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ascend

an indemnitycorp publication

an informative quarterley insight into
risk, insurance and business

Uncertain Forecast
The outlook for insurers

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Not Another Sickie

as - cend
(v) to move, climb or go upward

Welcome to our first edition of ascend - a seasonal publication from indemnitycorp sharing with you risk and insurance news from around the world.

In today's fast paced world, it can be hard to stay up-to-date with all of the issues that impact upon us .

ascend offers you insights into risk, insurance, law and business to help keep you informed & assist you to succeed.

As part of our commitment to the environment & addressing the challenges posed by climate change, in each publication we will provide informative articles about the environment including ways businesses are embracing the "green revolution".

We hope that you find ascend to be enjoyable and useful.

in this edition

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news
from around the world

CANBERRA AU
Senate Approves Renewable Energy Target legislation

The Senate approved the Rudd Government's landmark Renewable Energy Target (RET) legislation to ensure 20 percent of Australia's stationary energy will come from renewable energy sources by 2020.

The RET legislation will be the foundation of clean energy policy in Australia for the next decade.

SYDNEY AU
Stamp Duty Refunds for Overseas Insurance Premiums

The NSW Court of Appeal has upheld a NSW Supreme Court finding that has the potential to allow for refund of NSW stamp duty paid upon contracts of insurance with unregistered foreign insurers.

In that case, Qantas had sought to avoid $5.15 million in stamp duty assessments, alleging that the Stamp Duties Act 1997 did not impose a duty to pay NSW Stamp Duty upon insurance contracts held with unauthorised foreign insurers. It's aviation risks were insured with unauthorised foreign insurers.

CANBERRA AU
Terrorism Insurance Arrangements May Change

The terrorism protection provided by the Australian Reinsurance Pool Corporation (ARPC) is under review.

According to a Treasury spokesman, a planned three year review is in it's final stages, and it's findings will be released in the next month.

The National Insurance Brokers Association earlier had called for terrorism insurance arrangements to be retained, citing coverage availability and cost.

LONDON UK
Climate Change threat to food & energy

Climate change will increase water scarcity, alter food production and dramatically change energy supply and migration patterns, according to a report by Lloyd's.

Climate change and security: risks and opportunities for business, launched in conjunction with the International Institute for Strategic Studies (IISS), highlights that these changes will bring threats and opportunities.

Lloyd's Chief Executive, Dr Richard Ward, said "Climate change will change the way we live and work, and will lead to greater competition for scarce resources, such as food and water. This is likely to result in increased economic nationalism and greater global insecurity, which will in turn add to the complexity and cost of doing business.

"Every organisation needs to have a clear understanding of its particular vulnerabilities and have in place a range of mitigation strategies. Their ability to understand what the impacts of climate change are going to be could not only protect them from threats but could also open up new business opportunities."

MELBOURNE AU
Standard & Poors Upgrades QBE

Standard & Poor's Ratings Services said that it has raised its credit rating on QBE Insurance Group Ltd (QBE Group) to 'A' from 'A-'.

"The upgrade to the holding company rating reflects our view that QBE's solid track record of operating cash flows sourced from well-diversified business and geographic streams will likely support QBE Group's ability to service holding company obligations," said Standard & Poor's credit analyst, Derryl D'silva.

Tough times
ahead for D&O Insurance

The global financial crisis is starting to impact D&O Insurance

As the effects of the global financial crisis continue to reverberate around the world, D&O insurers appear to be tightening underwriting criteria.

Jonathan Upton, Managing Director, indemnitycorp says “There is evidence that D&O insurance premiums for sectors most affected by the global downturn are up significantly, and that other sectors are starting to attract some increases as well.”

“Companies with strong balance sheets and recession proof business models are not immune from the increases.“

Boards can mitigate these increases by building sound relationships with their insurers and by implementing a strategic approach to the renewal process.

D&O Insurers, under the weight of increased costs of re-insurance, may now be seeking to pass premium increases onto their customers.

An example of increases are the fact that D&O rates in the US have increased by an average 10-15% for the financial services sector alone.

“However, unlike previous hard markets, there is still plenty of capital in reserve as capacity, and there is no sign that insurers are rolling back coverage benefits at this time” Mr Upton said.
Renewing insurance, particularly D&O Insurance is not a transactional process. By implementing a strategic approach to assessing risk, and managing carefully the insurance procurement process, companies can expect to mitigate premium increases.

“There is evidence that D&O insurance premiums for sectors most affected by the global downturn are up”

uncertain forecast

The current economic crisis is wreaking havoc What is the outlook for insurers?

insurers from Standard & Poor's provides a timely reality check for the insurance industry. While the industry is still keeping its colletive head below the parapet, things are actually going a lot better than they might have.

The news is generallygood - few insurers are highly exposed to subprime related securities and remain generally well capitalised, especially in Australia.

"Insurers have too often been painted with the same broad brush of fear that has covered Wall Street, the federalised mortgage intermediaries and some banks," S&P report author Robert McNatt said.

He says that unlike some of the shadier corners of the financial services sector, the insurance business model incorporates highly liquid balance sheets and conservative protective measures.

The New York-based credit ratings agency last week gave its view on the state of the play in a report titled Global Insurers Weather the Credit Turmoil - Thus Far.

Mr McNatt claims most international insurers will not suffer the same fate that befell headline victims such as Wall Street investment houses, mortgage lenders and AIG's financial products unit.

But not everyone agrees with S&P. Fitch Ratings, for example, isn't so optimistic. It has revised the rating outlook for 12 global insurance and reinsurance sectors to negative from stable, as insurers book larger losses from their investment portfolios.

But Mr McNatt says S&P won't be following suit. "We foresee few immediate negative rating actions beyond the handful already taken for the biggest players in the reinsurance, property and casualty and life sectors," he said.

Fitch argues it's too soon to accurately predict what will happen in the industry. S&P believes uncertain market conditions and investment losses will create "irresistible upward pressure" on premiums. That would help some insurers who are finding the going is getting tougher.

The S&P report reveals that between April 30 and October 6 last year, some 26 insurers faced ratings downgrades due to issues around capital, liquidity or earnings. Of those, only nine were property and casualty insurers or reinsurance companies.

Most concerned mortgage, life and health insurance companies.

Unfortunately for the general insurance industry, its own shortlist of subprime-linked victims includes some heavy hitters.

Unfortunately for the insurance industry, its own shortlist of subprime linked victims includes some heavy hitters.

AIG is obviously the first that comes to mind. The once mighty insurer has discovered that an $US85 billion ($123 billion) Federal Government rescue package comes with a few strings attached.

S&P doesn't pull any punches on AIG's performance, but goes to pains to ring-fence AIG as a particularly troubled case.

"AIG falls in a category all its own, because of the large credit default swap positions of its non-insurance financial products unit," it said. AIG subsidiaries including those in Australia and the UK have since declared their good health, while its future in the US for now appears secure.

AIG isn't, of course, the only significant market player to need a handout to avoid Skid Row. The market was rocked again when Benelux banking and insurance group Fortis had to rely on a €11.2 billion ($21.2 billion) tripartite government injection to stay afloat.

The governments of Belgium, Netherlands and Luxembourg all pumped cash into the ailing company in return for a stake.

But S&P suggests AIG and Fortis are the exceptions in an international industry that's humming along quite nicely.

Fair enough. After all, it wasn't the actions of the insurance divisions at AIG and Fortis that knee-capped those companies.

AIG's credit default swaps punched a mortal hole in the wider corporate structure and as S&P notes, Fortis couldn't hold up its subprime exposures on the bankng side while it faced the onerous demands of its various mergers and acquisitions.

Fitch says insurers face mounting pressure on credit ratings across the board for this very reason.

Declining investment returns are certainly affecting all insurers, though to varying degrees. Fitch admits life insurers are copping it worse than others.

It says general insurers won't emerge unscathed, but they have a lower exposure to variable annuity and equity-linked products.

S&P argues general insurers are in fact in relatively good health. In North America the insurance industry is regarded as well positioned to manage their way through the downturn.

In Europe and the Pacific, S&P says insurers have high capital adequacy and low exposure to subprime assets, with the agency costing the total European exposure at $US7 billion ($10 billion), a figure it regards as unremarkable.

Though times are tough now, insurers may yet be rewarded for their fiscal caution and skill.

This articiale first appeared in Insurance & Risk Professional.

Meriton Apartments touches the sky

Meriton Apartments has been building quality brand new luxury apartments for over 45 years in Sydney and Queensland. Through dedication to their customers, Meriton have become one of the largest property developers in Australia

Meriton had a vision to "touch the sky" by building what was at the time, the Southern Hemisphere's tallest residential tower - at a sky scraping 74 stories high.

The design and construction of such a project was no mean feat.

Not only was it to be the tallest residential tower, encompassing a number of strata subdivisions and freehold lots, it also was to be built within the World Square development foot print - a massive staged development plan encompassing an entire block of the Sydney CBD.

With the risk advice and insurance broking expertise of indemnitycorp, Meriton were able to complete this visionary project successfully, with the knowledge that all assets, future income, employees, contractors and stakeholders interests were protected.

The result speaks for itself.

World Tower has become and icon upon the Sydney landscape.

Building upon the success of World Tower, Meriton have just commenced their next visionary project - Soleil.

Given Meriton's track record, the 234 Metre 74 story Soleil tower is poised to become a future icon of the Brisbane landscape that truly "touches the sky".

Meriton Apartments had a vision to build a luxury residential apartment tower that touched the sky.

indemnitycorp helped them by designing an innovative risk and insurance programme that allowed them to focus on fulfiling their vision

"World Tower has become an icon upon the Sydney landscape"

double insurance

The recent high court case of Friend v Booker, raises some concerns for those who may have double insurance, explains indemnitycorp legal partner, Kevin Gibbons

In Friend v Brooker the High Court on 28 May 2009 discussed the doctrine of contribution as it relates to law in Australia.

The case decided by the High Court did not involve double insurance but its reasoning will be relevant to the application of legal principle affecting double insurance.

While Friend in name but perhaps not in nature he and Brooker were operating a joint venture through a corporation. It had operated over many years. From time to time the operations were financed by loans by each of them which were sourced to them separately. The lenders to the individuals obviously lent to one without seeking recourse against both if there was default.

What happened was that there was default by Brooker in a loan to him which had allowed him to contribute to working capital. The lender was reluctant to enforce against his mate (Brooker). So to try and ameliorate the position of the lender Brooker sought contribution against Friend. In that way if the application was successful the lender would have some recompense.

Friend opposed the order for contribution.

At trial Friend was successful but in the Court of Appeal in a split decision he was ordered to contribute.

In the High Court Friend got the decision in the Court of Appeal overturned so that he was not required to contribute.

In doing what the High Court did it effectively reviewed the basis on which double insurance operates. In that regard it is instructive for those of us doing insurance.

For those of you in joint ventures or perhaps lenders to venturers Friend's case is instructive about how to handle the circumstances. There are instructions from the High Court to people who are venturers and lenders. The instructions are worth heeding

managing contractual risk

Contractual risk management is becoming an integral part of many organisations' operations and management. New specialist legal services provider indemnitylegal can assist.

indemnitycorp has launched a new legal services company, indemnitylegal.

indemnitylegal, headed by Kevin Gibbons, one of Australia's leading insurance law experts, has been established to address a growing need for the bundling of delivery of risk management and legal advice.

"In todays modern business environment, organisations demand more and more from each other when selling and buying goods or services. They are increasingly dependent on each other's success – and on contracts.", says indemnitycorp managing director, Jonathan Upton.

"Contractual risk management is becoming an integral part of many organisations' operations and management. Claims and contract disputes have increased. Deficiencies in contracts or in contract management can easily result in misunderstanding and delays. When problems arise, services and payments slow down, morale suffers and relationships turn sour. The losses can be significant".

He continued "Insurance brokers can only advise upon how insurance policies respond to contracts, areas of uninsured risk, and whether insurance policies comply with contractual obligations"

Kevin Gibbons, partner, indemnitylegal continued "This misses out on important legal insight into the exposures created under the contract, and the opportunities to negotiate terms that help mitigate this risk."

"Many contracts today focus on transferring risk. This creates exposure to significant risks such as loss of contract, assuming another party's legal responsibilities, being liable for other's costs or loss of profits", he said.

Penny Wong on reducing our carbon footprint

Minister for Climate Change & Water Senator Penny Wong speaks of her experiences as representative for climate change mitigation action and her vision for Australia's future

Senator Wong has a lot on her plate.

Her job description as Minister for Climate Change requires her to deliver a solution to a policy problem dubbed "diabolical" by Professor Ross Garnaut. Senator Wong must also deliver and implement a solution to mitigate the effects of climate change that is based on extensive research as well as in-depth local and global consultation; that balances the concerns of everyoneinvolved; and that will see major economic reform to the Australian economy.

Amid all the differing views about climate change, Senator Wong keeps a clear eye on the extent of the problem and the urgent need to find a viable solution locally and globally.

In pursuit of shaping an effective global response, Senator Wong recently returned from a trip overseas, attending international climate change negotiations in Poland, meetings in London and a Ministerial Dialogue on Climate Change in Argentina. The Poland and Argentina meetings are part of an ongoing and complex process that includes the UN climate change conference in Poznan last year and ongoing negotiations through next year, culminating in the UN climate change conference in Copenhagen later this year.

"We recognise that it is squarely in Australia's interests for the world to take action on climate change. And Australia is heavily engaged in the next phase of international negotiations.

"These [recent] meetings are an important part of trying to generate consensus on the range of issues under negotiation as part of attempts to forge a post-2012 global climate change agreement," she says.

But a global response requires local action, commitment and, from nations such as Australia, leadership.

"We understand that we cannot seek to play a valued role in international negotiations if we do not take action at home," says Senator Wong. "We need to play our part."action at home," says Senator Wong.

"We need to play our part."

As one of the hottest and driest continents on earth, Australia's economy and environment will be among the hardest and fastest hit by, climate change

Delay unavoidable

"As one of the hottest and driest continents on earth, Australia's economy and environment will be among the hardest and fastest hit by, climate change if we don't act now," says Senator Wong.

Without action, scientists have predicted up to 20 per cent more drought months over most of Australia by 2030, more intense and damaging cyclones, and rising sea levels. Climate change threatens our food production, agriculture, and water supplies, as well as icons like the Great Barrier Reef, the Kakadu wetlands and the multi billion dollar tourism industries they support
.
Then there is the effect of drought and over-allocation that is being felt in the Murray-Darling Basin right now. "Failure is not an option when it comes to these challenges," says Senator Wong.

"Too much time has been wasted already," she says, "Australians want us to take action on climate change and water, and that is what we are doing." Asked about the most challenging aspect of her role, Senator Wong says that there will never be an easy time to make the transition to a low carbon economy.

"But we know the longer we delay, the higher the costs," she says. "And delay inhibits our capacity to grasp the substantial opportunities that will come from making this transition."

Shifting energy generation incentives

Under the Federal Government's CPRS, carbon intensive fossil fuels will compete with renewable technologies on a playing field that reflects the real cost of using fossil fuels. As Senator Wong puts it, "The Carbon Pollution Reduction cheme will remove the perverse incentives that have been in place to pollute the planet.

"This will improve the competitiveness of alternative, cleaner technologies," she says, adding that this competition will drive Australia's innovators to take us into a cleaner energy future.

Across the economy, the market will reward companies and industries that produce their goods and services in a more energy efficient way.

Moreover, Senator Wong says that in such a market, large scale investments in clean energy can be increasingly undertaken in the knowledge that the competitive forces of the market will reward clean energy effort and initiative.

While the CPRS is the central means by which the government plans to reduce Australia's emissions, Senator Wong says the government recognises that there are a range of critical complementary policies that need to operate alongside emissions trading. The government's commitment to source 20 per cent of Australia's electricity from renewable sources by 2020 is one of these complimentary measures.

Energy efficiency is the other.

"The Rudd Government's drive for energy efficiency and a future National Energy Efficiency Strategy form a key plank of our approach to reducing emissions, along with our commitment to research anddevelopment into new low emissions technologies," says Senator Wong.

Leading by example and expertise

Senator Wong knows Australia has a lot to offer the world in terms of research and technology development expertise, as well skills and services support to the region.

Australia's Garnaut Climate Change Review found that the incentive to mitigate will result in the expansion of industries where Australia can develop a comparative advantage in electricity generation – from Australia's abundant resources in geothermal, wave and other renewables – through to its national potential for biosequestration.

The government recognises that there will be a global carbon constraint at some stage in the future. Anyone who accepts this, says Senator Wong, must also accept the reforms required to prepare the economy and capitalise on the evolving opportunities.

Senator Wong believes it will be countries that have moved to implement climate change reforms that will be best placed to deal with the global carbon constraint and Australia's geography, geology and economy present significant advantages in this transition.

"Our scientists are among the best in the world. We have the potential to become world leaders in clean energy technology. Australia can also play a key role in the development of global carbon markets."

Moreover, Australia is well placed to provide the necessary services to support developing carbon markets in the Asia-Pacific region.

"We are a regional commercial centre with world-class financial institutions, developed capital markets, a skilled workforce, high standards of corporate, financial and regulatory governance and political stability. The potential value of such a hub in Australia could have significant benefits for our economy."

This article first appeared in EcoGeneration Magazine

Not another sickie

The sickie is an unfortunate part of Australian culture & it is set to become more frequent during the current economic downturn

The great Aussie sickie. No matter what you do, it continues.

An average worker takes nearly 9 days off per year. This is on top of their entitlements annual leave,according to a report from Direct Health Solutions (DHS)

This benchmarks poorly against the United States where the average is only 5 days. The UK fairs no better with a similar average number of sick days.

To help reduce the number of absent days,many companies have a impl-mented a range of initatives, such as implmenting new policies,setting KPI's or conducting return-to-work interviews

According to DHS, there is no correlation between any particular strategy that organisations have implemented with a sustained reduction in absenteeism levels.

About 28% of the companies that took part in the survey responded that absenteeism had increased over the past year. Only 18% said it had decreased. 62.5% of manufacturing sector respondents said that absenteeism was increasing.

Public service or government sector employees took off an average of 10.8 days a year, compared with about four days for those working in information technology.

Accodring to DHS, large employers were more likely to have higher levels of absenteeism.

They contend that there are a lot of private and public sector organisations that have got people taking 18-20 days sick leave, on average per year.

Further, up to 8% of these organisations workforce won't show up on any day for sick leave.

Such a large absence comes at a huge financial cost.

According to the DHS report, the average cost of the sickie was $354 per person, per day. This comes at a cost of nearly $27 billion to the economy each year in lost productivity.

A direct effect of the sickie sees greater pressure placed upon other employees who have to cover for their missing colleagues. DHS says this could lead to increased workplace stress and further sickies.

DHS research found that approx 80 per cent of all people who say they can't come to work are legitimately sick, with the remainder using their sick leave for other purposes.

global solutions.....
personally

indemnitycorp