

Insuring real estate investments – not all policies are equal

The correct real estate insurance programme will help you control the severity of interruption to your business following damage to the asset.

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When one considers insurance of real estate investments, protection of the asset and its continued ability to generate revenue through rental income are of paramount importance. If the property is damaged, it is important that the insurance policy meets the cost of reinstatement and the resulting loss in revenue.

Buying and structuring your real estate insurance programme in the correct manner will help to control the severity of interruption to your business following damage to the asset.

Local market differences with regard to the risks faced and solutions available increase the importance of ensuring that your programme is tailored to support your investment strategy.

The first point to consider is that not all insurance policies provide the same level of cover. Depending on the insurer used, territory

in which the investment is made and policy bought, the availability of insurance for certain perils and the limits applied may differ. Natural catastrophe exposures and third party liabilities are examples of this.

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Insuring real estate investments – not all policies are equal *(From page 1)*

Cover versus price

Levels and types of cover purchased can enhance the value of a property and act to facilitate transactions.

Premium level is of course important, however it can be linked to the level of cover being provided and should be viewed in consideration of this.

If bank or third party financing is involved, there may be specific requirements surrounding levels of cover bought and the financial security of the insurers used.

The structure of the insurance programme can address all of these issues. By insuring mixed use and cross territory assets on one master policy, you will be able to ensure that a consistently high level of cover applies to all assets, that the price advantage of placing insurance collectively rather than on an asset by asset basis is achieved, and that country specific issues are addressed.

Future development works can also be accommodated within the programme. While it is common practice to pass the responsibility for Construction All Risks and Third Party Liability insurance to the contractor, we recommend the owner take control of these insurances to ensure the scope of cover is adequate and protects their interests in the project. Further gaps and overlaps in coverage between construction and operational insurances can also be avoided. A similar approach can be taken with respect to tenant fit out works. Administration issues are another key consideration. Issuance of local and master policy documentation, management of claims and tenant service support are all important.

Advantages of the portfolio approach

It is always best to arrange the insurance programme over a portfolio of properties, as opposed to standalone policies for each location. In addition to the easing administration, this also provides a greater purchasing position with the insurance market and therefore improved premium rating. The portfolio approach does not need to be restricted to individual countries and can be arranged on an international basis as JLT have placed international programmes to many global real estate companies.

Third party/public liability exposures in the Asian region are benign when compared to North America, Europe, and Australia,

Local market differences with regard to the risks faced and solutions available increase the importance of ensuring that your programme is tailored to support your investment strategy.

however the level of coverage readily available in many circumstances is of limited value. We consider it important to pay close attention to the protection afforded by this policy and to ensure the widest possible coverage is purchased.

Global service proposition

JLT Asia has established a dedicated Real Estate practice concentrating on the structuring, placement and servicing of insurance programmes for investors. We work closely with our colleagues in Europe and Australia to provide a global service, which includes the following:

- Review and restructuring of existing insurance arrangements
- Due diligence/insurance advisory services in connection with the acquisition or disposal of properties
- Advisory services and placement of deal facilitation products such as legal indemnity, environmental and warranty & indemnity
- Business interruption analysis and advice
- Contractual analysis of insurance and indemnity provisions in lease agreements and construction contracts
- Dedicated claims service teams including the availability of our in-house claims consultancy, Echelon
- Web-based programmes for the management of insurance programmes and claims administration
- Risk management advisory services
- Captive feasibility study, and captive set up & management

The truly professional brokers will strive to ensure that you as the buyer understand the difference between 'price' and 'cost of risk'.

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MASTER CLASS

Professional Indemnity cover – how to get it right?

An experienced insurance broker with a specialism in Professional Indemnity (PI) can ensure that the most appropriate cover is arranged for the exposures faced.

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Question 1: What is Professional Indemnity (PI) cover?

Professional Indemnity (PI) insurance is a form of liability cover, giving you protection in the event of claims by a third party for professional negligence. It is also sometimes referred to as Errors & Omissions (E&O) insurance. PI or E&O provides protection against professional negligence in design, advice and specifications, and differs from product liability in that it covers claims arising from the provision of professional services rather than the sale of physical products. In addition to professional negligence, the protection can also extend to error, unintentional breach of intellectual property rights and loss of documents or data. Importantly, PI and E&O cover provide protection against legal fees and costs incurred in the defence of a claim.

Question 2: Do I need it?

PI cover should be purchased by anyone providing professional advice or services, from traditional occupations such as lawyers, accountants and architects, to recently emerging occupations in IT, management and financial consultancy services. PI insurance is an increasingly compulsory requirement in many professions. This could be the case with highly regulated professions, and where there are minimum levels and scopes of cover stipulated, such as in construction contracts.

Question 3: Can PI enhance my business?

Yes. PI can be a useful tool, providing customers with additional choice in selecting between different service providers. However, care must be taken to avoid disclosures such as unnecessary detail about policy specifics. PI can also be a useful tool to enhance the overall reputation and stability of a business sector. For example, it is reasonably common for law societies to mandate all members to obtain PI coverage. In Asia, compulsory PI cover is an emerging but increasing trend among many associations and industry segments.

Professional Indemnity cover – how to get it right? *(From page 3)*

Question 4: How much cover do I need?

This depends on a number of factors, including: the type of work you do; the risk that someone will take legal action against you; the potential size of a claim; and any requirements stipulated by a contract or professional body. Three times annual fee income is a good starting point, however also factor in the worst case scenario and the likelihood of it happening. In addition, think about the time duration for which the cover is needed. PI is written on a 'claims made' basis, so while it is in force it will cover you for claims made during the policy period rather than just covering the services you provide in that period. As claims can occur long after you provide the service, you should keep cover in place for several years: typically six years, although some contracts specify up to 12 years.

Question 5: What pitfalls should I watch out for?

It is essential to disclose all material information to prevent claims from being declined. Buyers typically complete a proposal form, which becomes part of the policy contract. These forms are designed to capture all the relevant information but, if you feel an important part of your professional service has not been disclosed, speak to your broker. Whoever is completing the form should make all reasonable enquiries with all senior executives to ensure what is on the form is correct to their knowledge and reflects accurately the business being proposed.

Consideration should also be given to retroactive cover. When you take out PI cover for the first time, you may be able to buy retroactive cover to give protection for future claims that arise from professional services performed prior to the inception of your first policy. If an organisation had been established a while ago, but had not purchased cover previously, it must consider its existing exposures and whether it needs retroactive cover for the duration of the time since it started trading. There is also a claims disclosure clause that must be carefully observed. The company must disclose any potential claims, or circumstances that may give rise to a claim to insurers within a specified timeframe. In some policies, this is worded as 'immediately'. In others, the notification requirement is 'as soon as is practicable', which allows the policyholder a greater degree of latitude.

Question 6: What are the implications of getting it wrong?

Getting it wrong can be hugely expensive. Failing to disclose material information could mean a claim is declined. Likewise, if you do not take out sufficient cover you could find yourself having to meet the additional costs. Organisations also need to think about the damage to their reputation when a claim is made. They need to establish a plan to minimise the damage, and importantly, agree with the insurer on how the claim will be handled and which lawyers are to be appointed etc. In such situations, it would be valuable to have an experienced broker to help work through the steps.

Question 7: How do I go about getting it right?

While smaller businesses in some professions may be comfortable buying 'off the shelf' cover direct from insurers at relatively low premiums, bear in mind that PI can be a complex and unfamiliar class of insurance. For many professions, the risk of being sued is an occupational hazard and damages and defence costs can run into millions of dollars. Larger companies should always utilise the services of an insurance broker with a specialism in PI to ensure that the most appropriate cover is arranged for the exposures faced. An experienced broker can also help structure different limit, deductible and coverage options to best suit your business and risk appetite.

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Benefit choice – the growing role of technology

The systems available now make it easier to deliver any benefit programme, whether flexible, fixed or voluntary, and cover the full spectrum of retirement plan, risk and health schemes.

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Technology platforms are playing a crucial role in the growth of employee choice in benefit programmes.

While the introduction of 'Flex' may give concern to employers in terms of additional administration, the systems available now make it easier to deliver any benefit programme, whether flexible, fixed or voluntary, and cover the full spectrum of retirement plan, risk and health schemes.

It is not just employers who are benefitting from improved and simplified administration. Insurance providers also appreciate the advantages of having instant, online access to accurate employee and benefits data. This can enhance their own service delivery, especially in areas like monitoring underwriting and providing annual accounts, resulting in greater protection against uninsured liabilities and the ability to offer more competitive terms for clients using these platforms.

Technology developments are behind the increasing popularity of the 'Core Plus' approach to benefit choice. This is where a small number of company paid protection benefits make up the Core package, with some having the option for employees to increase cover, and good communication used to remind employees of their true value. The Plus element lets employees purchase additional benefits at their own cost from a wide range of schemes with corporate rates and discounts. The technology platform supports the communication plan, runs the online selection and enrolment process for all benefits and is used to process the necessary payments to suppliers.

This trend to smarter schemes is consistent with the increasing demand from multinational companies for technology platforms to support benefit programmes on an international scale. The attraction of the Core Plus approach is that it can work in any country, regardless of whether the local insurance market for 'Flexible' benefits and rates is mature, as in the UK and US, or underdeveloped.

The latest platforms will aggregate data from a wide range of different benefit schemes and potentially across multiple coun-



tries. It is crucial, therefore, that the system includes an advanced modelling capability so that the employer's human resources and finance teams, whether in a single country or at regional level, can manipulate the data. The system Management Information can be used to manage global benefit partners and support self-insured risk management and captive or multinational pooling programmes.

For employees, Flex schemes have historically been seen as a once-a-year opportunity to make their choices. The new platforms provide the flexibility for some benefits to be selected and altered throughout the year, without incurring additional administration for the employer.

In the Internet age, employees expect to be able to engage with their benefits in the workplace with the same ease and convenience they have become used to with online shopping and banking in their personal lives. This means secure access via mobile devices and tablets as well as laptops and PCs, and system generated messaging to reach out to employees via text and email

The new platforms provide the flexibility for some benefits to be selected and altered throughout the year, without incurring additional administration for the employer.

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Benefit choice – the growing role of technology *(From page 5)*

to keep them informed and encourage them to manage benefits themselves. The latest platforms provide this functionality.

To enable companies and their employees to take full advantage of these trends, JLT has developed its own technology platform called BenPal, a benefits data management system for benefits in any country. Operating in conjunction with JLT's claims management system, iCLAIMS, the JLT technology proposition covers not just the management and communication of benefits, but also the management of their claim – allowing companies to take full control of their healthcare programme. The availability of the technology is combined with the employee benefits consultancy and support infrastructure of the JLT Group around the world, through its own offices and partners in the JLT Network. 

If your company is interested in improving the communication and management of your current benefits, and in offering your employees easier access and greater choice in their individual benefits, please contact:

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Protecting your fine art

Specialist art insurance policies allow collectors to protect the value of their collections against physical loss or damage.

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The global map of the art market has changed radically in the last 10 years. France dominated art sales in the early 20th century. The US and UK led in the second half of the 20th century. China, an emerging art market at the turn of the 21st century, has surpassed the traditional leaders within a decade.

Today, China is the world leader in fine art and collectables auction sales. Both CVV (the French auction market authority) and

China today is the world leader in fine art and collectables auction sales.

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Protecting your fine art *(From page 6)*

While the cost of restoring the damaged Le Rêve painting was US\$100,000, the claim for the fall in value was US\$54 million.

Artprice (an art market data bank) ranked China as the global leader in fine art auction sales in 2010, representing about one third of the global value. CVV says auction sales of art and collectables in China (including Hong Kong) grew 137% in 2010 to €7.6 billion.

Art galleries and exhibitions are sprouting all across Asia. The pulse of the global art market can be measured in the hubs of Beijing, Hong Kong, Shanghai, and Hangzhou. Other Asian locations like Taiwan, South Korea, Singapore and Japan also host active art markets.

The vibrant art scene is supported by specialist service providers locally. The Singapore FreePort opened in 2010, offering a state-of-the-art, maximum security facility for storage and trading. Other specialists providing support services to collectors include art movers, conservators and insurance providers.

Completing the picture

Specialist art insurance policies allow collectors to protect the value of their collections against physical loss or damage. Besides private collectors, buyers of art insurance include corporate collectors, art galleries, dealers, museums, exhibitions, and auction houses.

Art insurance is not just for paintings and sculptures. Any item of historical value or special merit can be insured: porcelain, rare books, stamps, coins, antique cars, musical instruments, jewellery, watches and many more.

The insurer will consider factors such as the fragility of each item, where the items are located, the fire protection and security measures that are in place, as well as the value of the individual pieces.

Why art insurance?

Fire, theft and accidental damage are just some of the hazards to your art collection. You might ask: can these be covered by your household or property insurance? A typical household or prop-



erty policy contains some limitations that might not suit art collections. Taking one example, typical property policies pay claims based on the actual repair or replacement cost. However, many art pieces are unique and truly one of a kind.

Art insurance can be arranged on an agreed value basis. This means that the insurer and the owner agree on the value of the insured item before the policy cover starts. In the event of a total loss, the insurer will pay the agreed value.

If your item suffers accidental damage, the art insurance policy will pay for the cost of restoring the damage, and also the reduction in the item's value following the restoration. The best way to demonstrate this benefit is to look at an actual claim.

Steve Wynn's Picasso

In 2006, casino magnate Steve Wynn was showing his Picasso painting Le Rêve to his friends. Standing in his Las Vegas office with his back to the painting as he talked to his friends, he made a gesture with his right hand and his right elbow accidentally punctured the canvas.

Le Rêve was restored by specialists. While the restoration, transport and extra security cost about US\$100,000, the claim for the fall in the value of the painting was US\$54 million! Ouch!

More than just financial benefits: specialist advice

Financial protection is just one of the benefits of art insurance. The insurer can also advise you on how to care for your collection, how to improve the safety and longevity of your collection, and suggest suitable specialists to help you conserve and restore specific items.

JLT can help you to arrange insurance to protect your fine arts and other valuable collectables. 

Art insurance covers more than just paintings and sculptures.

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Needed: a proactive response to climate change

Good risk management demands that attention be paid to all potential risk events caused by extreme weather and climate changes.

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The ramifications of the climate changes we are witnessing today are wide – for ecosystems, resource availability, human life/society/health, and business.

Scientists are theorising that increasing economic and social activity, compounded by population growth, will lead to a further acceleration in temperature rises in the coming decades. Heat waves and higher temperatures have also been attributed, directly or indirectly, to the deaths and increasing illnesses among older people, and damage/casualties to crops, livestock and wildlife.

Reportedly, increasing precipitation, as a compensatory natural effect of global warming, has led to floods and soil erosion, in turn affecting agricultural productivity, and in some cases loss of life and property. Changing rainfall patterns also disturb the availability of clean water.

Extreme weather and climate events can increase and magnify the risks in many aspects of our life and work. Several industries – fishing, farming, etc. – are particularly at risk from excessive rainfall and/or prolonged drought.

While there is considerable debate surrounding the causes, probability of occurrence and magnitude of impact of the above events, good risk management demands that attention be paid to all potential risk events.

The role of insurance

The importance of insurance in dealing with the repercussions of climate change cannot be understated. By redistributing the risk across the entire insured community, insurance facilitates economic development. Without the availability of insurance, many businesses will be less inclined to invest in areas where the risks are more pronounced.

At a fundamental level, insurance relates to risk management and as such, any increase in risk, whether it is to manifest itself as loss of life or property, is of relevance to the insurance industry.

Given what is impending, the insurance industry carries a responsibility to help companies to be adequately prepared for it. There will be many new challenges that the industry will have to grapple with, as the effects of climate change start to take hold. Presently, obtaining an “all risks” cover for a standard property is relatively

It is imperative that the insurance industry adopt a proactive stance with regard to climate change.

Needed: a proactive response to climate change *(From page 8)*

Without the availability of insurance, many businesses will be less inclined to invest in areas where the risks are more pronounced.

easy. However, this may not be going forward! While insurance cover will still be available, premiums may become too exorbitant, or certain perils may be excluded.

A tricky affair

Without the availability of insurance, many businesses will be less inclined to invest in areas where the risks are more pronounced. What makes insurance for climate change a particularly challenging issue is that insurance prices for events like floods, hurricanes, droughts, and tornadoes are based on historical data. With climate change, the risk profiles of specific locations have the propensity to change profoundly, making price estimates a complex matter. When insurance companies are not confident about the risks they are assuming, they may simply decide not to participate in that market. ☹



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In-country intelligence on risk exposures and regulatory frameworks

As your insurance and risk management services provider, JLT is committed to helping you make informed decisions, based on each country's economic, legal, taxation and regulatory environments, insurance and reinsurance requirements, as well as historical precedents specific to that country. Our intelligence and information pertain to a wide range of industries and sectors:



We will be able to provide you with statistics and critical information on a range of risks, based on the prevailing environment, and historical data – i.e. the level of fraud, exposure to natural disasters, political and economic instabilities. In addition, if you need information on trends in premiums and interest rates, that can also be presented to you.

Please do get in touch with us for a consultation. Email: Compass@jltasia.com ☹

Classification – the first step in climate change risk management

A holistic approach to enterprise risk management, in the face of climate change, is not only good practice, but is essential for the future survival of businesses.

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Climate change impacts virtually every aspect of the insurance industry.

The risks arising from climate change need not be regarded as vague, in fact quite the opposite. They can be broken down in a way that is tangible and can be acted upon.

Climate change classification

Figure 1 presents an example of how risks from climate change can be broken down and classified. The chart shows the “knowledge” dimension on the vertical axis and the “speed” dimension on the horizontal axis. Having positioned the risk on the chart, a company can adopt an appropriate strategy of risk management. It could be a specific risk transfer product in the (re)insurance market, the desire to absorb the risks as a market in return for an adequate risk premium, or even the retention of such risks. It is possible to shift the risk up the vertical axis through research and analysis to obtain a better understanding of the risk.

Such risks can be broken down into four main categories:

1. Risks associated with the physical/natural impact of climate change

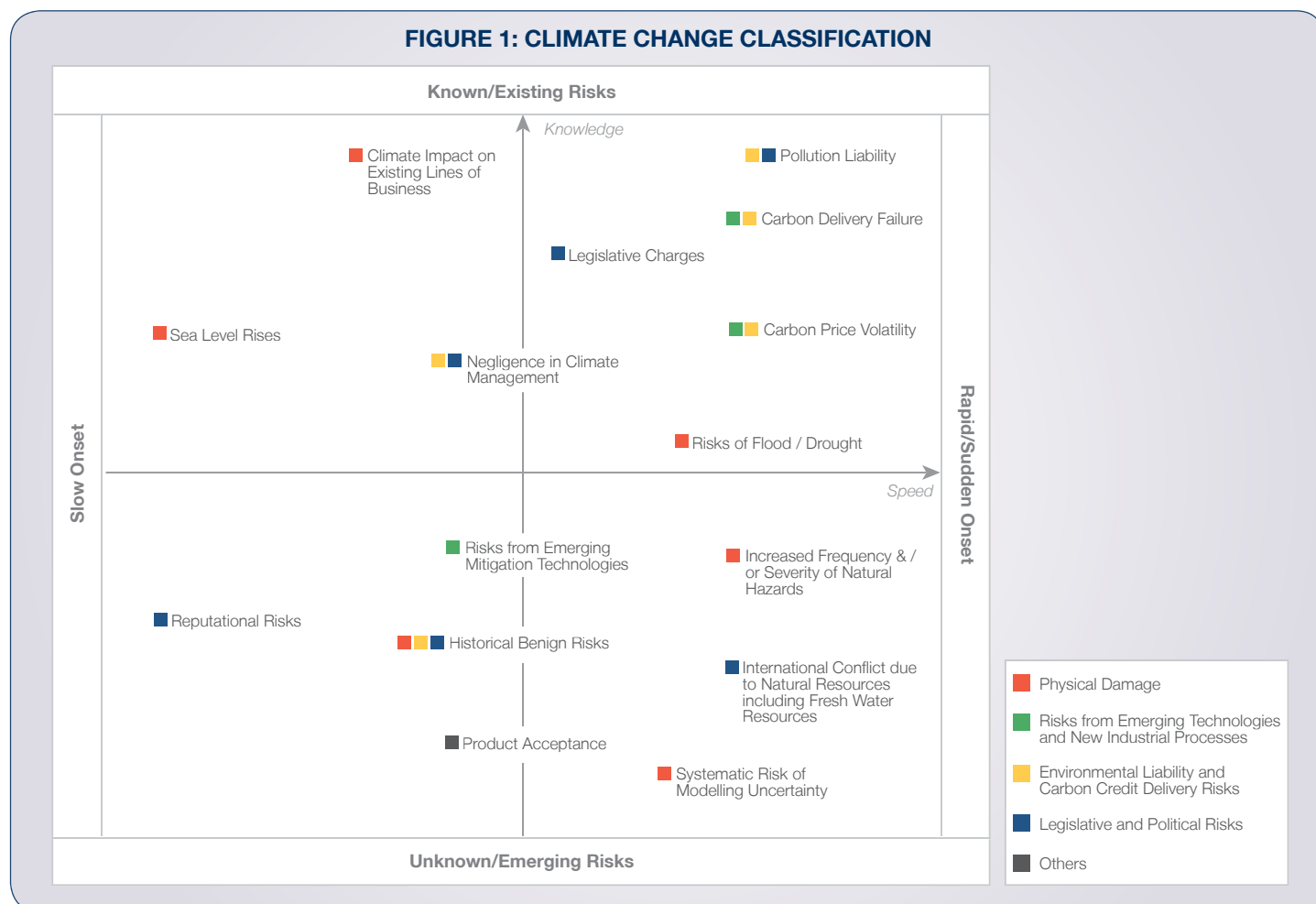
- Arise from anthropogenic warming
- Lead to unnatural fluctuations in the earth’s meteorological cycles and ocean circulations
- Anticipated impact includes sea level rise, shifts in seasonality and changes in precipitation
- Can affect the predictability, frequency and severity of storms

2. Risks from emerging technologies and industries

- Renewable energy (wind power)
- Carbon sequestration (storing liquid carbon dioxide in subterranean aquifers)

Classification – the first step in climate change risk management *(From page 10)*

FIGURE 1: CLIMATE CHANGE CLASSIFICATION



3. Environmental liability and carbon credit risks

- Carbon Dioxide emissions that are labelled as “harmful pollutants” (Massachusetts versus EPA trial in the US)
- Negligent management of issues that are deemed to have a negative impact on the climate
- “Certified Emissions Reductions” – protection against failure or delay in the approval, certification or issuance of CERs

4. Legislative and political risks

- Legal requirements – when companies fail to follow regulations or fail to report on environmental risks and liabilities including climate risk management strategies
- Political risk – potential scarcity of resources due to climate change

The four categories of risks mentioned above are pivotal when discussing climate change and related opportunities in the insurance industry. They are distinct types of risks but are at the same time very much interlinked and each should not be looked at in isolation. It would be unreasonable to design an all-encompassing insurance product covering such a wide range of exposures.

Nevertheless, as shown in Figure 1, it is possible to identify climate change risks in a systematic way so that specific products are designed through research and analysis, to tackle each type of risk.

A commercial solution?

Despite its broad nature, it is not inconceivable that risks arising from climate change are insurable. Like any other industry, the deciding issue is one of pricing: are clients prepared to pay the required level of premium? It is a matter of commercial judgment whether adequate profits could be made in taking on these risks. A related and crucial question is how far such risks can be transferred to the financial markets.

In order for insurers to make informed commercial decisions regarding new products, they must have a clear and quantified view

Classification – the first step in climate change risk management *(From page 11)*

of the risk and exposure involved. This is only possible through the transparent disclosure of risk information from all players along the chain of risk transfer.

The usual interplay of market forces will shape how financial industries adapt their business strategies and their insurance models to the perceptions of the special risks created by climate change. A transparent and logical analytical framework across all business units will be essential in facilitating quantitative climate risk transfer. We need to expand the volume of information on risk, by persuading governments and their agencies that climate change is a challenging phenomenon and physical risks are becoming increasingly apparent. The result would be to allow a much greater flow of information and expertise to be focused on potential problems and possible solutions.

Parallels

The sub-prime crisis witnessed in the US is expected to result in a total loss of up to half a trillion US dollars. The risky lending strategies adopted in efforts to gain market share have caused unprecedented losses to many of the elite investment houses. Risks, however, were always known and quantifiable in respect of such a market turnaround. Is it unreasonable to draw parallels with the insurance industry where the risk of climate change is not studied properly and areas of high vulnerabilities are insured without proper consideration for the adequacy of the premium income?

At first glance, climate change can be viewed as “broad”, “vague” and “complex”. Whilst such labels are true to a certain degree, steps can be taken to clarify this phenomenon and its associated tangible risks can be identified.

To some extent, the continual advancement of techniques, such as catastrophe modelling, will no doubt enhance our understanding of some aspects of climate risk. The truth of the matter is that the risks posed by our changing climate are so broad that the



Insurance can be used as a financial instrument to smooth out the volatility in a company's results and act as a catalyst for adaptations and changes in response to the growing awareness of specific risks.

impact will be felt across the whole spectrum of entities. A new, holistic approach to enterprise risk management, in the face of this change is not only good practice, but essential for future survival of businesses.

Taking proactive steps to understand the risks, followed by careful selection of exposure and setting an adequate level of premium would surely be a more logical strategy to adopt than the knee-jerk reactions of policy exclusions, sub-limits, sharp rises of premium and deductibles in the wake of each unexpected loss.

The insurance industry is likely to be a pivotal player in ensuring that the emerging technologies designed to combat our changing world actually come into production. Indeed, professionals at Lloyd's of London have been providing solutions for a changing world for the past several hundred years! Not only can insurance be used as a financial instrument to smooth out the volatility in a company's results, it can also act as a catalyst for adaptations and changes in response to the growing awareness of specific risks, such as building standards, data disclosure requirements and other forms of best practice.

The insurance industry has evolved beyond recognition since the days of estimating the probability of a ship safely docking at its destination with no more technological aids than a telescope, a sextant and a pocket watch in the early 1800's. In one of the fiercest challenges set by the very habitat we live in, inaction is not an option and there is no doubt that Lloyd's reputation as a risk taker and a pioneer will once again be called upon. 

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