



THE PRESIDENTS' ROUNDTABLE

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The Presidents' Roundtable Participants



Marie Gemma Dequae,
president, FERMA,
chaired the discussion



Franck Baron,
board member, SIRM



Peter A den Dekker,
president, NARIM



António Fernandes,
secretary-general, APOGERIS



Günter Schlicht,
executive director, DVS



Kadidja Sinz,
sales and distribution manager,
ACE Continental Europe



Lassi Väisänen,
president, FINNRIMA



Victor Vereshchagin,
president, RUSRISK



Ron Verhulsdonck,
country manager Benelux, ACE

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TURMOIL, TRANSPARENCY AND COMPLIANCE

The current crisis in the world's financial markets has already affected the viability of some insurance companies. Reduced availability of capital and credit is also having an impact in other industries. At this roundtable meeting, the presidents and board members of the European national risk management associations began by discussing the effects of financial turmoil in their own countries.

Perhaps not surprisingly, credit rating agencies and brokers' security committees came under fire for failing to provide early warning of the problems besetting some insurers. However, this was seen as partially excusable as the agencies and committees were focusing on insurance companies. Generally, those insurers that have experienced problems have done so because they are part of a larger group with the cause of the difficulties originating in another operation.

Failure of managements to understand fully the complex financial products with which they were dealing, and incentive and compensation schemes that encouraged people to take what should have been unacceptable risks were two factors identified by our panel as major contributors to the crisis. Increased regulatory focus was seen as inevitable by some participants, although one considered that the considerable time and money that had been spent on compliance with Sarbanes-Oxley had been totally wasted. Will further regulation bring more costs but no real assurance for the future?

The panel then turned their attention to broker remuneration. Despite the decision of the world's three largest brokers to forego contingent commissions, the total amount paid by insurers in respect of such commissions has risen. There was some discussion on whether insurance companies should spearhead reform by refusing to pay these commissions



or whether it was up to the risk management community to demand transparency.

Forthcoming legislation in Switzerland which will change the status of a 'broker' which accepts commission from an insurer to that of an 'agent' was seen as one solution.

Finally, participants looked at compliance issues in respect of multinational insurance programmes. Some considered that certain insurers did not possess sufficient knowledge in this admittedly complex area, and that they should upgrade their expertise. In any event, it is clear that no insurer or risk manager can equivocally guarantee that a programme is 100% compliant in view of both frequent legislative changes around the world and difficulties in interpreting sometimes ambiguous and complex laws.

Sue Copeman, editor, StrategicRISK

Ron Verhulsdonck, Country Manager Benelux, ACE

Kadidja Sinz, sales and distribution manager, ACE Continental Europe

If you take unfavourable decisions, you normally do so to protect the balance sheet

RON VERHULSDONCK

MARIE-GEMMA DEQUAE: I'd like to start with what has to be the most pressing topic of the day for everyone – the financial turmoil that we're seeing in business. It would be interesting if each of us could discuss the situation in their country and how they are reacting to that situation. I can report on what has happened recently in Belgium. We have two local problems in the financial market. The first is the issue around Fortis, which originated from the acquisition of ABN-AMRO by a consortium of three banks of which Fortis was one. The timing of that acquisition was very bad. The problem was that the financing was not entirely in place and it had difficulty in increasing its capital at low stock exchange rates. As a result, the bank was partly nationalised, with collaboration from authorities in Belgium, Luxembourg and the Netherlands. In these difficult times, it is an interesting move in the sense that, in the absence of any supranational authority, three governments can come together and come up with a solution over a weekend. Recently too we have had another problem in the market, which is around Dexia. The problem is linked to the US credit crunch and Dexia's US partner, so it's rather different to that of Fortis. The French authorities have been in discussion with the Belgian government and that of Luxembourg, and have agreed a rescue deal. Looking at insurance, both of these groups are bancassurers. Fortis is a very strong insurance player. My company only works with one part of its insurance operation, mainly around employee benefits, so I am rather interested in what is happening. Apparently, as Fortis's rating has been downgraded to A-, the insurance business has been downgraded from A+ to A or maybe A-, which is nonetheless not too bad. In respect of European risks, Fortis is a strong player; when it comes to US risks, it has not been a very big player. Dexia also has an insurance arm but that is purely a local Belgian player for local business.

PETER DEN DEKKER: I think it's quite worrying that you can be away from the office for a day, as we have been, and already you're behind with the news, given that so much is happening with Fortis at the moment. And many risk managers from the Netherlands and Belgium are heavily involved in Fortis.

But I am even more worried about the credit rating agencies like Standard & Poor's. Let's put it on the table. What is the value of a rating agency if my company specifies a minimum of an A rating in its insurance manual and an AA rated company like AIG can go bankrupt over a weekend, without any warning from the rating agencies or from the broker community, who are 'selling' their advice to us and say that they are looking after us with their security committees? I am worried about that element.

The demise of AIG could have led to the collapse of the industry as a whole. And there is no warning system. I have worked for about eight years for a listed company. A couple of months ago, we were de-listed. But there have been some profit warning systems in place so that relevant information that shareholders need can be shared with them as soon as possible. Before the weekend when their problems became public, both Fortis and AIG said, 'There is nothing wrong'. Even Standard & Poor's said nothing. So, what is the value of this? Did someone withhold information?

GÜNTER SCHLICHT: Peter, you have raised some fundamental questions that need to be asked. However, for the

moment, I would just like to describe how we see things in Germany. I was away from the office for a few days and the only thing that happened in Germany happened during that time! That was the issue with the mortgage bank Hypo Real Estate, which subsequently received public funding. In the insurance sector, we are not too worried about German companies for the moment. We see them as being quite sound and not having been too affected by things that have happened so far.

However, we in Germany have, like those in other countries, been affected by the AIG issue. AIG is strong in Germany, especially in the liability and directors and officers (D&O) liability markets, both of which are long tail as well as short-tail. These were the issues that we tackled for a short but very intense period with the greatest deal of worry. The immediate failure has, fortunately, not taken place, but of course we have to very closely watch how things develop. It is probably too early to say what the outcome will be as far as AIG is concerned.

ANTÓNIO FERNANDES: Although we have this financial crisis that is affecting banking and insurance, in Portugal we are a small market with small local players compared to these 'big boys'. From that point of view, there is an element of safety, given that they are not playing in the same league. They have other issues to solve.

But there are some issues arising from AIG and Fortis. For example, AIG has a smaller operation than the big players in Portugal for property and for life insurance. There were some concerns among the public and generally in terms of the evaluations made of these companies and what they are worth. We see it as not so much of a problem in terms of a major issue in our market, although it has raised some concerns.

Fortis too has an operation with a local bank providing life insurance products, and the same kinds of questions have been raised. There is still a lot of uncertainty and a lack of information. We hope that, within a couple of weeks, everything will become clearer. Nonetheless, this is not a major issue for APOGERIS.

FRANCK BARON: I would first like to thank all the players in the financial and insurance industry for the opportunity to go before our executive committee and board at least three times in the last 10 days! This at least raised the awareness of insurance matters to another level within the company. What is amazing is the fact that, when you look at the origin of this credit crunch and financial crisis in terms of the sub-prime issue, if you take a risk management perspective on this, at the beginning all of this was about a business opportunity for banks, financial institutions and real estate businesses, etc, to do business and make profits.

Apparently, the risk management was not well managed, given that they forgot about the flip side of this business opportunity. Unfortunately, living in the US as I am at the moment, I can see that this is currently proving to be difficult for many families, given that they are being asked to leave their homes overnight. It is a huge concern. We are talking about a \$7 billion bailout for corporations to save the economy but, ultimately, this is all about people who are in a very difficult situation today because of this. Keeping the risk management perspective and the rationale behind the financial crisis in mind, there is this opportunity versus risk element behind this but there is also the fact that

Incentive and compensation schemes led to the wrong business decisions being taken

FRANCK BARON

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The Russian authorities have reacted quickly to the financial situation

VICTOR VERESCHCHAGIN

part of the reason for this crisis is the incentive and compensation schemes for many company officers. These led to the wrong business decisions being taken. For me, this is one of the key lessons that we have to learn from this. For certain people, it was more than acceptable to enter into these business opportunities because it was extremely profitable to them personally.

I would like to underline that I fully agree with Peter in terms of what he said about rating agencies. For me, the added value of information provided by rating agencies today is really questionable. Who can say today that they had a decent knowledge about the real information about listed companies? The same applies to the brokers' security committees.

This is going to be an extremely difficult period for a lot of companies. This financial crisis is going to have a negative impact for a lot of people around the world in terms of bonuses not being paid, job losses, the loss of money invested in the stock market, etc. It is also going to be an extremely interesting time for risk managers because it means that companies are going to look at how to reduce expenses and how to optimise further. They are going to look at how they are investing in loss prevention, for example. Risk managers are going to suffer in this cycle, which is one of the most worrying issues for me. All of this says to me that the compliance efforts that we made on a global basis and the money that we spent were pointless. We spent a fortune on Sarbanes-Oxley compliance, but for what? For nothing. Compliance is not about the true risk exposures that exist in a company.

LASSI VÄISÄNEN: Based on Franck's comments, there is also something that might be positive for the risk management area. It seems that companies have been unable to manage their risks, for the reason that they have forgotten some basic rules taught at business schools. The focus should always be on critical success factors: things that make your business fly or die. The products and tools involved in the sub-prime crisis are so complex that nobody really understands them, including top management in various enterprises. Nobody had a clue what they were doing, mostly because they were relying on IT systems to help them. These systems might be able to produce the figures but nobody knew what they meant.

From the Finnish perspective, as far back as spring, FINNRIMA was already planning to hold an event in

October, because we thought that something would happen. So far, the Finnish economy has not been hit, but we are waiting for the day that it is. That is why we are inviting risk managers to this meeting in October, where we are going to discuss issues around how the sub prime crisis is going to impact us. We are also inviting some people to talk about how they see things developing. At the same time, we are going to be joined by people from the Foreign Ministry, who will explain the international forces that come into play and how they have an impact. There are so many moving parts that do not provide any synergies and lead only to the breakdown of structures that we have built up over the years.

In terms of upcoming issues, people are beginning to understand that risk management is not just about the management of real estate, but also having the knowledge at CEO and CFO level about what type of property the real estate is comprised of. A second point is around making ourselves more flexible, meaning that we might have to rebuild the current scorecard systems, given that they usually allow for rewards even when mistakes are made. People within companies no longer have common goals.

PETER DEN DEKKER: It is about the difference between short- and long-term.

LASSI VÄISÄNEN: That means that risk management will move closer to change management: not only how to make businesses profitable for the future but also how to see the signs of change and what type of skills are necessary in a company in order to adapt quickly and make some fast manoeuvres.

We recently sent a survey to our 200 members asking how they have reacted within their companies: what signs they have seen, what changes they have made and how their managers are reacting, etc. Without wishing to try to solve everything, we just wanted to kick-start a discussion going forward. There are opportunities for risk management in terms of removing silos and being part of the whole process of the company.

PETER DEN DEKKER: But the banking risk management association GARP (Global Association of Risk Professionals) has a problem. What is the opportunity for them?

LASSI VÄISÄNEN: The banks have never taken any risk before and they are now so concentrated on controls that they have forgotten what business they are in!

FRANCK BARON: I completely agree that we have top managers who have not really mastered their companies' products or activities. This applies to certain financial institutions and banks. In terms of derivatives and hedge funds, it appears that there are just a handful of people in the world who are able to understand the issue in its entirety. Most banks and financial institutions have been involved in this business without really fully mastering their activities.

GÜNTER SCHLICHT: This is a issue that goes beyond questions of risk management.

MARIE-GEMMA DEQUAE: It depends on how broadly you see risk management, but it is true that the basic elements of

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the financial crisis are linked to highly technical leveraged solutions where the models are very complex. The products are built step by step and repackaged. When people buy certain financial products, they do not see the problem products behind them. We have to move to more transparent products. Credit default swaps create a high liquidity risk, which is important for risk managers.

In terms of credit ratings agency warnings, there are several reasons why they did not focus on this. First, Standard & Poor's has evolved into rating companies, rather than groups. For instance, AIG Inc and AIG Europe have different ratings. AIG is a conglomerate. The problem originated in a financial products subsidiary. In terms of Fortis, it is the bank that has had problems. The insurance companies are part of a global group and the reason why there was no warning was because, in the insurance business, there was no problem. But they were influenced by a problem within the broader group.

PETER DEN DEKKER: It strikes me that, just before AIG was about to collapse, we - both FERMA and NARIM - were somewhat puzzled in terms of what to advise our members. We did not know whether to give advice or simply to circulate the press releases that were around. In the end, we did the latter. How secure would AIG's European subsidiaries have been under the supervision of the different national authorities if the parent had collapsed?

GÜNTER SCHLICHT: You cannot make any judgments on that. All you can say is, 'According to our information, we can say x or y'. You could never give a definite answer on the underlying question of how solid AIG Europe or what-ever is.

MARIE-GEMMA DEQUAE: I question whether there is an information role for the national associations in each country. Finland has had a great idea in terms of organising information sessions for its members. As risk managers, we are obliged to look for the real information and for exact information. Today, there is a lot of information that is not really objective or complete. We also have to try to turn that uncertainty and emotion into more objective information so that the best possible decisions can be made, based on the best information of the day.

PETER DEN DEKKER: Nonetheless, for me a rating agency and a security committee of brokers are worthless. If anyone can convince me otherwise, I would be very happy, but I have to adjust my insurance manual to reflect the Standard & Poor's minimum A rating for my global insurance carriers.

FRANCK BARON: We are not here to discuss the specifics about AIG for the entire meeting. What about the visibility we have regarding ACE and the other players? It happened to AIG so what is our level of comfort?

GÜNTER SCHLICHT: We have not completed the first round.

KADIDJA SINZ: Victor has not spoken.

VICTOR VERESCHCHAGIN: I would like to say a few words about the situation in Russia. We have also had some stock exchange and bank related problems. For example, there



was a change in leadership at the Moscow Stock Exchange. Now, however, the situation has stabilised.

The Russian authorities have reacted quickly to the financial situation. As you know, we have large state currency reserves and a mutual position of the financial and regulatory structures. However, the insurance and banking sectors will face certain problems in the coming months, not only in my opinion but also according to my colleagues. It might be that several medium-sized banks and other financial structures will go bankrupt, since Russia is increasingly integrating with the international financial system.

MARIE-GEMMA DEQUAE: In insurance, to a large extent, we have not been that much hit by liquidity. It is more the longer term that is a problem today. That is perhaps one of the reasons that it is difficult to evaluate the effect. Another point is whether today's crisis will remain in the financial sector or spread to the industrial and commercial sectors. Can we contain and solve the problem in one sector and restore business as usual? Otherwise, we will enter into recession and much deeper problems.

They are all linked. If you look at your credit management, in which I am involved, some clients are experiencing difficulties in their business and are, at the same time, hit with the fact that their banks cannot extend them credit. These two negative effects lead to the loss of credit limits on these clients, so it is a tricky business today.

KADIDJA SINZ: We are in the middle of quite a complex situation, so it is rather like commenting on a large storm while it's still happening. One aspect is that it did not really happen under a blue sky, given that, for the past two or three years, there were several warning signals. From a risk management perspective, what we may need to analyse is why an accumulation of warning signals has not been heeded and why it has been difficult to take action. The International Monetary Fund (IMF), central banks and monetary funds have been warning about a pending crisis. It is something that has been anticipated to a certain extent. Some of these warning signals have been very loud and others have been less so, so it is difficult to determine what the right action to take is. That might be something that, after the crisis, will be analysed and extrapolated from a pure risk management point of view.

The other point is that we are going to be seeing a lot of new regulation. Many people have been worried about reg-

We have to move to more transparent products

MARIE-GEMMA DEQUAE

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We are going to be seeing a lot of new regulation

KADIDJA SINZ

ulation. There will be a lot of regulation around products and banking, and perhaps in the future some insurance products on the non-life side might also see some regulatory intervention. Mention was made of the compensation of senior people, but we are also now seeing issues around the future of the IMF and the role of the central banks and of the local regulators versus the overall regulators. The entire regulatory aspect that is impacting our businesses is also going to play a big role.

PETER DEN DEKKER: Either the regulations failed or we did not abide by them.

KADIDJA SINZ: In the short term, we are seeing a lot of new regulation, such as around short-selling, which is crisis mitigation regulation. We do not yet know whether it will stick and evolve or whether it will remain as it is. Short selling was banned for a brief period - some analysts said it was a good thing and others that it was a bad thing. Overall, however, we will be in quite a different environment.

Returning to the role of risk management, there will be a big change in landscape coming out of this. Perhaps there is also a role for risk managers and the insurance community to express our sentiments in terms of regulation that is helpful and regulation that is more difficult. You might call it a risk analysis of our segment.

RON VERHULSDONCK: We also owe an answer to Franck, who asked about ACE. We disclosed that we have no collateralised debt obligations (CDOs) or collateralised loan obligations (CLOs), and very limited investment exposure. We do, therefore, have a very strong balance sheet. And today's situation is not entirely negative. Previously, the financial health of insurance companies was never questioned - they were all treated the same - which, in my view and in my experience, was sometimes very frustrating. If you take unfavourable decisions, you normally do so to protect the balance sheet, which is basically what we sell. The good thing now is that I expect going forward to gain a bit more respect. If we take unfavourable decisions, we do so for a good reason.

PETER DEN DEKKER: However, the cause of this collapse was not an underwriting issue. Nonetheless, I respect your position.

As a suggestion, should we look now at another subject

such as broker remuneration? We have had an interesting presentation this afternoon (at the FERMA seminar in Brussels) by representatives of the European Committee and by the Comité Européen des Assurances (CEA). I am astonished by what happened after Spitzer. Three brokers said that they were going to abolish all extra commission based on volume, profit, etc. The rest of the broker market and the insurers said nothing.

I have heard some interesting things from two high-level people in different major broking firms. Both said to me that, at the time that Willis, Aon and Marsh said that they were going to abandon contingent commission payments, the total amount paid by insurers globally was \$3.5bn. The amount now paid, according to them, is \$5bn, with these three leading brokers out of the picture. Clearly, something is going on. Insurers are increasing their contingent commissions or remunerations, besides paying the normal fee structure or commission on a premium. What I do not understand is that the insurers are not taking a stand against this, because the level playing field has disappeared.

What is also important and related to this is that, if I hear Aon talk about 2.5% extra commission or €100 in Germany for a policy or whatever, I know where they are coming from, but this discussion around compensation for these three major brokers for the extra work that they do for insurers would be much easier if the insurance market abolished any extra commission related to volume, profit or whatever. I think that we, as FERMA, should really work at that and try to have the insurers back this in order to restore a level playing field for the entire broker community.

FRANCK BARON: Just to fill in some of the history behind this. Following the Spitzer affair (former New York attorney general, Eliot Spitzer's attack on contingent commission practices in 2004), we made huge efforts with the three main brokers to get a charter signed with them to abolish contingent commission and to disclose all the remuneration that they may receive. So we did something.

PETER DEN DEKKER: It looks like we are now defending the three brokers while we all know, from their P&L and balance sheet that, for example, Marsh abandoned \$850m. I am not defending their position in terms of feeling sorry for them. On the contrary, we are professional buyers and we know what we are buying. We know that there is full transparency with the brokers with whom we deal, but what about 90% of the non-professional buyers and the smaller industrial companies that have no idea of how their broker operates, what pools and reinsurance arrangements are in place, or what they earn? That is what I want to challenge.

FRANCK BARON: You are right to challenge this but, as you said, the solution is getting professionals to structure the insurance purchasing in their company. It is not easy, particularly for small and medium enterprises (SMEs).

I am pleased to see the new law that we are going to have in Switzerland. As you may know, it is going to be extremely clear on this. If you are a broker and receive commission from an insurer, you are no longer in fact considered to be a broker. You are going to lose your licence and become an agent. It is very controversial in Switzerland at the moment, but it is going to be implemented next year.

PETER DEN DEKKER: Consultation on the Insurance

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Mediation Directive (IMD) is underway. Even in the Netherlands, for totally different reasons, costs of mortgage-related life insurance products with savings and stocks were excessive. Premiums made up 40% and costs were 60%. The two broker associations in the Netherlands came up with a preliminary report in terms of working their way out of this problem and to also abolish any additional profit-related commission. This will take some years. If it happened today, we would see many smaller brokers going bankrupt. So the move to reduce brokers' charges is already starting, but the initiative should have included the insurers. They should have set the standard by saying, 'This is now our policy. We quote net premiums'.

RON VERHULSDONCK: Our stance is clear. In our view, brokers work for customers, not for the insurance companies. That is the fundamental issue. What brokers say is that they do things for insurance companies, for which they believe they should be remunerated. We believe that brokers work for the insured, not for the insurance company. But an insurance company can only take a stance for itself, not for the competition.

PETER DEN DEKKER: What about co-insurance?

RON VERHULSDONCK: Everyone decides for their own participation.

PETER DEN DEKKER: But if you are coinsuring you need a broker, and you cannot say that that broker only works for the client.

RON VERHULSDONCK: We work with brokers. That is the distribution channel that we use but that does not mean that they work for us - they work for the customers.

FRANCK BARON: This topic is also related to the first one that we raised. Going back to your point, Peter, we are now systematically questioning the relevance of the brokers' security committees. However, when this amount of money is at stake, you may question the relevance of their comments regarding the security of working with an insurer. For them, it is big business.

GÜNTER SCHLICHT: You mentioned the Swiss regulation. We discuss these issues with German brokers, of course. We are not calling for legislation or regulation or fundamentally questioning their business model. All we are saying is that, unless we have full transparency around their remuneration, their business model is at risk and has no future. This is our conviction.

PETER DEN DEKKER: But the regulator is coming because of Europe. Ultimately, the IMD is going to be very strict in this respect - at least that is what I heard this afternoon.

GÜNTER SCHLICHT: But maybe brokers have a chance if they move forward in the right direction by themselves.

ANTÓNIO FERNANDES: In terms of the new legislation coming up, we are applying it. In terms of the big picture and the concerns of the market in this field, it has never been a big issue in Portugal. There are greater concerns around insurance prices and the reasonability of cover. The



issues that have been raised are mainly around the implementation of the directive.

PETER DEN DEKKER: We're talking about the big companies, but you have your own home insurance as well and you know what you pay your broker and what they earn. In the Netherlands, for an average property insurance, they earn 25% of your premium. A quarter of your premium goes towards paying for your broker's new car and only three quarters make up the premium paid to the insurer! It might be only €100 or €200 but it all comes down to volume. What do they do to earn that?

MARIE-GEMMA DUQUAE: We should stick to the business insurance side. Lassi, I think there are specific regulations in the Nordic countries?

LASSI VÄISÄNEN: In Finland, we do not have such a problem because there are no brokers involved in home insurance. Insurance companies like Pohjola and similar companies have their own off-the-shelf products that they sell. That might also mean that they have been unable to generate competition with the main brokers in Finland, which are Aon and Marsh.

There are some restrictions currently and it has been a very closed market. This subject has also been discussed by FINNRIMA. We feel that there should be much greater competition and that we should be able to make use of brokers in the right way. At our meeting this month, we will have risk managers from the big companies, and I am sure that they will have a very similar background in terms of being skilled at starting negotiations and getting competitive bids.

MARIE-GEMMA DUQUAE: Is there transparency around their remuneration?

LASSI VÄISÄNEN: I am not entirely sure how clear it is, but that has been the tendency in any case.

RON VERHULSDONCK: I think the discussion should be slightly different; ie how much the remuneration should be. In my view, it should be transparent, but what is really important is that there should be no differences, which lead to incentives to do business with one party instead of another. On its own that creates issues, which is why I think that, ultimately, it should come from the customers.

We feel that there should be much greater competition

LASSI VÄISÄNEN

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The level playing field has disappeared

PETER DEN DEKKER

PETER DEN DEKKER: It is created by the insurers. The insurance industry creates the incentives for the brokers to make their choice.

KADIDJA SINZ: You mentioned some presentations that were made today. I am unsure how, at a European level, the regulators would react if insurance companies sat down together and all agreed to remunerate brokers with a certain amount.

PETER DEN DEKKER: That is exactly the issue. They are not allowed to talk to each other because the existence of any agreement would lead to anti-trust issues.

KADIDJA SINZ: That is why I think that strategy would not work. In terms of the transparency element, the customer is the one who can make this evolution at the end of the day.

MARIE-GEMMA DUQUAE: If there are differences in remuneration paid by insurers to brokers, is there not a risk that we do not receive the best objective proposals but instead get the proposals that are more commercially beneficial to the brokers?

KADIDJA SINZ: We do not give extra commission. The difficulty that we all sometimes face is that a certain element of the commission is consulting-based and some part is probably more intermediation-based. That is where the scrutiny will need to be greater.

VICTOR VERESCHCHAGIN: We are still in a developing market. It is a transition period. I would say that we now have a good list of regulators and relationships between brokers and insurers.

PETER DEN DEKKER: The original countries that started having brokers involved in insurance were the UK and the Netherlands. Other countries, like Germany, started very late in terms of a broker community. It is all about a country's insurance history, which is why it is normal to use a broker in some countries and quite rare to directly approach the insurer.

VICTOR VERESCHCHAGIN: You are right, Peter. Russian companies are in a very good situation now, given the establishment of a lot of multinational broker organisations.

FRANCK BARON: Moving on to another subject, compliance in the insurance programme is a very interesting topic. We seem to be reaching a kind of crisis situation. We have had one of the large insurers, which thought at that time that it was great to be innovative and released a new marketing product that was about international programmes around the world being compliant. When we entered into discussions with them, I quickly found out that we were talking about the very basics of our business. Do I have to issue a local policy? Is it admitted or not? How do I structure the premium flow between countries, etc? I was amazed at people's lack of knowledge in this respect. It was as if it was brand new for them.

Ultimately, I still expect some more expertise from the insurance industry on this. I believe that people are talking about things that they have not really mastered. I do not know if I am really an expert on reinsurance but I have a pretty decent knowledge about what is admitted, what is a local policy, a master policy or an excess policy, how to structure a premium scheme between different countries, etc.

For me, here we were talking about how to raise new constraints to hit. For the insurance company, it seemed as though they had some kind of internal pressure to issue a strong statement that they were cleaner than the cleanest. I think there are still many things to do regarding compliance. We have talked about the warning signals about the financial crisis. I hope that I am going to be wrong but I believe that one day something will crop up in the market because of certain market practices and we will all say, 'It is very bad that that happened.' This is something that we have never really discussed, but certain practices in our market are in real conflict with tax regulation or even laws in certain countries.

MARIE-GEMMA DUQUAE: My experience is that the insurers look at optimising their compliance, but I sometimes have the feeling that they put us in a more difficult situation on the compliance issue. There are always two parties in an insurance contract and, in effect, you have to look for an optimal solution for both parties. It is more complex but it is something that you have to look for. In every company and sector, the geographic spread is different. It is not an easy exercise and you have to take into account what countries you are dealing with. And you always have two parties to optimise. In any negotiation, the discussions go on. It is an evolving discussion. It depends also on how the insurer is focusing on this. I do not know how ACE is focusing on this compliance issue.

FRANCK BARON: Let me add one thing before they answer. We mentioned that one of the root causes of the financial crisis was the fact that people did not really master their company's activities and products, for example financial institutions and their hedge funds and derivatives. However, I truly believe that there is also a lack of expertise and knowledge within the insurance industry regarding our businesses, by which I mean how to structure an international programme. Here, there is a real necessity to upgrade people's skills and knowledge, because this is the core business of the insurance industry, the broker industry and of the insurance department within our companies.

GÜNTER SCHLICHT: I agree with most of what Franck said and also with the term 'marketing' that he used in connec-

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tion with the initiative launched by the insurer. However, the merit of that insurer's action is that a question, albeit one that has been slightly blown up out of proportion, has been brought to people's minds. Other people are working in a consistent and practical manner on the questions that one has to raise and that have always been raised by companies. It is an actualisation of a constant set of questions, which may be the unwanted merit of this activity.

MARIE-GEMMA DUQUAE: It started from the insurer side but now insurers are listening and saying, 'We are thinking a bit further'. It is not a bad exercise but it involves clients permanently giving updates, based on the changing composition of groups and changing business. It is a never-ending story.

KADIDJA SINZ: First of all, not all insurance companies have the same legal structure or nationality. If you are a European Union (EU) company, these are different from those of a non-EU company. I would say that every company has to do its homework and to consider what value propositions they give to the market also related to their current situation.

There are then several aspects to compliance. There are certain things that are very difficult to amend because they might be of public order. Certain clauses are possible in certain countries but not in others. Other things are not possible and need to be admitted; if an insurance company does not do it, it will lose its licence, so we cannot make exceptions.

There is then a series of subjects where I would say there is no strict regulation in every country around exactly how you need to do certain things. On the other hand, there is certainly prudent and sound judgment, and I would take the Anglo-Saxon approach of looking at what is really meant. Premium allocation has to be reasonable and to be discussed. If a regulator scrutinised whether we substantiated with the client why we did it and if we were able to demonstrate that we did what together we felt was right, we would have a good case, even though the regulation is sometimes unclear.

We have focused on three topics. First, claims payments are discussed in terms of how they are paid in certain cases. Second is whether non-admitted can be done and to what extent. The final point is around premium allocation, which triggers taxes and, occasionally, claims payments. These are three topics that we have placed a lot of focus on internally.

PETER DEN DEKKER: Since when? Has this focus been triggered by anything?

KADIDJA SINZ: The complete focus has not been triggered by any one event. However, the Dutch Kvaerner decision has certainly triggered the tax allocation discussion, given that it was expressed in detail. However, for example, when we train our team members in our international departments, they get a document with everything you need to do in connection with an international programme. This training is a complex matter and we have a premium tracking system, etc. The Kvaerner decision was certainly something that alerted us.

Something that has been discussed more recently is the fact that it is sometimes difficult to find common ground between US and European insurance regulations. There are



times when it is slightly complicated to find common ground so we look at comparative law on those specific aspects. Our approach here is that compliance is not normally a competitive element - compliance is compliance. On the other hand, contract certainty and safety are very important elements.

PETER DEN DEKKER: Can you guarantee your clients that their programmes are compliant, or can you at least issue them with a statement that, to your current knowledge, their global insurance programme is compliant with national law, standards and practices in each country where they are doing business and you are insuring the risk?

GÜNTER SCHLICHT: This question will be heard more and more.

KADIDJA SINZ: Yes, it will. As you know, in any legal statement like that, you would always say 'to the best of our knowledge'. It is something that we are definitely working on in order to assure customers that we have done our utmost to ensure that their programmes are compliant. We are unable to say more than that, given changes in legislation. There will also be differences in interpretation by local courts. Sometimes, international private law discussions will be held, in which solutions are not that clear cut. We will, however, point out where difficulties lie and try, in good faith, to find the best solution, together with your broker.

PETER DEN DEKKER: I want to add something to Franck's remarks on the insurer that initiated this debate with its new compliance programme. It raised a lot of comments and questions from insurance buyers. I know that many of those comments were akin to: 'we are not compliant but now we really have to think about our allocation, local limits or admitted/non admitted'. As sophisticated insurance buyers, of course, we did not have that problem, but they triggered something.

I have been negative in the press about that insurer's comments and they have contacted me, so I expect them to do so again after this discussion, given that I am still not very positive. However, I am positive about the fact that they initiated something. Nobody is sure whether they are compliant, but they at least have a system currently in place, which is, in my view, not very compliant although, to the best of their knowledge, they think that it is.

Unless we have full transparency around their remuneration, their business model is at risk and has no future

GÜNTER SCHLICHT

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The issues that have been raised are mainly around the implementation of the directive

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The only problem is the lack of knowledge on the part of underwriters of the business that you do in terms of interpreting your allocation schedule, limits and exposures, etc, given that that is what you need to look at if you issue policies in each country. I believe they still do not have sufficient knowledge about that, and I and my colleagues have to correct them. The initiative is good but it is triggering risks for all insurance buyers, as well as insurers, given that it is also an issue of compliance by their local office with local legislation in terms of whether or not their permit will be valid tomorrow or next year. We have our tax and other issues. We might think that the initiating insurer concerned wants to be top of the class. They have a system that they think is compliant but what can other insurers tell us?

LASSI VÄISÄNEN: The issue of compliance is complex. Some companies have to be Sarbanes-Oxley-compliant. It was a big trigger for many companies whose auditors were unable to sign off their documents once they found out that there were subsidiaries in China and began questioning whether tax laws there were being followed, for example. This is still a big mess and looks like continuing so in the future. An insurer may be happy to provide their databases to customers around the world, but regimes change overnight, so you might have it in good faith one day but not necessarily be up-to-date the next. The question is around how to deal with maintenance.

PETER DEN DEKKER: Insurers have a global network. They are global but acting local. They have local knowledge and permits, so they should know whether, tomorrow, they are still compliant.

LASSI VÄISÄNEN: Many insurers deal in the same countries, so everyone is trying to interpret what the local laws mean. Most probably they end up with different conclusions because the laws are not that clear.

KADIDJA SINZ: Insurers have a variety of solutions, as do brokers. There are those insurance companies that have worldwide subsidiaries, those with partnerships and those with ad hoc partnerships. Everyone is trying to find the right solution. The information system that you use and how accurate and timely you are might be questions that, as risk managers, you will increasingly ask in terms of how often you get the information from local offices and how

often it is updated. This whole structure and information system is within many insurance companies now. At ACE, we make it transparent for you and tell you how much it costs to have a network and to get that information. We show you how we are getting it too. It is not so much a compliance mechanism by which we can guarantee you because, as I said, there are a lot of discussions, even at a local level, around what the rules are exactly. Sometimes, they are very clear, in which case there are no challenges.

PETER DEN DEKKER: Your permit is at stake.

KADIDJA SINZ: That is why we take it very seriously, not only for us but also for you. However, you will also be able to ask us how we are getting the information and how we keep it up to date. You will be able to have this as part of your toolkit in order for you to judge whether you feel that we are quick off the mark or that we take too long to find out about what is going on. That will probably be a difference.

FRANCK BARON: It is true that there is room for interpretation in a lot of local legislation. In a simple example, we went through a bid for our marine transportation programme two years ago. Reinsurers were asked to provide us with a list of countries where it was compulsory to issue a local policy, and all three gave us a different list.

PETER DEN DEKKER: In addition to a list of countries, if you asked about the related taxes in non-admitted countries, you would be given three different lists with different percentages. The information system that the initiating insurer developed on each country was very sophisticated. Maybe it is something that they could sell to their colleague insurers because it is sophisticated information that is really complete.

RON VERHULSDONCK: We too have a sophisticated information database, but I would not guarantee that it is 100% up to date, given that it covers 140 countries and that there are changes on a daily basis. I cannot talk about other companies' databases, but the same is probably true of theirs too. Even if you subscribe to the Axco database, you get updates every two weeks, not every day, and these updates contain about 10 or 20 changes. Therefore, at any time, even that database is not 100% correct. It is all relative. It also has to do with costs. To be 100% compliant is probably unaffordable. To be honest, if complex companies like the ones you represent are active in more than 100 countries, it would be utopian to believe that you are 100% compliant. In terms of my private taxes, I do what I can to be compliant but I cannot guarantee that 100%, even though it involves just one country and a simple risk!

FRANCK BARON: I do not think that we want to ensure we are 100% compliant. The day that you are 100% something, it means that you have spent too much time or money on it. It is like safety: you do not want to be 100% safe. The extra mile is very costly.

MARIE-GEMMA DUQUAE: The goal is always 100%.

PETER DEN DEKKER: Brokers and insurers should be able to issue a statement that a programme is compliant. They can issue their releases and waivers below that, but all global companies want a statement from their insurers and brokers that their programme is compliant.

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