartford and its financial strength, with an appetite to expand internationally, which makes it a great time. It feels like we have momentum. We have had a good few years of strong rate and that will continue for some time yet. The key message remains that The Hartford has a steadfast commitment to building a strong underwriting business through underwriting excellence on the Lloyd's platform," he tells *GRM*.

**Carl Bach led the integration of the Navigators business during the pandemic**

## London's central position

Lloyd's was chosen as the base for The Hartford's international specialty push because of its historic benefits, not least its unrivalled distribution and global licence network. The fact that the market is committed to a significant digitalisation and modernisation programme under CEO John Neal and chairman Bruce Carnegie-Brown is also an important factor.

"There are a variety of reasons, including access to market and a distribution model that is unparalleled, and the rich history of the market. This is a huge advantage. There is a programme of modernisation designed to make the market more accessible and efficient. We do have confidence

Bach says it's time to step back onto the front foot from the group's Lloyd's base

in the leadership at Lloyd's to deliver a premier underwriting market and to make it an easier and cheaper place to do business," explains Bach.

"We now need to deliver strategic growth but not growth for the sake of growth. We are definitely bottom-line-focused and need to be close to the top quartile and achieve target returns on equity of 15%-plus on a consistent basis. So, for the next few years, the goal will be investment in the people focused on specialty lines and to build market share. Our focus will be on our core areas of expertise and building the data and analytics that provide the insights needed for our underwriters to flourish," he adds.

The journey has not been simple for Bach and his team since the acquisition.

Prior to the deal, Navigators held about 1% of the Lloyd's market through its Syndicate 1221, complemented by its UK branch. In 2018, it acquired Bracht, Deckers & Mackelbert (BDM), a specialty underwriting agency, and its affiliated insurance company ASCO, both based in Antwerp, Belgium. This added to the company's existing European presence in Rotterdam, Milan, Paris, Madrid and its existing Antwerp office.

Bach is honest in his assessment of the scale of the job at hand. "This brought deep experience but was certainly a task. We had to simplify a $500m business that was overly complex, lacked investment in the back office and was basically trying to do too much with too little. The task when the acquisition was closed therefore was to take a step back and overhaul the international business, and focus first and foremost on London," he says.

The main European business – Navigators Holdings (Europe), including BDM and ASCO – was ultimately sold to Bermuda-based legacy insurer Premia.

This was a lengthy process and its conclusion freed up a "huge amount of management time" to build the London market business via Syndicate 1221 and the UK Navigators Insurance Company operating as a branch of the US parent, says Bach.

## Huge IT investment

At the same time, the operating model and non-underwriting functions had to be reorganised, improved and aligned with The Hartford group's systems. There was a huge investment programme in the IT platform for the group, including automation of pricing tools that at some points had involved the rekeying of data seven times.

There were also some difficult decisions to be made about the composition of the portfolio. Lines such as onshore energy, power and hull were exited because of historical underwriting losses. Transactional liability was also exited because of control and cost, given that it was via delegated underwriting sources.

The result was a product mix based on four core divisions: marine and energy, financial lines, casualty, and political risk. This meant that the total products on offer dropped from more than 25 down to 19.

"This gave underwriters a sharper focus, and brokers and customers access to deeper expertise. Now we are focused on specialty lines at Lloyd's in which we have real strength, and we will add to this when opportunities arise, such as our recent expansion into trade credit in the political risk division, which also includes political violence and terrorism. Maybe we will add in the technology and E&O space where we have the expertise and it complements the existing business. But we wouldn't suddenly anticipate expanding into whole new areas such as motor and A&H," continues Bach.

The timing of the reorganisation and re-underwriting of the Navigators business was good because the overall market turned as the process was underway. The team was able to win valuable new business without compromising underwriting standards.

"We took advantage of market conditions to really get the foundations of the portfolio set, [assess] how we could tier our business and better understand the quality of the risk. We took advantage of seeing business from larger corporates that we didn't previously, as capacity tightened across the market," says Bach.

## Hard market legs?

The big question facing carriers, brokers and customers is whether or not this more disciplined market has legs or whether fresh capital and capacity will inevitably force a softening. Bach believes the market is behaving itself and does indeed have legs.

"Time will tell but I would say that there is at least another 12 to 18 months of these conditions across The Hartford's book and across the market in general. Inevitably, some lines will approach negative territory and other lines will continue as now. Overall, I would say there has been a recent 5%-7.5% reduction of rate but it remains above loss-cost trends," he says.

"New entrants are not broadening coverage and are more focused on rate than in the past, so not causing harm. Retentions are flat and in some cases still increasing. The quality of underwriting, coverage and terms remains pretty good too," continues Bach.

One thing is for sure, the future expansion of The Hartford's London business will not be driven by handing the underwriting pen over to delegated underwriting operations such as managing general agents (MGAs) while Bach is in charge, unless the economics change significantly.

"We as Navigators and now The Hartford Syndicate 1221 have never been a big player in the delegated underwriting space. Recent analysis of the open market and delegated underwriting market shows, disappointingly in my view, that some 40% of business is now delegated. Our distribution spread is very different to this and of course we do not write a lot of North American business, which typically accounts for a lot of the delegated excess and surplus lines business," he explains.

"Where we did write this business, we rarely gave full authority away. We pulled back further over the last two years because we wanted to control the pen more during the hardening phase of the market. If you are pulling back your own limits, it is only natural to pull back from such a small base," continues Bach.

"The MGA market has been robust over the last couple of years. We continue to look at it and ask whether it makes sense but this is an open question. One key thing is access to data, which needs to be as close to real time as possible because you want to react rather than get the bordereaux three months late! Data and pricing are critical," he says.

**Port of Felixstowe, UK: marine risk is one of The Hartford's four core divisions**

"The economics are tough. While investing in technology and people, we have managed to bring our expense ratio down, which is great. But it is tough to do that when you are paying 40% commission in brokerage plus profit commission, which adds another couple of points," adds Bach.

## Lloyd's boost

What will help profitable growth for Hartford and the wider Lloyd's market is a continued effort to "de-mystify" it, make access easier for brokers, cut costs and raise transparency, according to Bach.

"Demystifying Lloyd's is something that the corporation has always worked hard on because this is a complex market and system for many. I, for one, have worked hard to demystify how the market works internally for the past two years," he says.

Digitalisation of the market is clearly one of the cornerstones of the effort to raise efficiency and improve transparency and access. The 'Blueprint 2' plan published by Lloyd's in November 2020 and updated in January of this year is an important element of that.

Bach is impressed by the market leadership's commitment and approach. "I think it's really significant that the leadership team at Lloyd's is instilling real confidence through the exciting Blueprint 2 programme. This modernisation plan has to be executed and will help tackle the expense problem and raise margins," he says.

"Let's face it, investment in PPL – the London market's electronic placing platform that enables brokers and insurers to quote, negotiate, bind and endorse business digitally – will be hugely important, benefiting Lloyd's' European, Asian and North American markets," explains Bach.

> **"Demystifying Lloyd's is something that the corporation has always worked hard on because this is a complex market and system for many"**
> *Carl Bach, The Hartford*

"All our investment in technology has been carried out to make sure that we have connectivity to the market and can capitalise on the benefits of reduced costs and ease of placement. We are doing great things today which, if the market can adapt across the board, could lead to significant new business. I feel really confident that the Lloyd's market is moving in the right direction. [But] execution will be critical," he adds.

It is never easy to make the big shift from defensive to offensive mode, and such a change in strategy will always carry risks. But if the market retains discipline as Bach predicts, and Lloyd's follows through on its ambitious Blueprint 2 project, then The Hartford should be an increasingly significant player in the specialty space, which can only grow in importance for risk managers over time as the risk landscape becomes ever more complex.

**London was chosen as the base for The Hartford's international specialty push because of its historic benefits**

# RIMS to focus on federal approach to cyber and pandemics

**US corporate risk management society RIMS will focus its 2022 political efforts on continuing its push for a state-backed pandemic insurance scheme and a federal cyber standard, to help deliver more consistency and certainty for US risk and insurance managers in the face of rising systemic risks, writes *Adrian Ladbury***

US risk management society RIMS said in mid-March that advocating for the risk management profession at the highest level is an integral part of its mission. It explained that the society's external affairs committee, RISK PAC, met in February to review existing and looming legislative activity that could impact the profession, and identified that the potential state-backed pandemic scheme and a federal cyber standard were top priorities.

A spokesman for the society tells *Global Risk Manager* (*GRM*) that, during the RIMS Legislative Summit in June, its leaders will meet with elected officials to discuss the need for a more uniform national cyber regulation, and progress on the pandemic scheme. "The society will lend its support and volunteer to help with this initiative, should legislation be introduced," he says of the cyber standard.

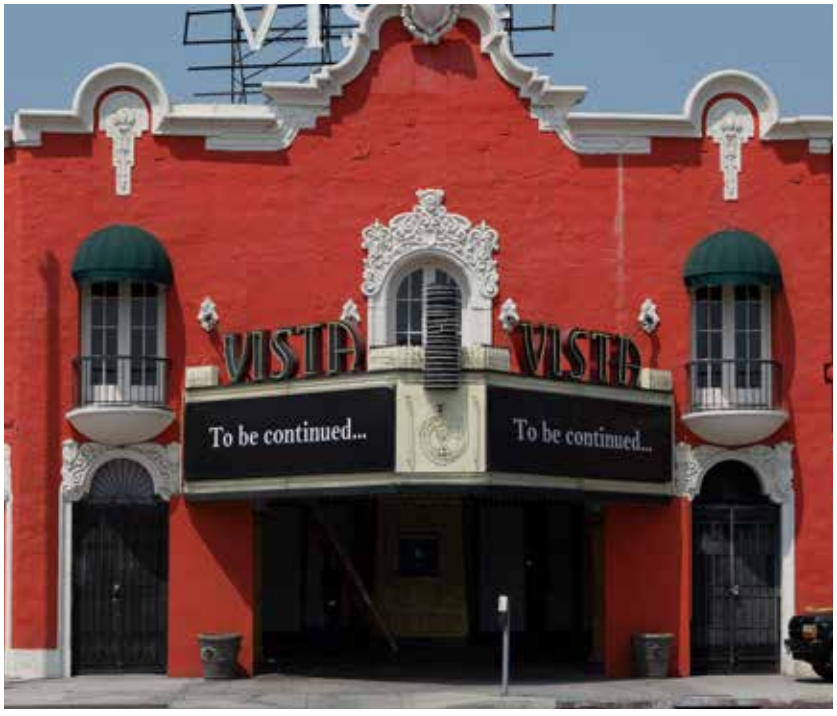
There have been various proposals for how to better deal with the economic damage caused by pandemics and outbreaks of communicable diseases in the US since the onset of Covid-19, as well as huge, largely uninsured, business interruption losses triggered by lockdowns.

The main effort supported by RIMS is the Pandemic Risk Insurance Act (PRIA), which was originally introduced by Congresswoman Carolyn Maloney (D-NY) in 2020 and then reintroduced on November 2, 2021.

## Public-private compensation

"The proposed legislation would create a federal programme that provides a transparent system of shared public and private insurance-backed compensation for business interruption losses resulting from a pandemic or an outbreak of communicable disease. In doing so, it would help create a much softer market for buyers of pandemic risk insurance," explains RIMS.

RIMS believes the focus of the bill should be on smaller businesses that are less able to cope with such catastrophes.




**Covid-19 lockdowns in the US triggered huge, largely uninsured, business interruption losses**

The US Congress website explains: "The programme generally provides compensation to property and casualty insurers if they incur losses as a result of coverage related to pandemics and outbreaks of disease. All insurers as specified in the bill must participate in the programme. These insurers must offer, in all property and casualty insurance policies, coverage of losses related to an outbreak of infectious disease or a pandemic for which a covered public health emergency is certified by the Department of Health and Human Services.

"Additionally, these insurers must offer, in all their commercial property insurance policies, coverage to compensate the insured for a portion of 180 days' fixed costs and payroll triggered upon the certification of a public health emergency and state or local government closure orders, without

requiring specific proof of losses," it continues.

Congress explains that the bill establishes the share of insured losses covered by the programme and conditions for payment to insurers. The bill also provides for the treatment of reinsurance, captive insurers, other self-insurance arrangements, and state residual market insurance entities.

The next step is that the Government Accountability Office will report on the availability and affordability of property and casualty insurance, says Congress.

## Cybersecurity

The other big focus is on cybersecurity and data privacy. The big problem for US companies is that there is no joined-up approach currently at federal level, compared with Europe, for example, which has a range of national data protection regulations that all fall under the European Union's General Data Protection Regulation (GDPR), introduced in 2018.

Companies that operate across borders in Europe may not like the GDPR but at least they know what they are dealing with across the entire continent. They can therefore build their risk management and mitigation strategies around a generally common set of standards.

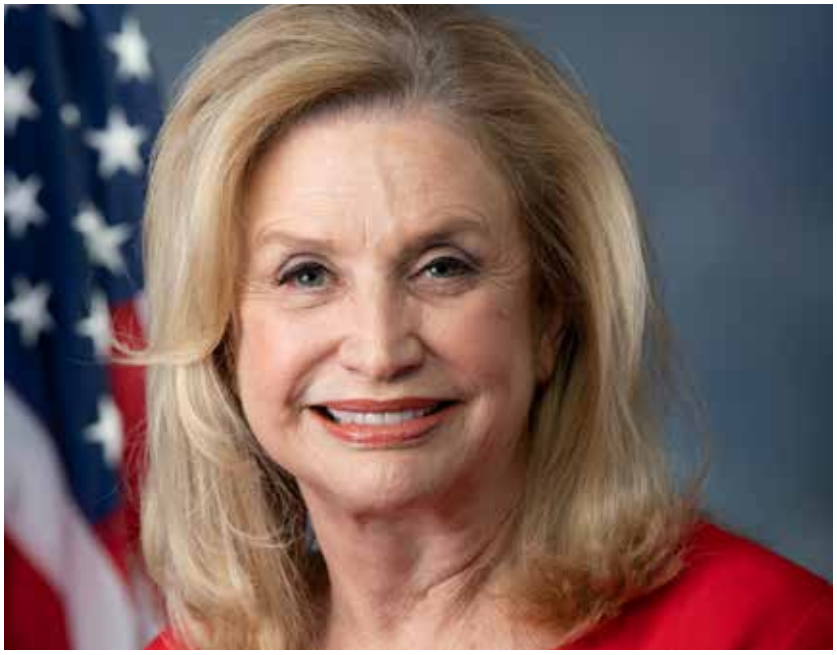
RIMS would like to see a similar approach adopted at Federal level in the US.

"Forty-seven states, the District of Columbia and three territories have enacted varying data breach notification laws that are far from uniform. RIMS recognises that for businesses operating in multiple states, compliance with a patchwork of state requirements creates confusion and lessens efficiency. This, and the threat of legal action for non-compliance, is why we believe a national standard for data security and breach notification is critical," states the society.

"As technology continues to evolve and organisations become more dependent on digital communication and online commerce, RIMS' advocacy efforts in this arena will focus on helping to define a federal framework for protecting privacy and data systems," RIMS says.

## Federal cyber approach

RIMS points out that the American Data and Dissemination Act, the Consumer Protect Act and the Data Care Act were presented in previous Congressional sessions but, currently, no similar bill is pending. The effort seems to have ground to a halt and RIMS would like to see this reinvigorated.



**Congresswoman Carolyn Maloney (D-NY) proposed the Pandemic Risk Insurance Act (PRIA) in 2020, which was reintroduced in November 2021**

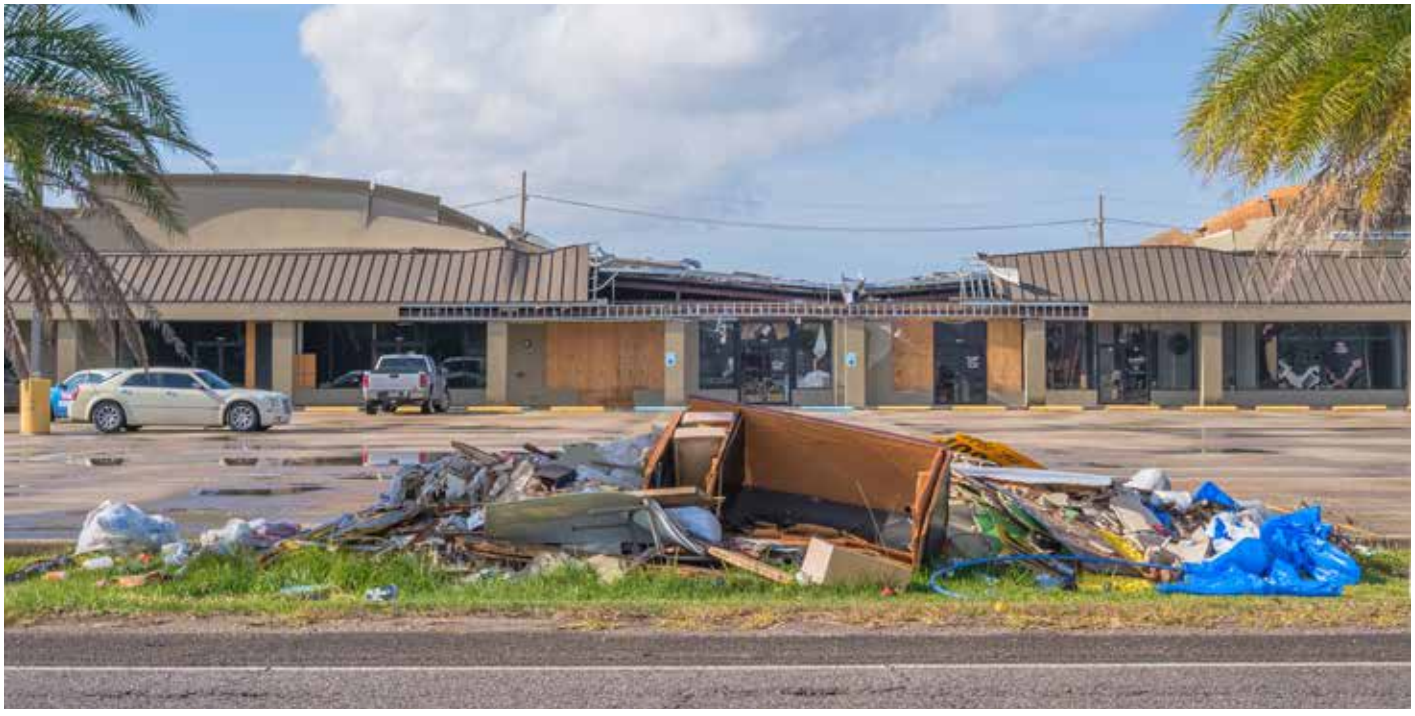
It would be good for all RIMS members and international companies that operate in the US if a federal approach were adopted for this critical risk area. Systemic risks such as cyber and pandemics cannot really be effectively dealt with on a state or national basis.

These risks, by their very nature, need a more joined-up approach that cuts across borders and recognise the global nature of the modern economy. If nothing else, insurers will struggle to come up with viable risk transfer solutions to these challenging risks if there are no common standards.

At this time of high geopolitical tension and rising climate change and health risks, representative groups for the risk and insurance management community such as RIMS need to work closely with their peers in Europe (FERMA), Asia-Pacific (Parima) and elsewhere to call for a more collective and consistent legal and regulatory framework from their regional and international leaders. The time is now.

# Good risks + good data = better pricing

**Commercial property rates are continuing to climb for many lines in the US, writes *Michael Bradford*, but even in the face of multiple challenges, they are expected to level off this year for well-managed risks, sources say**



**Damage at a strip mall in Harahan, LA, caused by Hurricane Ida: insured losses from major natural catastrophes in 2021 totalled an estimated $116bn**

"Rates are continuing to increase as a result of a convergence of factors," says Brian White, director of P&C underwriting and product at Nationwide Mutual Insurance. Increasing frequency and severity of catastrophes, supply chain delays, inflation and tight reinsurance capacity have all contributed to rising property insurance costs, he adds.

But even as those issues linger, rate increases for many risks are tapering, sources say.

The rate acceleration that "started in earnest" in 2018 following a spate of catastrophe losses the previous year has slowed, says Erik Nikodem, senior-vice president, global head of property, Everest Insurance. "We are still seeing rate increases but it is important to point out that it's not universal. Every client and account are differentiated. Some are flat but nothing is coming down as of yet."

It is the "unprecedented increased frequency and severity of global natural catastrophe events" that continue to fuel price increases for many property buyers, Nikodem says.

Insured losses from major natural catastrophes in 2021 totalled an estimated $116bn, according to a report released earlier this year by Gallagher Re. Only the $143m in losses in 2017 and the $120m in 2011 are higher than last year's total, the report notes.

## Rate increases moderate

"We're at 17 quarters of increasing rates in property," says Rick Miller, Aon's US property leader, referring to rate hikes through 2021. That follows more than 20 quarters of rate reductions, he points out, "so I would think most markets now feel like most of the corrections that were necessary" have been taken.

In last year's final quarter, Aon's clients saw average rate increases of 7.5% and that has trended downward, Miller says. The "most desirable clients" are seeing increases close to flat, he notes, and some are seeing "moderate decreases but I wouldn't say that's the norm".

Most risks can expect hikes at least in single digits, sources say, with some seeing double-digit increases.

"Prices are going up for certain classes of business and for risks that aren't high quality or don't follow good loss prevention control. It really depends on the account," says Peter Fallon, national property practice leader at broker Risk Strategies. Risks that are "where they should be from a technical pricing standpoint" will see modest increases at most, he adds.

Polly James, senior director risk management at Feld Entertainment, says she is not expecting big changes when coverage is renewed with FM Global in June on her company's property in Florida and Maryland. Her rates rose last year and the property deductible was increased, she says. "So, I think the rate will be pretty good this year."

James notes, however, that because property values are rising, insurance premiums will necessarily follow, even if underlying rates are flat. "The cost of everything has gone up to some extent, but even more in the building industry where there has been so much demand, and that is causing a strain on resources. Of course, when you have limited supply and high demand, prices go up."

## Impact of inflation

Inflation in the US is making property valuations difficult and contributing to higher claims costs, both of which make underwriting tricky, sources say.

"That's the main event for 2022," Fallon says of inflation. "Where rates are moderating for the good risks, everybody is now focusing on property valuations and business interruption valuations," he adds.

Underwriters had been routinely accepting valuations reported to them, but "over the past year, with what's going on between inflation, costs going up for materials and labour, supply chain issues and everything else", they are more carefully considering property values, Fallon says.

"It's definitely having an impact on the property market," White of Nationwide says of inflation. The cost of construction and claims are experiencing rapid increases, he adds, which means underwriters have to consider whether risks are adequately covered and identify gaps where policyholders may be vulnerable.

Adding to that, supply chain delays have increased construction downtime and lengthened building schedules, which adds costs that are also rising with inflation, White says.

Sizeable property losses in recent years have hit insurers, who discovered the claims were much larger than expected based on the exposures reported to them, Miller of Aon says. "I think you're going to see a lot of pressure on valuations going forward."

"We're spending a lot of time with our clients trying to understand where they got their numbers from," Fallon notes, "and the insurance company will work with us to come to an agreement around what the values should look like. It is taking time to go through every single account and try and justify what the values are, and not just apply a straight factor across the board."

## Business interruption

Business interruption is "part of that valuation conversation, too," says Miller. "It's not just about the building values. There's a business interruption valuation component on top of that," he adds.

"There hasn't been a significant change in what's available," Miller says of business interruption coverage, although "underwriters are writing it more carefully".

Contingent business interruption, however, is harder to come by, Miller says. "That's an area where underwriters are being very cautious because they've paid losses they didn't expect to pay. The coverage is there, it hasn't changed, but there's certainly a lot less available," he notes.

Demand surge in the construction industry – which means builders are chasing the same limited supply of materials – is as big a problem as inflation, according to Nikodem. "We've seen instances where it's not just having to pay more for lumber or insulation or plumbing materials and so on, it's actually been unavailable, where you just cannot get those goods."

That's much harder than inflation to factor into pricing, Nikodem says. "Building in the unavailability of a certain product is far more difficult to predict in advance."

## Terms and conditions easing

Buyers are finding that insurers are more willing during the current market to loosen terms and conditions, sources say, at a time when capacity is plentiful and competition is returning.

"From a terms-and-conditions standpoint, things have definitely gotten a bit more client-friendly than they may have been last year and back in 2020," Miller says. "It's just a little bit of a softer approach," he says, with insurers somewhat easier to work with on issues such as managing non-concurrencies and shared-layer programmes.

"Capacity is pretty abundant," Miller points out. "The capital base for the industry is strong. What we are seeing from some of the traditional players in the space is slightly more aggressive lines, particularly on the business that is desirable. We're starting to see some competition return on our big shared-layer programmes. Over the last few years, it was kind of a fight to the finish to fill layers out; that's definitely starting to change and we're seeing some over-subscription."

Feld's James agrees that it's become a more client-friendly property market as insurers have adjusted their rates after heavy losses since the 2017 hurricane season. "Capacity was reduced for a while by virtually all the major players and then, as premiums increased, more capacity has come into the market," while existing players have increased their capacity "and are getting a better price for it."

"Underwriters have to be profitable, too, so they took a good look at their underwriting criteria and have gotten a lot more selective about the risks they want to underwrite and the price they want," James says.

## Natural catastrophes

While the trend for many buyers is encouraging, some property lines remain challenging, sources acknowledge.

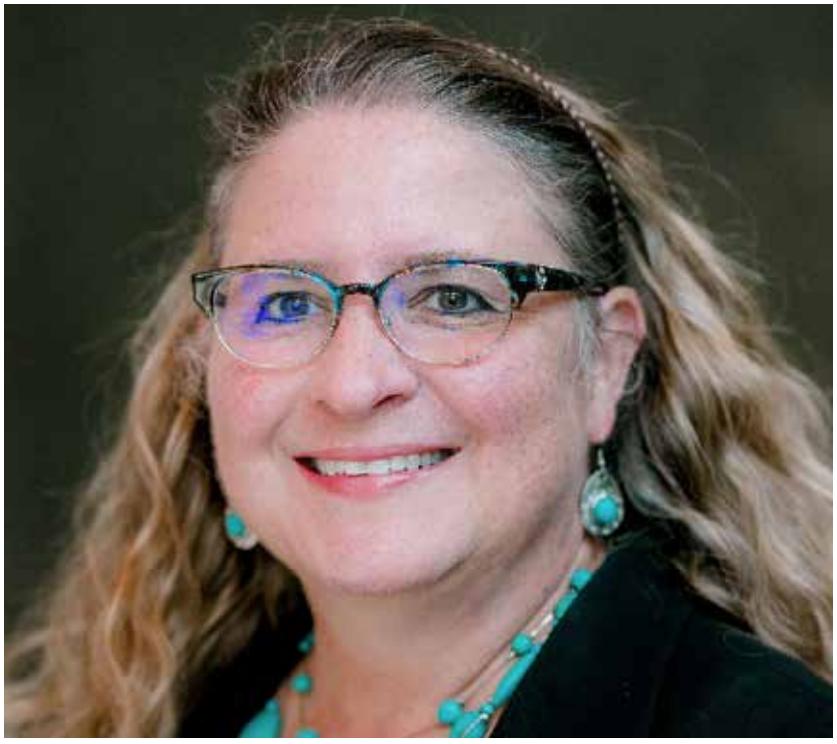
The biggest rate jumps will be for properties exposed to natural catastrophes, they note, with some regions not previously considered high risk now seeing an uptick in insurance costs. While hurricanes in the Atlantic and earthquakes in the northwest are traditional catastrophe exposures, the map has been rewritten by such events as winter storm Uri last year in Texas, which crippled the state's electric grid and caused widespread property damage.

More attention is being paid to what have been considered "secondary perils", such as convective storms and extreme cold in parts of the country where insurers haven't traditionally expected to see them, says Miller. "The freeze last year in Texas is an example."

Insurers have taken notice and some are making moves to diversify their books as the catastrophe landscape broadens, White points out. "It's increased the need for investment and sophistication" into risk selection and loss prevention, he says. "It's having a pretty big impact on the market in general."

## Modelling 'a necessity'

Risk managers with cat exposures should consider modelling as a necessity and use it to make sure coverage amounts are adequate, sources note.



**"Underwriters have to be profitable, too, so they took a good look at their underwriting criteria and have gotten a lot more selective about the risks they want to underwrite and the price they want"**

***Polly James, Feld Entertainment***

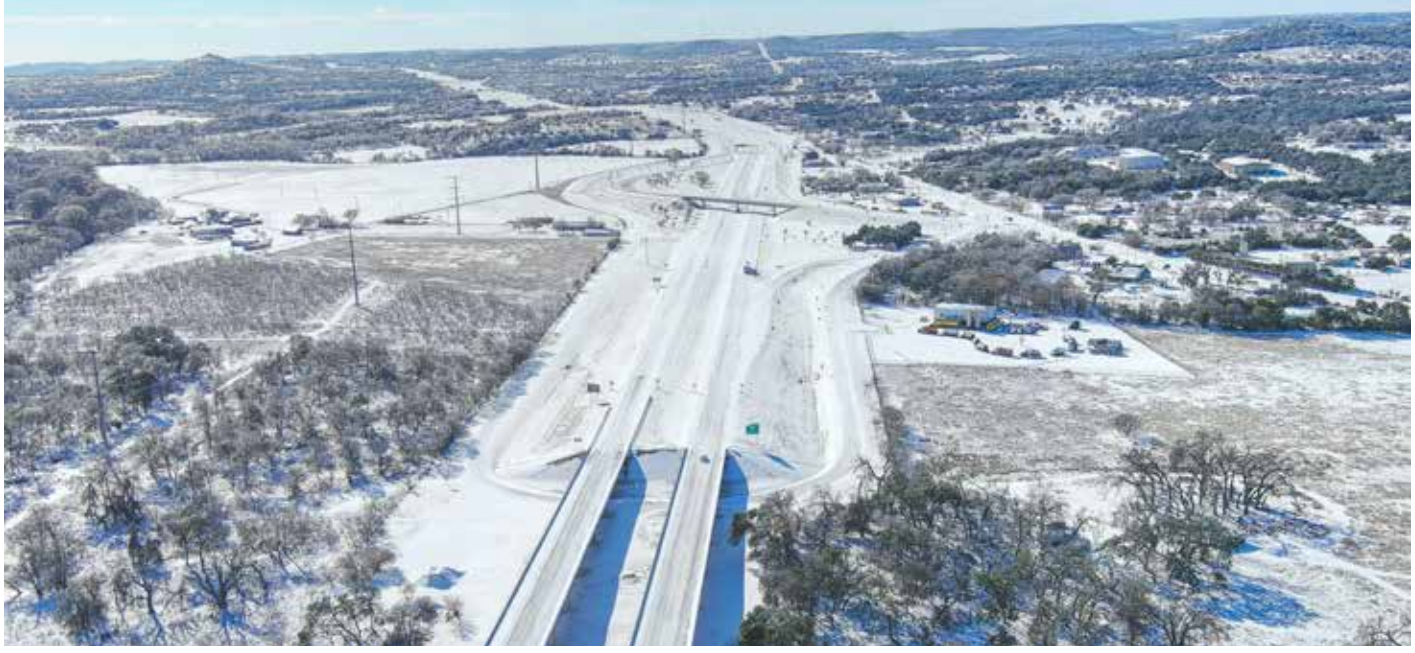
"Modelling is important so that you know what your cat exposures look like and you know that you are buying the right amount of limit – not too much and not too little," Fallon says. "What your risk looks like from a cat standpoint is going to have an effect on premium and if you are able to model (catastrophe exposures), you can use that to help underwriters get to where they should be."

"Have good data," James stresses. "The models default to the worst possible characteristics, so the more you can refine your information and get those secondary characteristics entered, it absolutely will improve your modelled outcomes. Understand what data goes into them and provide as much as you can," she says.

James advises buyers to pick their insurers carefully and aim to stick with them through market ups and downs. Don't treat insurance like a commodity, she warns, saying those that do might live to regret it. "When you hit a hard market and have losses, you can't find insurance sometimes. I heard stories of 400% increases when the rest of us were getting 30%."

# Living with increasing US nat cat exposure

**Climate change is having a major impact on natural catastrophes in North America, in terms of location, severity and frequency. Losses are growing and modelling is becoming increasingly important, finds *Tony Dowding***



**Snow on Interstate 10 in Texas, February 2021: overall insured losses from nat cats will average about $66bn in North America, according to AIR Worldwide**

The figures are concerning. Early estimates of global 2021 losses from natural catastrophes are higher than $105bn, which would make it the fourth-highest annual total since 1970, says AM Best. And this is now becoming the norm, with the global insurance industry facing a long-run annual average loss of $106bn, compared to $75bn a year during the past decade, according to AIR Worldwide.

The modeller says there is a greater than 40% chance the insurance industry will experience losses of more than $200bn in a single year during the next decade. It says insured losses will average about $66bn in North America, where about 50% of the economic loss from natural disasters is insured.

And a recent study by Chaucer found that hurricanes and tropical storms are no longer the preserve of southern US states and Caribbean islands, with a shift northwards exposing locations outside of traditional storm hotspots. The study reveals that 16% of US and Caribbean hurricanes, tropical storms and tropical depressions are now hitting northern states, such as New York, New Jersey and the states of New England, compared to 12% some 40 years ago.

There is a growing trend of hurricanes moving further north with greater ferocity, while increasing temperatures are making serious hurricanes even more severe. The (re)insurer says this will mean that locations outside of traditional storm hotspots are likely to be affected more often and, as a result, insurers must reconsider historical norms used to model risk.

## Secondary perils on the rise

But it is not just hurricanes. Secondary perils such as wildfires, tornadoes and severe

thunderstorms are accounting for a larger share of the losses from catastrophe events than primary perils such as hurricanes, according to Best. It says the US continues to suffer many of the most intense and most impactful natural disasters in terms of total damages and insured losses.

Shruthi Rao, CEO and co-founder, Adapt Ready, notes that climate change is accelerating the frequency and intensity of certain types of extreme weather in the US, from an increase in heavy downpours such as those along the Gulf Coast and eastern states, to wildfire seasons that last longer, an increased vulnerability to drought, and even the 2021 cold wave in Texas.

She points out that in 2020, the US experienced a record Atlantic hurricane season and 22 billion-dollar disasters, while 2021 saw 20 billion-dollar disasters (including the Texas cold snap and three tornado outbreaks). And it is not just homes that are affected. Rao explains that several of the US's manufacturing regions are in areas exposed to natural catastrophes and, as a result, large corporates have suffered increasing losses from these natural catastrophes. For example, the so-called 'Chemical Alley' region in the south and Gulf Coast, and the pharmaceutical industry in Puerto Rico, have seen significant downtimes and losses.

And it is not just these types of direct impacts that companies face every day – there have been significant losses from indirect impacts as well, from supply chain issues both upstream and downstream, says Rao. For example, multiple closures of one of petrochemicals manufacturer Indorama Ventures' plants during the 2020 hurricane season impacted the supplies for several downstream industries and companies like Goodyear.

Secondary perils are a challenge because they are harder to predict, and the cost of their impact is related to where they hit, explains Rao. "As a single event, they may not lead to large loss, but on aggregate, they account for significant and growing losses for the insurance industry. Hurricane Ida, which led a wave of destruction in the southern state of Louisiana, caused tornadoes (a secondary peril in this case) in the northeast, with damages estimated to be between $16bn and $24bn. And the lack of granular data coupled with limited monitoring of such events and insufficient early warning systems compound the problem," she says.

John Andre, managing director, AM Best, says: "The fact remains that secondary perils have not been modelled to the same extent as primary perils, although this modelling is evolving and insurers are taking actions to address exposures to these risks through underwriting and pricing actions."

**Shruthi Rao says large corporates have suffered increasing losses from natural catastrophes**

## Modelling the risk

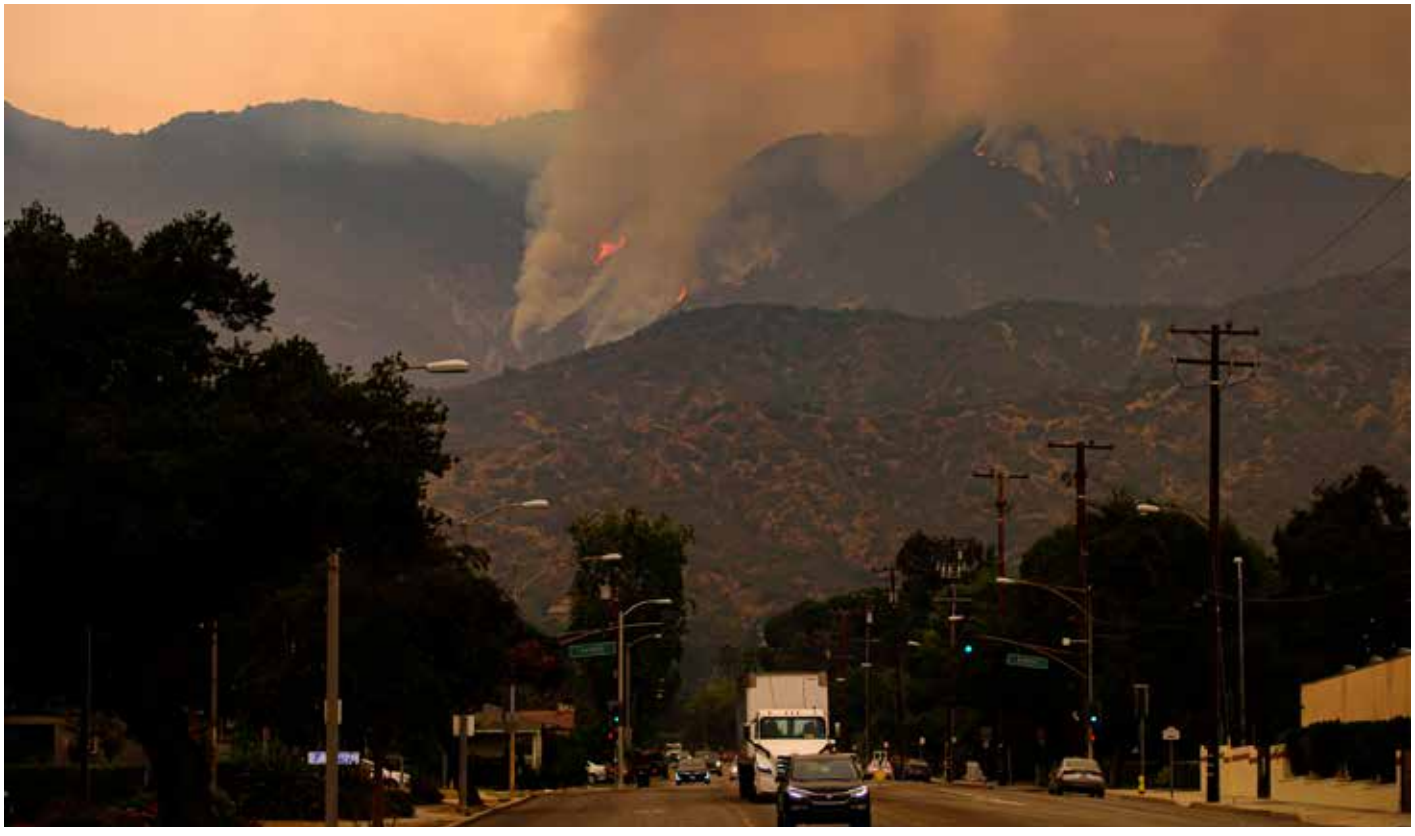
Most risk managers will tend to use their insurer or broker's expertise when it comes to nat cats and modelling. David Wyatt, client director, RMS, says many corporates use RMS models, especially via their brokers during insurance purchases, noting that RMS models are one of the key components of catastrophe insurance pricing, with most insurers working with RMS models to price these risks.

He adds that RMS also engages with corporations for key risk management studies to help with risk understanding, risk transfer and resilience. His colleague Ben Brookes, vice-president, consulting, RMS, says: "We work with corporates and reinsurers all the time to help them understand risk and resilience opportunities. This ranges from helping provide a solid understanding of risk upon which insurance risk transfer strategies can be determined, to understanding of resilience and risk reduction opportunities, to climate change analytics for strategic planning, reporting and ESG considerations. Many banks are now looking at how they can better understand physical climate change risk in their corporate lending portfolios too."

Cat modelling may become an important tool for risk and insurance managers as climate change plays havoc with traditional weather patterns and claims experience, especially as the hard market is seeing more companies considering covering cat risks in their captives. Last year's World Captive Forum heard one US captive owner say: "Traditionally, we always thought that cat is verboten inside a captive – you should never put cat in a captive – and yet it's becoming that we have to move in that direction because the market is in such disarray."

# Moderation but challenges remain

**Prices increases in most US commercial lines are moderating, and capacity is returning, but social inflation, nat cats and ransomware are all concerns. To get the best coverage at the right price, risk differentiation is crucial, finds *Tony Dowding***



**Wildfire in Los Angeles, California, September 2020: there are still challenges in catastrophe-exposed property**

It's been a difficult couple of years for buyers in the US commercial insurance market as, in line with markets around the world, pricing skyrocketed in some sectors, terms and conditions tightened and capacity diminished. The hard market is still in place and there is absolutely no suggestion that a soft market is on its way anytime soon, but there is a ray of hope for buyers as prices moderate and competition grows.

To set the scene, the US saw prices increase by 14% in the fourth quarter of 2021, representing the 17th consecutive quarter of increases, according to Marsh's Global Insurance Market Index. Despite this, the US property and casualty (P&C) industry recorded a $4.1bn net underwriting loss in 2021, following a $6.7bn gain in 2020, on increased losses and expenses, according to AM Best, although P&C insurers were still able to increase their net income year over year by 4.5%.

So, how is the pricing environment in the US market for large corporations and multinationals? Paul Horgan, senior adviser to Zurich North America CEO Kristof Terryn and, until recently, head of US national accounts for Zurich North America, says that overall the pricing environment

in the US is moderating for good risks that have traditional exposures.

"In property, after more substantial rate increases over the past couple years, rates have moderated into low single-digit increases," he says. "Where there still seem to be challenges is in catastrophe-exposed property, particularly when the cat environment is elevated for secondary perils such as wildfire, convective storms, freeze and hail. Customers who have that exposure can expect to see continued challenges in capacity and pricing. The same holds true in excess casualty. The casualty market in general is moderating but if you have losses or a heavy fleet, you will continue to see rates coming up and pressure on capacity."

David Perez, chief underwriting officer of global risk solutions at Liberty Mutual, says he is seeing some moderation across the insurance industry in some lines of business, but it varies by class of business and region. He says some areas are increasing such as cyber, which is still a very tough line of business, and the rate increases are still holding strong due to the uncertainty built into that product line.

"Property prices are moderating but there is a big unknown: how much has the industry priced for inflation, the impact of supply chain and activists. Is the industry properly pricing for all of that additional exposure?" he asks.

And he points to the secondary perils associated with property, which are becoming the majority of losses impacting the industry. "The industry is still trying to price that right as they are very difficult to model at this point. That may sustain pricing at a certain level. Northeast floods in the US, flooding in Germany, the freeze in Texas, the wildfire and tornado activity in the US, all of these are significant cat losses for the industry but I'm not sure how well anyone priced for the impact of them. So it is a growing concern across the board," says Perez.

## Distressed lines

Cyber is the one area that insurers and brokers point to as the most distressed class and where rates are still increasing, with no moderation. Matt O'Malley, US country manager, AXA XL, says cyber is currently seeing substantial hardening. "The current cyber insurance market is very challenging. Increased frequency and severity of cyber incidents are driving significant and much-needed change in the cyber insurance market. Insurers in the cyber market have had to pull back on capacity and retool policy exclusions and language to reduce their own risk to the volume of claims."

He says loss trends are unsustainable at recent rates, so cyber insurance rates have seen double-and, in some cases, triple-digit rate increases. And as cyber rates increase, capacity falls. "Where limits of $10m were once common not so long ago, now insurers are reducing lead limits to $5m. Insurers are asking much more of policyholders' efforts during the underwriting process, carefully examining clients' cybersecurity requirements as part of the policy application and especially as a precursor to getting ransomware coverage in a policy," says O'Malley.

> **"The casualty market in general is moderating but if you have losses or a heavy fleet, you will continue to see rates coming up and pressure on capacity"**
> *Paul Horgan, Zurich North America*

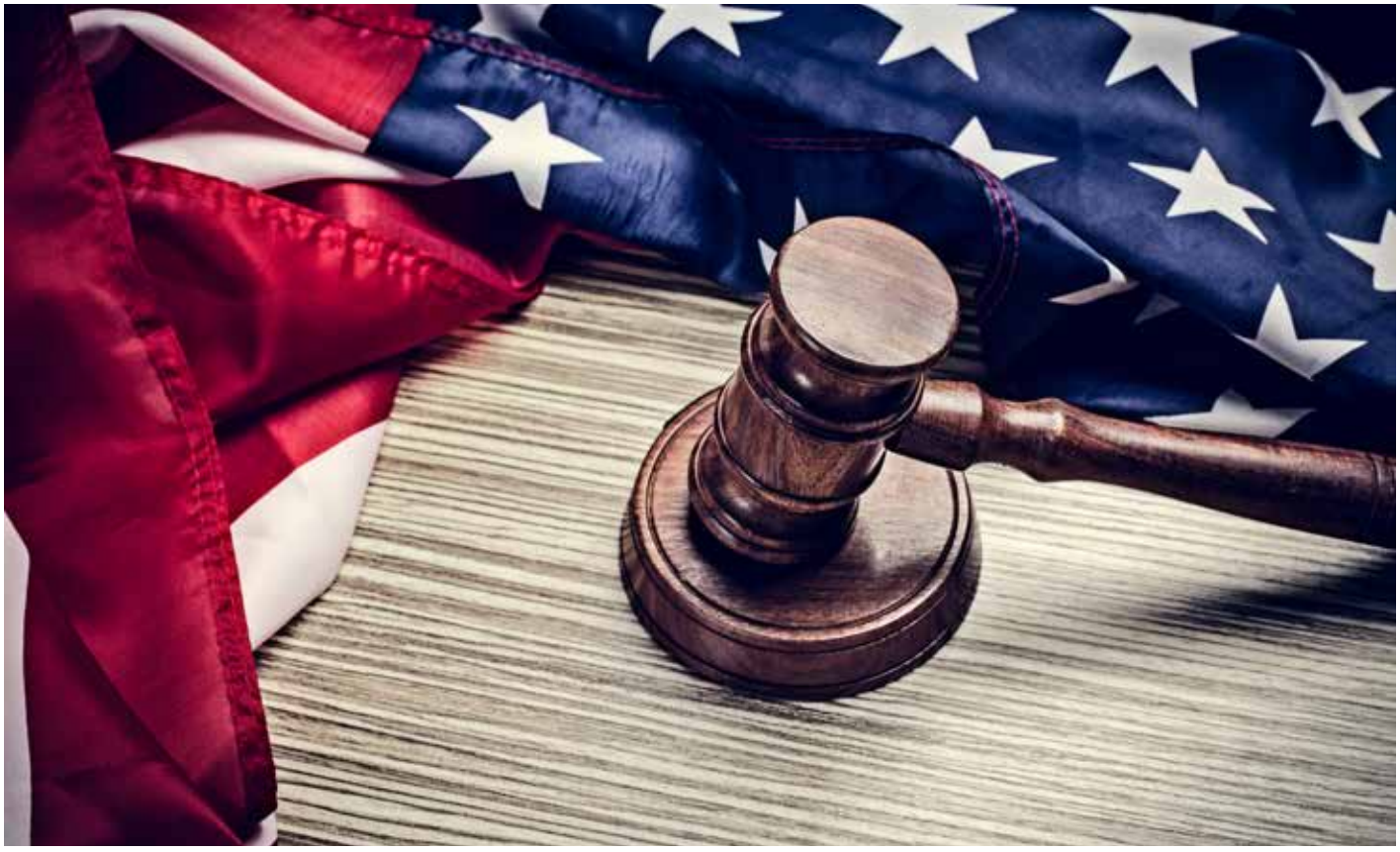
"Cyber is a risk without borders and almost indefensible for the most part, and there is a lot of uncertainty in that product line," says Perez, while Zurich's Horgan calls it "really dysfunctional right now".

## Social inflation

Around the globe, social inflation is a concern, but particularly so in the US. "The nuclear verdicts and the underlying erosion of tort reforms of the '90s have really created a major challenge, where we have the funding of plaintiffs' cases by the plaintiffs' bar and investors," says Horgan. "It has really changed the dynamics of large losses. Before, there would be an incentive for a client to settle at a reasonable amount of money. Now, the litigation has already been funded and there's no desire to settle anymore. That has fundamentally changed the dynamics of how litigation is carried out and what the desired outcomes are. It's really going for home runs rather than reasonable settlements."

Perez says: "We are seeing large verdicts across the board, with a dramatic increase in attorney representation. Litigation funding also plays a role – it is a huge and very profitable business in the US and commission rates can be as high as 40% or more. But it is not going anywhere and we have to learn to deal with it and price it."

Social inflation is still a big concern, particularly in commercial auto, says O'Malley. He points to a recent study by the US Insurance Information Institute and the Casualty Actuarial Society that found social inflation alone was responsible for commercial auto claim payouts increasing by more than $20bn between 2010-2019. "The trend is driven by distrust of big corporations and new ways to finance lawsuits, like litigation funding. Plus, medical expenses keep climbing too. Social inflation was a significant driver of many of the



The dynamics of how litigation is carried out in the US have fundamentally changed

corrective actions that insurers have had to take in recent years," he says.

It is not just social inflation that is a concern, but inflation in general. "Inflation is a new phenomenon for all of us, and it has caught many of us flat-footed – carriers, brokers and clients," says Zurich's Horgan. "We've seen this come through particularly in the property and auto market. We see where people haven't adjusted values on their property schedules in three or four years, and we know those values have increased. We see that come through in losses. We are seeing bigger gaps in terms of losses and coverage, and the cost to replace."

One area that was a major concern for buyers, D&O cover, appears to be improving, with rates moderating. Christine Williams, global specialty products leader, Aon, says the D&O market is more stable and Aon is anticipating single-digit increases across the board for D&O globally.

But she warns: "With D&O, there is always a three-year lag from when the suit comes in to when it is actually paid, so you are looking at 2017 settlements currently, and 2018 doesn't look that great for insurers either. So insurers are continuing to be concerned about securities class actions and derivatives, and cyber and subsequent D&O suits."

## Capacity

The general consensus seems to be that, with the possible exception of certain lines such as cyber, capacity is not such a problem, and in fact the US market is seeing increased competition and market entrants in some areas.

Aon's Q4 *Global Market Insights Report* states: "The 2021 capital commitments took more time than expected to mobilise and, while some new capacity has entered the market, more is expected to become available in early 2022." And Gallagher's *Winter Market Report* says that with improving rate adequacy comes increased carrier competition. "There are a number of new entrants to the market and increasing competition as underwriters look to write new business," it states.

However, Liberty Mutual's Perez notes that in classes with volatility, capacity can still be an issue. "For cyber and excess casualty and property in particular, we are seeing carriers reduce their lines. And there is an increase in business into the wholesale market from retail as a result of the difficulty in putting together towers for large risks," he says.

For traditional D&O, Aon's Williams says there are no capacity issues, and there is ample capacity in the US, Bermuda and London markets now, which was not the case for most of 2020 and

Capacity constraints persist in the US cyber market

early 2021. She notes there have been 20 new entrants across the three markets.

"Where we are seeing some capacity constraints, and expect to for the rest of the year, is in cyber. Even though there is access to all the same insurers and some new entrants, they are all managing their limits," says Williams. "We used to be able to get significant limits for ransomware but insurers have really scaled back, so now there are sub-limits for ransomware and exclusions, and captives are certainly being explored as an option."

She adds: "Clients are still looking to buy the limits that they have – they are not looking to increase limits because of the costs right now, which are prohibitive, but it is a challenge to fill large programmes of $200m or more. Where an insurer would give $25m last year, now it will be more like $10m, so it is a struggle."

## End in sight?

So the million-dollar question is: has the hard market peaked in the US, and if not, how long are prices expected to continue to increase?

"It depends – it is a line-by-line thing," says Zurich's Horgan. "It has peaked in many areas. But in those identified areas of cat, cyber and E&O, it has not crested yet. And in the case of long-tail liability, it may have moderated but it will continue to have significant pressure until there is tort reform and judicial reform to bend the curve."

Liberty Mutual's Perez points out that what drove this hard market was not an issue of strained capital, but a recognition of years of underpricing in multiple lines of business. "It is driven by the dependency on analytical and predictive models. Carriers generally don't make drastic changes in pricing until it shows up in incurreds. By then, they may have a significant amount of underpriced risk embedded in the portfolio," he says.

He adds: "Many long-tail loss trends are still going up, and insurers can't be comfortable until we see some sort of levelling out of these trends, and we are not expecting that soon, so we might see a lull in certain long-tail lines, but as we go back to our models, we may see that we need to readjust pricing based on what comes out of the tort systems around the world. People need to realise that the aggregate sum of the output of a particular tort system is what sets the price."

AXA XL's O'Malley notes that in some lines, rate increases have levelled off or started to decelerate from higher levels. He points out that in the latest Marsh Global Insurance Market Index, global commercial insurance rates jumped by 13% in the fourth quarter of 2021. "However, while 13% still seems substantial, it is more tempered than the earlier rate increases that we saw a year or so ago," he says. "This double-digit overall increase is reflective of some lines like cyber and for account-specific property and casualty accounts where losses or hazards have increased. We're currently

> **"This double-digit overall increase is reflective of some lines like cyber and for account-specific property and casualty accounts where losses or hazards have increased"**
>
> *Matt O'Malley, AXA XL*

seeing single-digit increases in many property and casualty lines that started to take corrective actions a couple of years ago."

Aon's Williams notes that, for insurers: "It has gone from being a very optimistic environment in January to being definitely more guarded around some of the emerging issues and macro issues such as the economy, inflation, and social inflation. There is also a big focus, especially in the US, on people returning to the office and concern about employment practices liability and whether there will be a surge in claims activity."

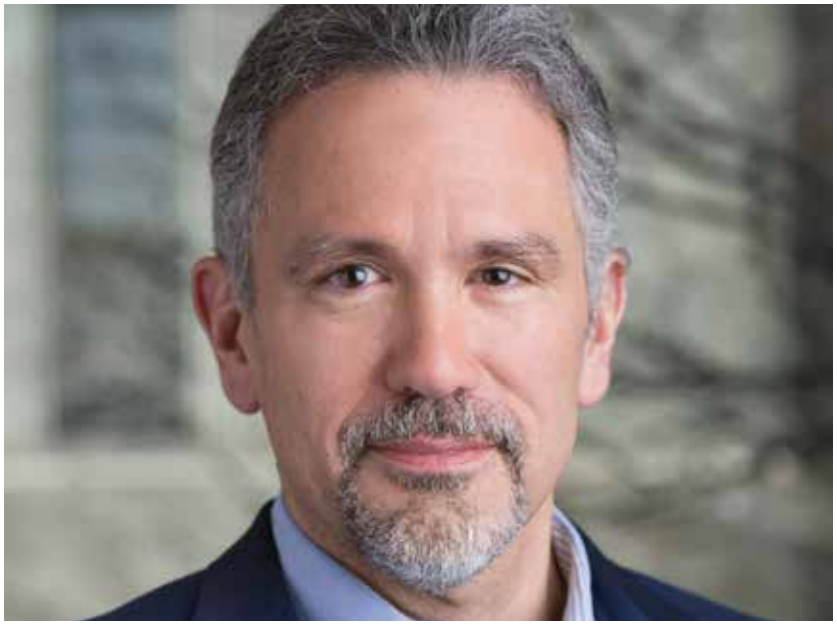
## The solution?

What does all this mean for buyers? For a start, risk managers need to start the renewal process early in order to work through any challenges with the underwriter, says Zurich's Horgan, especially as terms and conditions continue to tighten in the marketplace, and manuscript policies are being much more scrutinised.

"The other reason to start early is that, as the market has become more moderated, risk managers are starting to take a breath and think about, in the new elevated state of pricing... what is the right structure for my programme?" Horgan says. "How do I utilise my captive more? How do we think about some integrated products for some lines of business? As risk managers look for alternative solutions, they need to allow more time for preparing submissions."

He also thinks differentiation is crucial, as underwriting is increasingly based on the quality of the customer: "So, risk managers need to really spend time on the application, get complete information out there, talk about your safety culture, and think about how you differentiate yourself, which will entice the underwriter to talk with you about what structure works for you. The better you're able to market yourself as a differentiated risk in the market, the better reaction you'll get from the underwriting community."

Liberty Mutual's Perez agrees: "Buyers want carriers that can differentiate. They understand about the tort system and the state of the market, but they want a carrier that will differentiate them from the rest of their class and recognise the investments made in risk management and mitigation. And also carriers that can provide specialised services, because specialisation equals differentiation. We are going to see a growing trend towards partnership and long-term commitment. Pricing on a one-year basis does not give a lot of flexibility, but pricing a relationship or a multi-year period makes it a lot more manageable. Insurers like customers that understand that insurance is not a commodity."



**"Buyers want carriers that will differentiate them from the rest of their class and recognise the investments made in risk management and mitigation"**

***David Perez, Liberty Mutual***

On the issue of partnerships, Horgan believes that buyers and carriers need to work and campaign together to tackle the underlying issues. "In every other hard market previously, it has changed because the marketplace has changed. There were cats and then a few years of no cats. There was a workers comp crisis, then comp reform. There was a liability crisis and then liability reform. There has been nothing in the market yet that would change the dynamics of this hard market. With social inflation contributing significantly to higher rates, companies need to partner with carriers to create tort reform, to create legislative reform."

He adds: "Companies like Zurich have targeted legislation in some states where we are looking to energise policyholders to support changing the laws and rules to bend the curve on this. There is a change beyond the current rate of inflation that has caused the hard market. Continuing to increase rates isn't the solution. The solution is going to be tort reform and judicial reform. And that's going to take companies making it a priority with their government affairs arms. There are coalitions we're looking to build, and we would encourage you to be active in supporting those coalitions if you want to create permanent improvement in the casualty lines of business."

# Shining a light on the hard market

**The captive sector would appear to be booming once again, and much of the growth in the last couple of years has been in the US, both in terms of US-parented captive growth and growth of US domiciles, writes *Tony Dowding***

**Hartford, Connecticut: the state nearly doubled its number of captives**

Mike Serricchio, a managing director within Marsh Captive Solutions, notes that from 2019 to 2020 and then 2020 to 2021, the US saw "incredible growth". He says that from 2019 to 2020 there was a record number of captives formed globally, with a good majority of those in the US, and even more were formed in 2021.

He says the hard market is driving new captive formations, primarily cell captives but also single-parent captives, risk retention groups and even special purpose vehicles for insurance-linked securities and collaterised deals. "Large domiciles like Hawaii, Texas, Vermont, Delaware and South Carolina grew but so too did smaller state domiciles like Connecticut, which nearly doubled its number of captives. So it is all industries, public and private, not-for-profit, looking to form captives," he explains.

But it is not just about new captives being formed. Captives are being resurrected or expanded and, according to Serricchio, premium volume for very large captives has grown, with captives traditionally writing $10-$20m of premium now writing more than $20m, even $30m or $40m.

And while much of the growth is focused on core property and casualty lines, which have been hit by the dramatic increase in rates in the last couple of years, captives (particularly cell captives) are increasingly being formed to write D&O, cyber and other lines. Delaware recently enacted a bill that permits captives to write Side-A D&O liability insurance.

"We had a very large increase last year in D&O cells, and the Delaware law is very timely," says Serricchio. We also had cyber growing, with

more cyber premium put by companies into their captives, maybe as a quota share or a retention, or filling a layer. Similarly with property – big quota shares, fronted reinsurance so that you can have globally admitted paper and certificates."

He also points to emerging risks like cannabis and crypto, which are growing, together with managing general agency business.

## Considerable growth

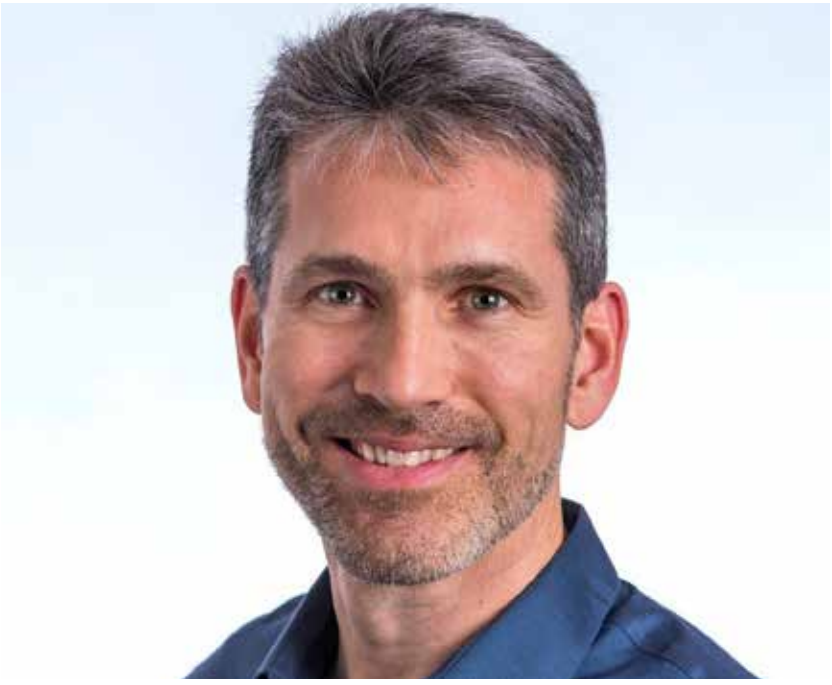
Other captive managers confirm that the sector is booming. Paul Macey, president, captive management operations, USA Risk, says there has been a considerable growth of new captives in the US. "This is about new captives, although expanding the use of existing captives always follows a hard market as clients are faced with higher retentions, price increases and in some cases non-renewals. For the most part this is focused on traditional risks, but obviously the industry sector of the client will dictate to some extent how a captive will be used. This partly depends on whether you would term cyber liability and D&O as traditional P&C risks – we are having more discussion about these lines of business," he says.

Matt Atkinson, senior vice-president – business development, Artex, says it has seen a rise in both new captive formations and the expansion of existing captives due to current market conditions. "While we saw growth in traditional industries impacted by the hardening market like healthcare and transportation, we also saw growth in new markets for us, such as higher education and delivery-based businesses," he says.

"2021 was definitely a very busy year," says Patrick Theriault, managing director, Strategic Risk Solutions (SRS) east operations. "Especially for organisations looking into whether a captive could help them manage their rising insurance budget. Some organisations were actually forced into some form of captive arrangement due to commercial carriers exiting the market or reducing capacity." He says SRS reported its highest number of feasibility studies/consulting projects in its 25-plus years of existence in 2021.

He says that with the hard market, captives are still very much focused on the core lines, with bigger retentions, and SRS is seeing more activity with property-type risks as well as increased participation in excess layers to manage cost or fill in capacity needs. "Risks like D&O and cyber are definitely coming up a lot more around captives but while usage is increasing, there are complexities that often make a captive not viable or the best solution," he notes.

He adds: "We have also seen enquiries around pandemic-related risk exposures and increased usage of difference-in-conditions coverage. Larger organisations are also evaluating newer ways to manage risk such as parametric insurance or increasing participation in things like cat bonds to address capacity."



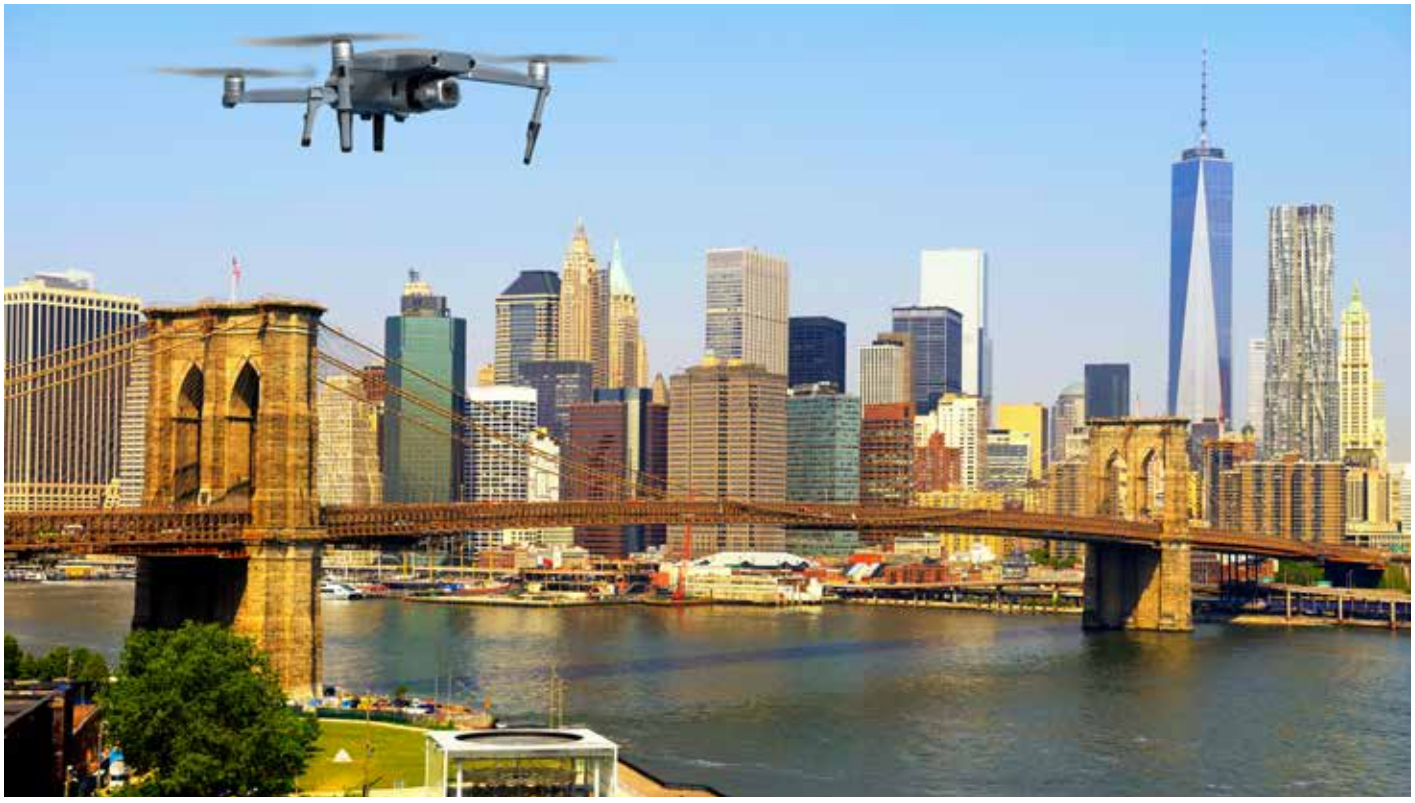
**"Some organisations were actually forced into some form of captive arrangement due to commercial carriers exiting the market or reducing capacity"**

*Patrick Theriault, Strategic Risk Solutions*

Serricchio says clients are testing the waters with underwriters in the market, testing rates and exclusions, and making an informed decision. "A lot of companies have been very comfortable with using data and analytics to drive their decisions during the last ten years. So now they are in a position to know their history, know where they should be and know where the market should be putting them. And if the market is not going to put them where they need to be, they now have leverage and some tools to share some of the retention or the layer, giving them much more flexibility and optionality."

## Employee benefits

For many years, there has been talk of captives writing employee benefits in the US, but with the exception of medical stop loss, which is seeing considerable activity, it has been relatively slow going, although captive managers point to growing interest in voluntary benefits.



Captives are being utilised for risks in new business models such as drones

"The promise of using a captive for employee benefits has been percolating in the captive insurance world for many years now," says Rich Smith, former Vermont Captive Insurance Association president. "Once the domain for large international businesses, employee benefits has grown during the years. The Affordable Care Act incentivised many employers to transition from being fully insured to self-insuring. Many companies initially set up their captives to retain commercial P&C risks, then added medical stop loss to the captive to complement the longer-tail risk of other P&C lines. Companies that have added medical stop-loss coverage to their captives also write other risks such as voluntary benefits, and life and disability business."

Brittany Nevins, captive insurance economic development director, Vermont Department of Economic Development, notes: "Captives are utilised for employee benefits but the business is not as robust as traditional P&C lines. Employee benefits can be complicated and there are many rules to consider."

Theriault explains: "With the Department of Labor halting the EXPRO process, there has been very little activity around captives insuring things like long-term disability and group life. However, on the employee medical front, the use of captives to provide medical stop-loss protection and access reinsurance has been very active, especially for mid-sized employers joining various group captive programmes. We expect this trend to continue. We are also seeing increased interest around voluntary benefits."

Serricchio says that Marsh saw medical stop-loss insurance grow by 81% in 2021, whereas ERISA benefits are not really growing and have been slow since 2001. "Multinational pooling of employee benefits is starting to come back as companies are looking to find savings wherever they can," he says. "Voluntary employee benefits, such as critical illness, hospital indemnity, pet insurance, home warranty and so on, are getting a lot of buzz – we are seeing a decent amount of it but it is not exploding."

Atkinson says Artex "is experiencing tremendous growth in our employee [benefits] strategy, with more and more companies looking for alternatives to the traditional market", adding: "Over the last several years, we have seen our traditional casualty group captives expand to include a medical stop-loss option to its current members; new single-parent captives formed by large corporates and agents aggregate their books of business to form a new benefits group captive."

## IRS interest in captives

Last year, so-called micro-captives, a type of 831(b) captive insurance company in the US,

appeared on the Internal Revenue Service's (IRS) 'dirty dozen' list of tax scams. In fact, they have been on the list for five or six years, with the single exception of 2020. And while micro-captives bear little resemblance to the captive insurance market for corporations, the continued focus of the IRS on these captives does not help the wider captive sector in its dealings with regulators and tax authorities globally.

So to what extent has the IRS focus on micro-captives hurt the reputation of captives in the US? And is there concern that captives more generally could be targeted by the IRS?

Theriault says it's an interesting question. "I am not sure that the IRS focus on micro-captives has hurt the reputation *per se*, but it has certainly made existing and prospective captive users more aware of the requirements to be an insurance company for tax purposes. The number of sophisticated risk focus organisations is increasing and these organisations will continue to evaluate using captives where it makes sense."

In fact, Theriault believes that overall, the increased focus by the IRS has been a positive for the industry, with more and more organisations and their advisers being more knowledgeable about the captive concept and the requirements. He says there is no doubt that the IRS focus has resulted in captive programmes closing down and a reduction in the formation of new micro-captives.

**TOP US CAPTIVE DOMICILES**

(Ranked by number of captive licenses at year-end 2021)

1. Vermont: 620 (589 in 2020)
2. Utah: 384 (396 in 2020)
3. Delaware: 313 (288 in 2020)
4. North Carolina: 257 (250 in 2020)
5. Hawaii: 251 (242 in 2020)
6. South Carolina: 183 (175 in 2020)
7. Nevada: 161 (166 in 2020)
8. Tennessee: 153 (145 in 2020)
9. Arizona: 149 (131 in 2020)
10. District of Columbia: 112 (106 in 2020)

*Source: Business Insurance 2022 Captive Managers and Domiciles Rankings + Directory*

**TOP NORTH AMERICAN OFFSHORE CAPTIVE DOMICILES**

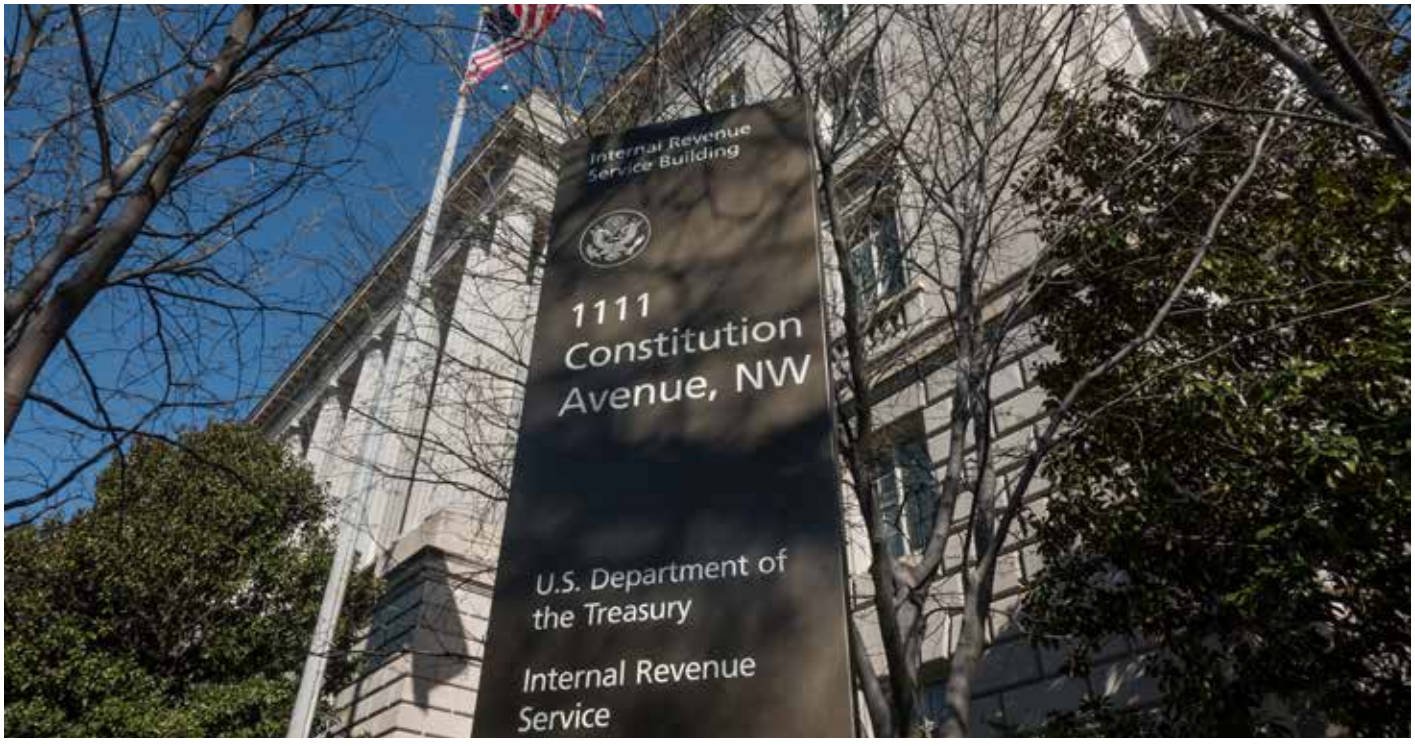
(Ranked by number of captive licenses at year-end 2021)

1. Bermuda 670* (680)
2. Cayman Islands 661 (652)
3. Barbados 253 (226)

**Business Insurance estimate*

"The challenge for the industry is in the fact that the IRS appears to take a broad-brush approach that all micro-captives (and perhaps captives in general) do not meet the requirements, and there appears to be little interest on the part of the IRS to provide further guidance on what is a 'good' structure. Unfortunately, it may require a bit more court activity to get things back to a bit more of an equilibrium, at least as it relates to micro-captives," he says.

**The IRS has taken an interest in micro-captives in recent years**



Macey notes that the IRS focus on micro-captives has certainly had an impact at the smaller end of the scale. "We are not seeing many new captives that willingly want to make the election to be taxed as a small captive. I don't think this has deterred anyone from moving forward if they have a good programme structure," he says.

## Domicile growth

The *Business Insurance* 2022 Captive Managers and Domiciles Rankings + Directory reveals that US domiciles account for more than 50% of all global captives, and North American offshore domiciles account for a third.

The rankings show that the majority of US domiciles showed solid growth in terms of the number of captive licences at year-end 2021, including Texas, which had 54 captives, up from 41 in 2020; and Connecticut, which grew from 22 in 2020 to 44 last year.

According to Serricchio, "it is neutral as to where a captive is domiciled because most US companies, if they do go offshore, the vast majority will make an election that makes their captive a US taxpayer". He says that Barbados, Cayman, Bermuda are still doing a lot of captive business, and growing steadily, but they are not growing at the "massive rate" that Vermont, Delaware, DC, South Carolina and Hawaii are.

Vermont, the leading US domicile, had a good year in 2021. Indeed, former VCIA president Smith points out that 2021 was Vermont's fourth-highest year of growth in its 40-year history, with new captives licensed in 17 different industries. "In speaking with the VCIA's service provider members, they report that many of their current clients are seeking more uses and strategies to write more risk in their captives as well. With an active pipeline of prospective new captive insurance companies already underway for 2022, the state expects continued growth in the coming year," he says.

Nevins says her department has been busy with new formations and with requests for plan changes to add lines of business or increase retentions on existing lines of business in captives, all due to the hard insurance market. "The usage is primarily focused on traditional P&C lines of business, due to the hard commercial market cycle; however, many are focused on certain specialised risks like cyber liability and D&O coverage," she says.

"Vermont has formed captives for cyber-only business and for single-parent-type situations where cyber capacity in the marketplace is difficult. Insurers are also forming captives to manage cyber risks and there is increased activity among agency-owned captives and MGAs/MGUs that specialise in cyber," says Smith.

**"It is a remarkable market right now and captives are shining as they never did before"**

***Mike Serricchio, Marsh Captive Solutions***

He also points to captives being utilised for risks in new business models and technology, like drones and cannabis, with additional lines such as D&O coverage. He explains that John Deere's Vermont-domiciled captive, which mainly covered extended warranty risks, started covering the company's trade credit risks last year.

"Another interesting growth area is catastrophic exposures, which are increasingly being covered through captives, and owners with favourable loss experiences are diverting more liability premiums into captives. We have seen increased interest in offsetting high health insurance exposures with stop-loss captives, especially among small to mid-sized enterprises, as part of group captives," Smith says. He adds that captive owners now structure their captive coverage in other ways, such as providing a layer of excess coverage or using quota shares to take a percentage of a layer of their risk tower.

It has been a good two or three years for the captive market, with US domiciles and US corporations at the heart of the growth. With the hard market moderating but not expected to soften for some time, continued expansion is predicted. As Marsh's Serricchio concludes: "It is a remarkable market right now and captives are shining as they never did before, or not for a long while."

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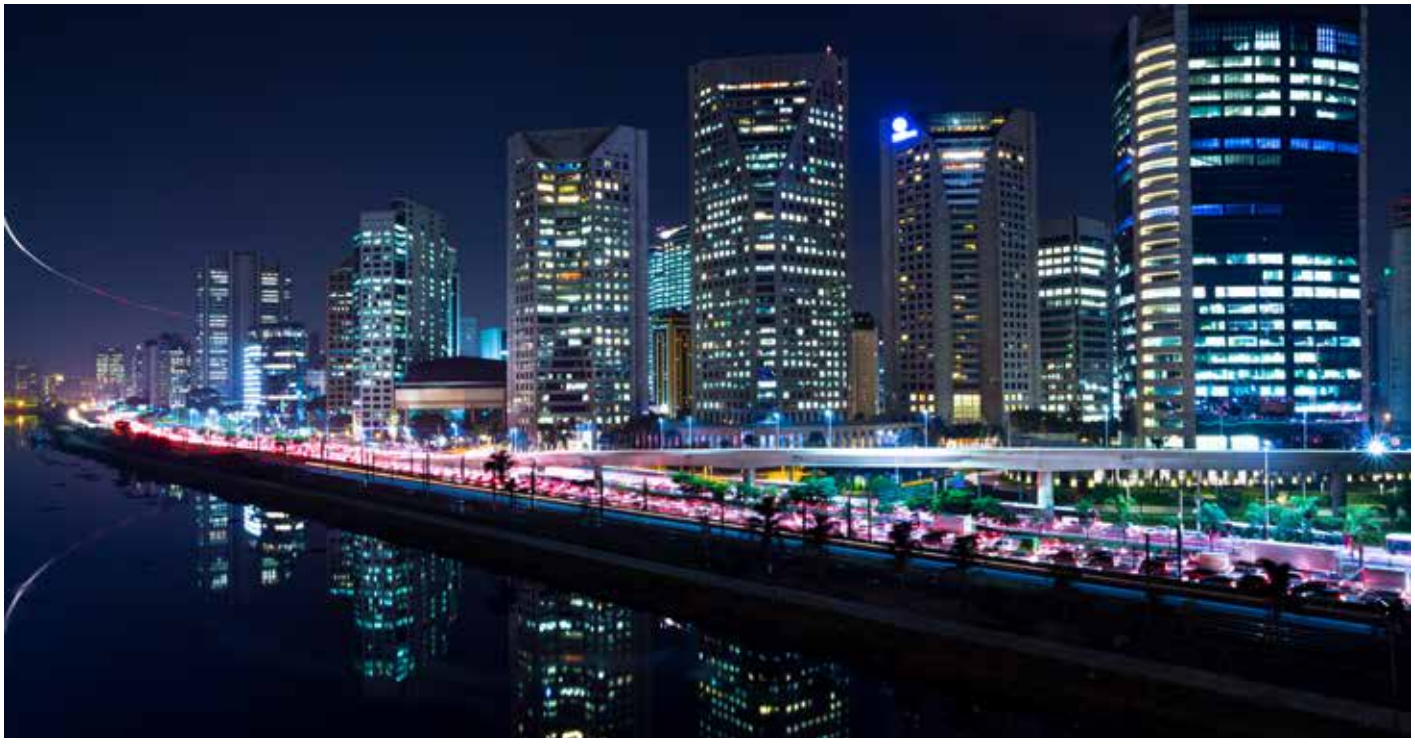
# Latin America: hard market but less severe

**The hard market arrived later in Latin American than in other markets but it has made clear to local buyers that a good risk management structure is well worth the investment, finds *Rodrigo Amaral***



**Sao Paulo, Brazil: in non-catastrophic markets with plenty of local reinsurance capacity, such as Brazil, price rises and tightening conditions have been contained**

Even though rate rises and capacity restrictions have been less acute in the LatAm region than in Europe and the US, insurers have become more restrictive in their offer of covers and have increased the scrutiny on single accounts as a result of tougher global market conditions.

"P&C rate rises for companies with good risk management in place can be limited to 5% or 10% even in catastrophic regions," Roman Mesuraca, head of P&C in América Latina at WTW, tells *GRM*.

Those that do not have a significant risk management programme in place, however, have seen prices going up by more than 20%, especially when they also face catastrophic exposures, a common circumstance in large swathes of the subcontinent.

Mesuraca says that underwriters have become more selective in the allocation of capacity in some industries and sectors. Risks from companies in industries such as meat producers, plastic, wood, and paper and pulp have faced restrictions on automatic reinsurance contracts and, as a result, have seen limited capacities in their local markets as well.

## Rate rises

As a rule, however, it is possible to say that the hard market has been less punishing for Latin American buyers, even though a degree of difficulty remains in place.

"In principle, there is enough capacity in the market. What we have not seen, though, is the

arrival of new leaders," Mesuraca says. "New markets have entered the market, but they are either followers or are focused on certain layers of programmes that are not decisive to define prices."

He estimates that industrial risks have seen rate rises between 5% and 15% in recent renewals, with the latter rate being applied to buyers with catastrophic exposures. The main catastrophic markets in Latin America are Chile, Peru, Colombia and Mexico, and that is where buyers are struggling more right now.

"Conditions and capacity in the market remain restricted, and for now we have not seen new sources of capacity in the Andes," says Mauricio Acosta, head of the Andean subregion at Aon. "The underwriting of risks in the corporate sector remains conservative and, in the short run, we do not see a significant change of risk appetite from insurers."

On the liability side, rates have increased by 7.5% to 15%, Mesuraca says, noting however that buyers are spending more on covers due to the recovery of revenue by their businesses, after the lows of 2020. "Some clients are paying 50% or 60% more in premiums than they paid in 2020," Mesuraca points out.

Brokers also stress that the intensity of the hard market varies according to the reliance of a market on global reinsurance. "Capacities in other jurisdictions are more expensive and more restricted than in local or regional markets," Acosta says.

As result, in non-catastrophic markets with plenty of local reinsurance capacity, such as Brazil, price rises and tightening conditions have been contained, and buyers with good loss histories have been able to obtain flat renewals. Mesuraca has also seen, in some rare cases, minimal rate discounts for non-cat programmes.

## Brazilian risks

Ricardo Ciardella, director of specialty at Marsh in Brazil, remarks that in Brazil it is possible to even find a *bona fide* soft market. In the legal surety bond segment, more than 30 underwriters compete for the custom of organisations that use insurance to replace financial guarantees

demanded by courts in the country's neverending tax litigation processes.

Ciardella says that it is a business line that has few if any losses and, even though it is going through a slow period due to the pandemic, is set to gain some steam once again in months to come.

But even in the Brazilian non-catastrophic market, there are some segments that follow the global trend, he stresses. These are usually linked to sectors where the local market cannot offer enough capacity for the largest exposures. One example is port operators, which can demand limits of hundreds of millions of reais, and therefore must go to London, Bermuda or Miami to find the capacity they need.

"In this case, international capacity is needed, so rates and conditions stay closer to global trends," Ciardella says.

## Global trends

Other sectors where global trends are replicated in Latin America are the likes of aviation, some marine covers, the highest layers of D&O programmes, mining and energy.

And then there is cyber, which is a case where the situation may be described as even worse for Latin American buyers than for their peers in developed markets.

The hard cyber market caught Latin American buyers at a time where they were starting to realise the need to pump up their limits to face new exposures such as data privacy laws and ransomware attacks. Now, however, the little capacity that can be found is usually local, covers only the most traditional cyber risks and tends to fall well below the needs of large buyers, despite very high prices and deductibles.

As a result, clients that have more complex needs must make a strong effort to place the risk, says Mauricio Masferrer, head of commercial risk at Aon in Brazil. "We are helping our clients very much during the steps that precede negotiations with insurers. We are helping them to understand their exposures and risks, so that they can show to the market what they are doing," he says.

## Higher retentions

Brokers have also been busy helping Latin American buyers to deal with higher retention levels demanded by insurers. Several companies in the region are starting to show stronger interest in retention tools such as protected cells and captives, but education is required about the red tape and costs incurred to make the best of them.

That is why, according to Mesuraca, WTW and other players are using virtual captives to enable Latin American companies to see how retention vehicles work, while at the same time transferring some layers of their towers to a self-insurance mechanism.

**"We allow [Latin American companies] to simulate how to use a captive [with a virtual captive]. It is a first step before doing it for real"**

***Roman Mesuraca, WTW***

"Establishing a captive takes a lot of time and knowledge, and it is necessary to allocate capital to countries that the insured sometimes does not know well," Mesuraca says. "We allow them to simulate how to use a captive. It is a first step before doing it for real."

And a further challenge for risk managers and their insurance partners in the region is to adapt programmes to inflation, which is on the rise in several countries and has traditionally been an old bugaboo of Latin American economies.

On the one hand, inflation is forcing central banks to hike interest rates, which can help underwriters make more money via their investment portfolios, thus reducing the need to harden prices and conditions to achieve better technical results. On the other, it may direct more capital to fixed income investments rather than to insurance underwriting.

From an actual risk-underwriting point of view, Ciardella says that high inflation is likely to push rates further up because it will make claims more expensive for insurers in areas like construction, where the prices of building materials are increasing rapidly.

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# Global Programmes

## Managing global programmes in a changing world

**15–16 JUNE 2022 |**
**Leonardo Royal London Tower Bridge, London**

**After a couple of tumultuous years, we have all learned to be adaptable and to cope with fast-changing environments. Looking ahead, it is clear some things will have changed forever, others are in a state of flux and a few things will remain the same as always.**

This two-day conference will consider what living with change will look like in the context of global programmes. It will cover issues such as supply chain vulnerability, flexible working, the acceleration of digitalisation, higher taxation, growing inflation, greater protectionism and, undoubtedly, ESG.


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Living with change
Lessons learned
Claims management
2022 and the state of the market
Integrating employee benefits
Technology and digitalisation
**Workshops:** Insuring different multinational exposures: Property; Casualty; D&O; Cyber; EIL

**DAY 2**

Changing world, changing risk landscape
A new world for tax and regulation
Case study: a global programme – first steps
A level playing field
Retentions on the up
Finding the alternatives
**Workshops:** Insuring different multinational exposures: Business Interruption; Credit and political risk; PVT Marine; Accident and health

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# Global programmes: Certainty in an uncertain world

**Global programmes are more relevant than ever following the challenges of Covid, economic uncertainty and market volatility. *Tony Dowding*, editor of *Global Risk Manager*, spoke to several of the leading multinational insurers and brokers in the US to consider some of the current issues relating to global programmes**

## Participants

**David Rahr**, global leader, Marsh Multinational

**Andy Zoller,** head of international programmes, Zurich North America

**David Valzania**, head of multinational, BHSI

**Steve Bauman**, global programmes and captives director, Americas, AXA XL

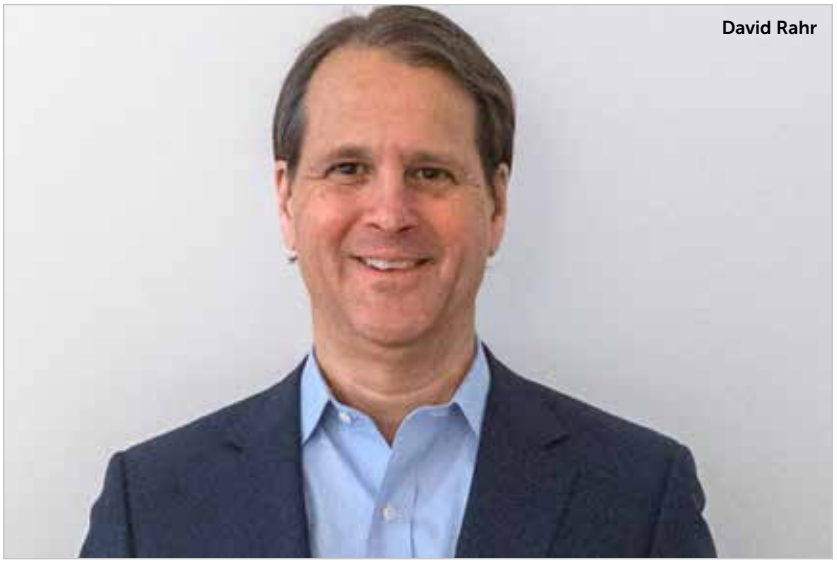
**Stephen Morton**, multinational head of complex accounts, AIG

**Toby McNamara**, head of multinational – US, AIG

**Rajika Bhasin**, associate general counsel, AIG multinational

**Has there been increased demand for global insurance solutions generally from US multinationals and a more coordinated approach to global insurance purchasing?**

**David Rahr (DR):** The last 24 months have been incredibly challenging for all global business, whether it is cost, operational pressures, regulatory and tax issues – it all makes managing risk that much more complicated.



David Rahr

The development and leveraging of a global programme is one of those strategic options that a client has to manage the current environment.

The headline is that global programmes remain very popular, and probably the most effective way to manage risk globally. The challenges created by Covid may be pushing clients even more towards global programmes than in the past.

Cost pressures, coverage challenges, tax and regulatory issues, efficiencies that need to be properly addressed – these are a few of the factors why companies are buying in a centralised way. Having the same market at the local policy level and at the master policy level will create ease of claim payment and a more

> "The headline is that global programmes remain very popular, and probably the most effective way to manage risk globally"

efficient claim process, as opposed to arguing across two carriers as to whose policy responds.

We are seeing a continued push towards global programmes, however there are some local market dynamics where it may be worthwhile to take advantage of local appetite or competitiveness for certain kinds of risk. For example, in Japan you may be able to buy more earthquake coverage under a local property programme that is not aggregated under the master programme.

**Andy Zoller (AZ):** The real change has not been so much in property or general liability lines but in non-traditional lines. There has been increased demand, particularly in financial lines, including cyber, D&O and professional liability. We're seeing some growth in surety and builder's risk as well. These are key segments and have gained a lot of traction in the last ten years. And there are more players going global, so there is growth overall. Otherwise, the property and casualty lines have been traveling on a familiar path for the past 35 to 40 years.

Increasingly, when businesses reach a certain size, they know that they need a coordinated global programme with master coverage and underlying policies in other countries. They recognise the benefits of this transparency and contract certainty, versus leaving it up to local offices.

**David Valzania (DV):** We've seen a steady commitment from US multinationals to purchase coordinated global programmes. If anything, the events of the last two years have reinforced the need to have, and the benefits of, globally coordinated coverage and resilient providers. Customers continually review the need to place local policies in countries where they have a presence, and in some cases today are placing fewer local policies, but that seems to be a condition more related to their business needs than the benefits of coordinated global coverage.


David Valzania

**Steve Bauman (SB):** Overall, there continues to be a strong preference across many industries and sectors for the advantages of a more coordinated approach to global insurance purchasing. Long-term costs, breadth of coverage and limits available are among the top reasons for which global programmes remain competitive options for US multinationals. Operating across borders, dealing with multiple regulating bodies, financial systems, etc, can be challenging. Partnering with one single carrier with local experts in each region of operations is, at the end of the day, much more cost-effective.

> "the events of the last two years have reinforced the need to have, and the benefits of, globally coordinated coverage and resilient providers"


There has been a steady commitment from US multinationals to purchase global programmes

The US is unique in that each of the 50 states has its own insurance regulations and regulators

**Toby McNamara:** The pace of change and intensifying nature of global risks have elevated the role of insurance and risk management, as many US multinationals look to expand across geographies in their search for growth and cost efficiencies. Given the current geopolitical environment, these companies are increasingly seeing the need for international coverage to address a growing number and magnitude of risks.

During the past few years, we have found that beyond the benefits of price optimisation, balance sheet protection and local policy issuance, coordinated multinational insurance programmes can help US multinationals respond consistently and proactively as the global environment remains uncertain. Carriers and brokers can optimise the architecture of the programme to address coverage, compliance, claims, money movement and tax considerations to meet the client's risk management objectives.

## Is there generally a case for having US exposures in a separate primary tower to the rest of the world?

**AZ:** Businesses almost always have a separate tower for US casualty exposures. That's been an established practice for 40 years. It is mainly due to the litigious environment in the US but there is another factor to consider, and that is how quickly you are able to enact changes to policy language.

The US is unique in that each of the 50 states has its own insurance regulations and regulators. Because of this, it can be difficult to enact new policy language, which can take upward of a year or longer for approval. Most countries outside the US can approve new coverage much more expediently. So when enacting material coverage changes on policies with long-tail exposures, it makes sense to separate out the US policies so you can enact changes immediately where you can and plan for where you can't.

From the property perspective, I believe it is more important to keep a combined single global property programme once you are over a specific size or if you have unique coverage needs. Separate US and international property towers are OK for the budding multinational who is just dipping their toe into the international

> "The pace of change and intensifying nature of global risks have elevated the role of insurance and risk management"
> *Toby McNamara, AIG*

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# Construction Risk Management

## Planning for the new world

**18–19 MAY 2022 | Leonardo Royal London City Hotel, London**

**An expected boom in global construction projects will require new approaches to managing risks for risk and insurance managers but also presents a growth opportunity for the insurance industry, and will hopefully attract new capital and new products to the market.**

Population growth and urbanisation, as well as climate change, are expected to be the main drivers in the demand for infrastructure construction and home building in coming years. Climate change and the race to net-zero targets are arguably the greatest challenges that face the construction industry. They will lead to big changes in construction processes and methods, while the industry is already undergoing a technological transformation, with digitalisation and growth in modern manufacturing methods. As the sector grows, so too does the risk of greater pollution and waste.

The industry is set to be a global engine for economic growth and recovery from Covid-19, with average annual global infrastructure construction forecast to grow by 5.1% per year. Some of the highest growth rates will be in North America and Asia-Pacific, while western Europe is forecast to grow by 23%.

The long-term growth in the construction market will bring new challenges to risk and insurance managers and an increased need to transfer risk into insurance programmes. It could also lead to an increase in complex insurance claims.

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## CONFERENCE

### SESSIONS INCLUDE:

**DAY 1**

A global view: how are governments backing major infrastructure projects?

Stimulus packages: impact on the insurance market

Engineering: the insurance market

Managing supply chain risk in construction

ESG: How does the construction industry adapt to changing times?

The battle for talent

**Workshops:** Choose wisely – joint venture partners; Claims – PI; Claims – CAR

**DAY 2**

Why are construction risks so complex? The insurers' views...

Weathering the storm: Crossrail

Construction technology

Single-project professional indemnity (SPPI)

Renewables: the future?

Time to wake up to the cyber threat

An alternative approach: captives and other solutions

**Workshops:** Cyber coverage; Mitigating construction risk with parametric triggers; Legal risks

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arena as their needs are not that complex and their exposure to loss is not as high. When you get into a space where you are manufacturing or need to worry about issues like contingent business interruption and the impact of supply chain issues from your vendors, then a single global property programme is a better fit as it helps to help close coverage gaps.

The increasingly litigious environment on the casualty side has gone beyond impacting P&C to affecting financial and specialty lines as well. This trend helped drive the need to create our new offering – a standalone tower for foreign D&O exposures. The demand for the standalone international D&O cover is actually coming from directors of the overseas subsidiaries. They are worried that US claims have gotten out of control and could erode the limits on a global master, so they are now requesting a separate international tower to ensure there's capacity for non-US risk. Historically, businesses weren't sure what their D&O need was in a given country, and in some cases the insurance product wasn't available; now the need is better known and understood.

**DV:** Separate US liability towers are more common when the multinational programme is either purchased outside North America, or when one of the large, global brokers is involved. In the latter case, those brokers tend to have a separate placement team on the foreign side, and therefore will place a foreign liability programme separate from the US. In these cases, however, it's common for the domestic and foreign towers to come together under a single US umbrella.


Stephen Morton

Also, occasionally, customers will request dedicated limits for US D&O, with separate limits set aside for a rest-of-world tower placed outside the US, and similarly cat property exposures, especially higher limits, are localised. These decisions are typically made due to the outsized exposure the US legal market presents or to localise coverage to only those locations where needed.

**SB:** Where possible and accepted, uniform towers often provide more cost effective placements and broader coverages. If you add identified hot areas to the coverage, it can be augmented with additional limit purchases. The fact remains that there are nat cat exposures all over the world, so it's not easy to avoid dealing with such exposures.

"Integrating a captive into a global programme can be the ideal way to centralise overall management of the programme's global risks"

US companies are trying to find ways to save money

## Are captives playing more of a role in the global programmes of US multinationals?

**Stephen Morton:** The current hard market environment alongside capacity restrictions across most industry sectors have led to increased interest in alternative risk solutions with self-retention vehicles, such as captives, becoming central to a consolidated, long-term risk management approach – and this holds true for the global programmes for many US multinationals. As coverage becomes more expensive and more difficult to procure in the traditional market, one of the greatest advantages of a captive is the ability to be flexible and craft tailored terms, conditions and limits.

We have seen that for many multinationals, integrating a captive into a global programme can be the ideal way to centralise overall management of the programme's global risks while also optimising the insured's risk retention strategy.

The most successful multinational programmes find the right balance of risk retention, traditional and alternative risk transfer, with a strategy that adapts to, and smooths, volatility across changing market cycles and risks. The benefits of self-insurance, including having greater control over risk financing and risk management, as well as customisation of loss control and claims mitigation strategies, remain relevant when prices soften again.

**DR:** There are certainly clients that have global programmes without a captive but, for large complex multinational clients, having a captive does provide many strategic and financial advantages probably beyond just the support of the global programme.

The number of captives continues to grow, fuelled by the continued hard market challenges, nat cat risk, claims inflation and increased risk transfer costs. New formations of Marsh-managed captives grew 13% in 2021, with the majority in North America.

**SB:** Captive growth and utilisation are seeing significant increases which will certainly continue to reflect growth in the area of global programmes for US multinationals. Growth in the number of captives, owned by more and more companies, and growth in the utilisation of captives reflected in premium levels and breadth of coverages, are significantly up in recent years. Several factors are fuelling increased captive utilisation – firm insurance pricing, new and emerging risks, and desire for increased risk retention by insureds. US multinationals are using captives globally to organise increases in risk retention and capture premiums for long-term cost efficiencies.


Andy Zoller

**DV:** We have not observed any meaningful change in the role of captives in multinational programmes, at least structurally, though some customers will, of course, increase their corporate retentions in firming market conditions, as we've seen during the past two years.

**AZ:** The hard market over the last three to four years has driven more captive enquiries, and they're keeping our team very busy. Companies are trying to find ways to save money. In some cases, rates have gone up 30% on some coverage lines, so customers are looking to move additional coverages like cyber into their existing captives. By doing this, they may reduce costs in the long run by having more direct insight and management of their risk versus shifting this off to an insurance carrier.

Other reasons for this shift could be a desire to use their own actuaries or put a product line in a captive that the traditional insurance market doesn't want to cover. What's enabling the more sophisticated use of captives is better access to data and the ability of risk managers and insurance carriers to analyse it more easily.

And our data capabilities are only going to grow. There is a very large push in the industry to further digitalise global networks, making it easier for customers to access more of their global data. Whether it's API data feeding into an RMIS system or a carrier's direct portal, the world of digital interaction is about to explode in the international and captive space.

"In some cases, rates have gone up 30% on some coverage lines, so customers are looking to move additional coverages like cyber into their existing captives"

## Are US regulators/tax authorities taking a stronger compliance line on global insurance programmes?

**DR:** Governments around the world have spent a lot of money managing Covid and eventually they will need to recoup that expense, one of which may be through taxes, so we do see tax authorities under pressure to increase revenues and audit compliance. Certain countries have either introduced new premium tax rules or increased the premium tax rates, and many authorities have increased their efforts to audit global insurance programmes.

In the US, some states are more focused on direct procurement placements and making sure that taxes are being paid. We're also seeing greater enforcement of certain insurance-related taxes at the state and federal levels.

Outside of the US, we've seen some trends in parts of continental Europe where tax authorities are more keen to review the premium allocation and methodology adopted not only by the insurer but also the insured to assess whether or not it is proper, and ensure that they have paid the appropriate tax. So it is not just about increasing the premium tax, but also a lot of emphasis on making sure that companies are actually paying the tax, and that the premium allocation is defendable.

**SB:** The global insurance regulatory infrastructure continues to grow and it is more important than ever to be sure that an insured has truly compliant insurance programmes everywhere around the world. The cost of being non-complaint is significant and is in itself an emerging risk of increased proportions. Captives should seek highly qualified partnerships to ensure compliant policy administration with quality pre- and post-inception services in the US and around the world.

**AZ:** US regulators and tax authorities are fairly consistent on compliance scrutiny, but we see this scrutiny increasing outside the US. Another recent challenge involves evolving regulations for data collection, management and privacy. We have seen that with the EU's General Data Protection Regulation (GDPR) and in China with the personal information protection law.

**Rajika Bhasin:** An indirect effect of the ongoing uptick in US domestic regulatory measures is the need for earlier engagement and planning to adhere to a growing number of requirements when covering local exposures under global programmes – including when the multinational is domiciled in the US.

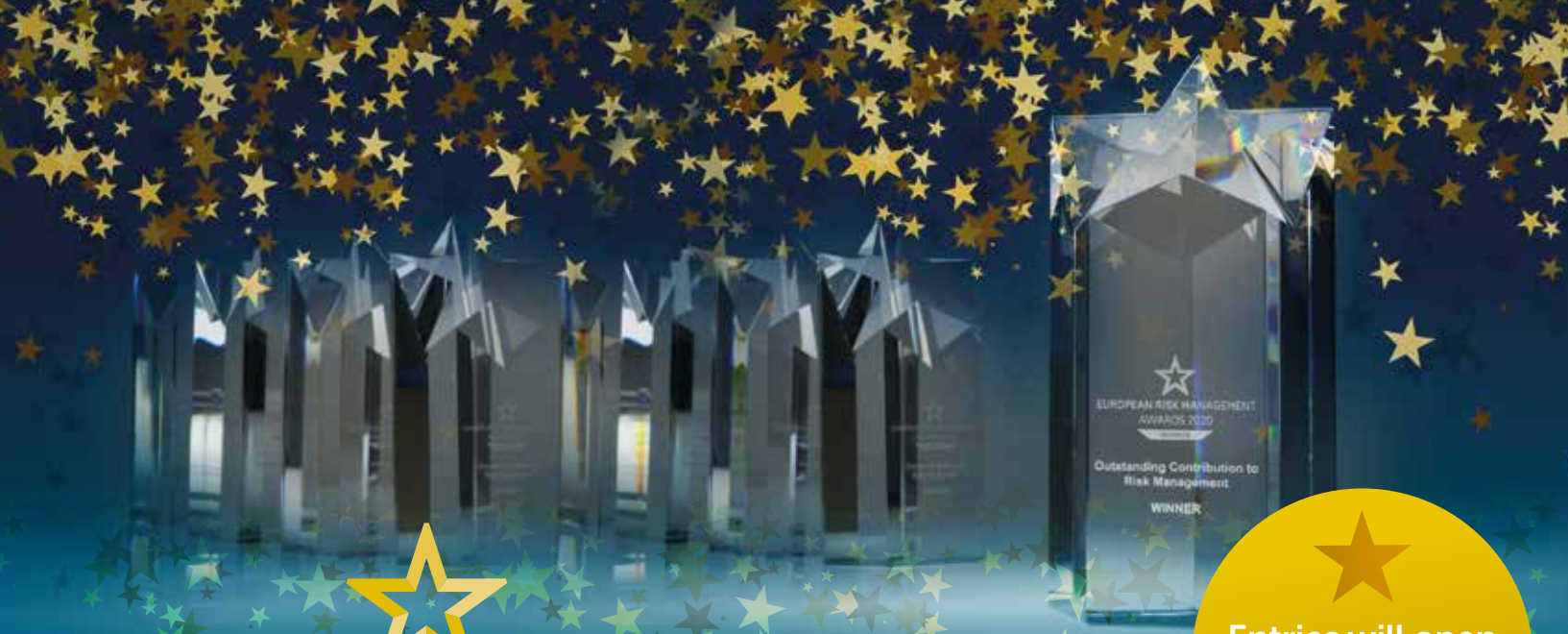

Rajika Bhasin

The recent confluence of systemic events, particularly in the natural disaster/climate realm, has resulted in a greater number of consumer-protectionist measures. These include specific coverage provisions, suspension of cancellations or non-renewals and/or special claims-handling requirements. Some have an extraterritorial effect, extending not simply to policies issued in a given state, but those covering in-state exposures from another state.

Considered against ongoing globalisation, both from and into the US, this carries important considerations for stakeholders implementing global programmes with local exposures, particularly those requiring a high level of customisation, manuscripting and/or large number of locations across multiple states. Surplus lines placements have emerged as an attractive option for covering US exposures, given the flexibility on pricing and terms, provided the multinational is positioned to abide by the corresponding broker and tax requirements.

Multinationals and their insurers must therefore partner early to determine the optimal risk management strategy in a manner that achieves compliance against a growing number of domestic requirements, while maintaining the agility to respond meaningfully to global demands.

> "Multinationals and their insurers must partner early to determine the optimal risk management strategy in a manner that achieves compliance against a growing number of domestic requirements"




# EUROPEAN RISK MANAGEMENT AWARDS 2022

**Entries will open soon – watch out for more information**

## Announcing the European Risk Management Awards 2022

Without doubt, circumstances over the past few years have enabled risk managers to emerge from the shadows. Risk management has cemented its place on the boardroom agenda, as businesses discovered their ultimate success and failure is down to an effective crisis management plan.

Collaborative transition has become a byword for successful risk management, as we move from one global threat to the next. Risk managers and their industry partners are together paving the way forward using innovation and resourcefulness to create a new framework for the future.

This year, as we launch the 6th European Risk Management Awards, we believe it is more important than ever to recognise the achievements of individuals and teams in this critical field. **We invite you to enter your submission for this year's programme, and look forward to seeing you celebrate in-person in London on 22nd November 2022.**

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