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Layout & Distribution: Valéria Kozakova

Bermuda's Carriers; Cats; and Contract Certainty

Bradley Kading

Association of Bermuda Insurers and Reinsurers

- 22 Class 4 Companies
- Highly capitalized, distinct regulation
- Headquarters in Bermuda with operating subsidiaries in the US and Europe
- Worldwide business enterprises
- 1,500 employees Bermuda; 10,000 worldwide

 ABIR



ABIR Members


- Ace
- Allied World
- Ariel
- Arch
- Aspen
- Axis
- Catlin
- Endurance
- Flagstone
- Harbor Point
- Hiscox
- IPC Re
- Lancashire
- Max Re
- Montpelier
- Olympus Re
- Partner Re
- Platinum
- PXR
- Quanta
- Renaissance Re
- XL Capital



World Wide Rankings

- **Standard and Poor's reinsurer rankings:**
 - Bermuda 13 of the top 40
 - More than either Europe or the US
- **Benfield top 20 P/C Reinsurers**
 - Bermuda 7 of the top 20
 - Tied with Europe for 7 of the top 20

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2004 Data




ABIR Statistics

- Premium volume: \$43 B
- Surplus: \$44 B
- Market Capitalization: \$50 B

- 28% of S & P aggregate reinsurer surplus of \$160 B


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2004 Company Financial Reports; S & P 2005 estimate



Public Companies

- 86% of ABIR members publicly traded, New York or London
- 64% of ABIR members traded on US Stock Exchanges, Subject to SOX and SEC rules
- 86% of ABIR member surplus subject to SEC rules


*2004 surplus data, 2005 membership data



US Catastrophe Payments Bermuda Carriers

- **2005 Hurricanes:**
 - Estimated \$15 B payments, 29% of total
- **2004 Hurricanes:**
 - Estimated \$4.5 B payments, 20% of total
- **2001 Terrorist attacks:**
 - Estimated \$2 B payments, 6% of total

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Dowling and Partners



Global Capital Raising

- **Post Katrina:**
 - \$21 billion in capital raised
 - \$18 billion of that to Bermuda
 - \$8.5 billion to start ups



Class 4 Market Impact

- **Largest property cat reinsurance market**
 - **Supplies 40% of the US market**
- **Growing casualty market**
- **Important in large commercial risk market**
- **Diversifying reinsurance market**
- **Global players**



Bermuda Insurers

- **Total: 1,300**
- **Total Capital: \$107 Billion**
- **Class 4 Total: 29**
- **Class 4 Capital: \$ 36 Billion**
- **Class 4 Summary:**
 - **2% of companies**
 - **34% of capital and surplus**

*BMA 12/31/04 Data



Major International Market

- **Class of 1986:**
 - Excess lines
 - Ace and XL
- **Class of 1993:**
 - Property cat specialists
 - 8 carriers
 - 3 remain as independent
- **Class of 2001:**
 - Multi line
 - 9 carriers
- **Class of 2005:**
 - Property cat specialists
 - Multi line
 - Side cars
 - 11 licensed



Class Four Regulatory Distinctions

- **Highest capital requirement**
- **Additional financial reporting tied to loss of capital**
- **More stringent solvency margin requirement**
- **Restrictions on large dividend distributions**
- **Disclosure of ceded reinsurance**
- **Affidavit required stating standards can still be met if capital is reduced**

* Source KPMG Bermuda



Contract Certainty

- **UK context: written contracts at inception**
- **US reinsurance rules: contracts to be completed in 9 months or credit for reinsurance denied**
- **Litigation risk: Katrina and flood; earthquake and concurrent causation; World Trade Center event definition**
- **Political risk: Wisconsin all sums legislation; Florida home insurance deductibles; Compelled payment of IBNR**



Katrina and Contract Certainty

- **Katrina cost \$40 to \$60 Billion (RMS)**
- **Of that, \$15 to \$25 Billion in commercial flood coverage**
- **Premium collected, coverage written**
- **Losses anticipated**



Katrina and Contract Certainty

- **\$44 billion in flood and storm surge losses, mostly uninsured (AIR estimate)**
- **Residential and small commercial**
- **Great New Orleans flood**
- **Mississippi storm surge beyond 1/500 year flood plain**
- **No premium, no coverage**



Katrina Litigation

- **Home insurance policies have excluded flood for 40 years or more**
- **Contracts were approved by regulators**
- **Lawsuits to compel home insurance coverage of flood could lead to claims that would nearly double Katrina costs**
- **Ad up to \$44 billion in claims, another 10% of p/c industry surplus**



World Trade Center and Contract Certainty

- Multiple lawsuits
- Unfinished contracts
- Varying contract provisions
- One event versus two events
- Five years later, some cases pending



Wisconsin Pollution and Contract Certainty

- Paper manufacturers push legislation to compel insurers to pay on an “all sums” basis
- Pollution occurred during the 20th century
- Sue one insurer and collect “all sums”, burden falls to insurer to collect from other insurers that sold coverage during the decades pollution losses were occurring
- Effectively transfers claims costs from inactive insurers to single healthy insurer



California Causation and Contract Certainty

- More than 25 years ago California courts create concurrent causation doctrine linking builders negligence to earth movement
- Would have subjected insurers to earthquake shake damage even though contracts excluded earthquake; no premium collected
- Resulted in legislation overturning the precedent, but the price was mandatory offer of earthquake shake damage



Payment of IBNR

- Asbestos case, award IBNR to policyholders, since overturned
- Receivership cases, New Jersey rules reinsurer must pay receiver's estimate of IBNR, final decision eminent in 10 year old case
- Multiple states defeated legislation retroactively compelling reinsurers to pay IBNR based on receivers' estimates



Implications

- **Written contracts**
- **Clear contracts**
- **Timely contracts**
- **Regulatory approvals**
- All good risk management techniques
- ***But, political risk and litigation risk remain great***
- **Insurers exposed to great uncertainty despite “contract certainty”**