General Outlook

Tumultuous. Uncertain. Transformational?

A browse of Google Trends makes for interesting reading, offering an overview of which questions and phrases have seen the greatest increase through Google’s search mechanism over the last few days:

- “Stimulus package meaning”
- “Jobs hiring right now”
- “Is the housing market going to crash”
- “What will be open during lockdown”
- “Can I be evicted during a national emergency”
- “2020 Olympics be like meme”

Top of the trends at the start of this week in the UK? “Coronavirus alcohol ban”. Priorities in check.

For many, these are devastating times. For the (re)insurance market, it is time to grapple with existential purpose. Last week, policymakers in New Jersey, Massachusetts, New York and Ohio pressurised insurers to cover business interruption losses regardless of policy wording. David Sampson, chief executive of the American Property Casualty Insurance Association said that the cost to cover businesses with 100 or fewer employees across the US would run to $110bn-$290bn a month, $900bn a month if raised to 500 employees. With industry surplus capital of $800bn, “you would be basically creating a solvency crisis”. Mervyn Skeet of the ABI similarly commented that, “last year, UK companies turned over £4.1trn and employed 27mn people. Insuring these businesses for pandemics is impossible using the normal model given UK insurers hold total assets of £2.2trn.” Obligating companies to take on exposure for which they never underwrote or charged, would present inherent structural dangers to industry.¹

Resistance will insight malevolence. What can the industry do to offset this? David Priebe of Guy Carpenter suggests that the industry should firstly continue to pay valid claims, sustaining its social value offering. Secondly, invest in real assets to rebuild economies. Finally, it should continue assuming risks to enable commerce and societal function. French insurers have taken the first step in supporting national solidarity, making a EUR 200mn contribution to the government relief fund, alongside agreeing premium holidays. Elsewhere, Allstate are automatically covering all personal vehicles carrying goods for a commercial purpose – typically this would be excluded.

Looking forward, the outbreak will be transformational for pandemic risk coverage. ABI Director General Huw Evans noted that “no insurance market in the world provides widespread insurance coverage for pandemics”. Calls have been made for a government-backed protection-gap entity, positioning the state as the insurer of last resort. This is nothing new to the world of insurance, but utilising industry expertise to develop a new mechanism to protect the people against emerging risk could help to highlight the value this industry offers to society.

Food for thought. As last week, we aim to cover the emerging thoughts around exposures within the market by class of business, legislative movements and any major claims activity relating to the Coronavirus outbreak.
COVID-19 Development

The coronavirus continues to spread throughout the world, with over 180 countries now having confirmed cases of the virus. Both reported cases and death tolls continue to rise – there are now more than 845,000 people infected worldwide, of which over 41,500 are reported to have died. Italy remains the country with the most confirmed cases worldwide.

Rating and Exposure Environment

- It is apparent that rates across insurance books are higher by upwards of 10%, with reinsurance books not seeing quite as substantial increases.
- April renewals are said to be showing substantial increases across insurance and reinsurance lines. Japanese wind reinsurance rates could be higher given loss experience, but 35-55 percent rate increases are as big as any achieved for a major peril since 2011/12.
- As COVID-19 continues to disrupt lives across the globe, it is essential that work on performance and pricing continues – it is possible that COVID-19 could provide a unique additional tailwind in a year that could prove pivotal in Lloyd’s future profitability.
- It is likely that premium levels will dip as a result of the economic instability, however it is expected that the premium paid per unit of exposure is expected to rise – and some believe this momentum can continue if the economy snaps back later in the year.
- If such predictions come to fruition, the rating gains booked will lay the ground for more profitable years to come.

Reinsurance

- Reinsurers are actively seeking to impose communicable disease exclusions on reinsurances incepting 1st of April and in some cases have pulled authorisations.
- Without such exclusions, significant loading factors are being added to quotes.
- Reference is being made to disclosures, memos or statements relating to reinsureds exposure to Coronavirus, ahead of business being quoted.
Perspectives on Exposures by Line of Business

Management Liability

Directors & Officers

- COVID-19’s disruption to the global economy poses a series of threats and challenges. Plaintiffs typically will not file securities class actions against organisations purely from a fall in the firms share price, especially given that all stock markets have recently plummeted.

- Keeping shareholders informed with forward-looking disclosures regarding material developments in the firm’s operations will prevent class actions or derivative suites stemming from an alleged failure to disclose the impact of COVID-19. Event-driven litigation could also impact privately traded companies.

- With revenues coming under pressure for many companies, a director continuing to trade past a point when liquidation cannot be reasonably avoided could become liable for wrongful, negligent, or breached fiduciary trading duties. Claims will arise if it becomes clear that creditors and shareholders are worse off as a result of the continuation of trading.

- As discussed in last week’s report, two class action claims have already been processed from COVID-19. Both claims have short class periods compared to the average, which limits their overall potential damage. However, these claims both had extremely explicit connections to COVID-19, and as economic activity continues to halt, it is anticipated that the number of lawsuits will increase.

Employment Practices Liability

- Providing coverage for claims where employment laws such as wrongful termination and sexual harassment are violated, the EPL market always looked certain to be under pressure from COVID-19 and a resulting recessionary period where firms reduce their workforce and unemployment rises.

- Insureds must comply with the Equal Employment Opportunity Commission (EEOC) and employment laws such as the Americans with Disabilities Act (ADA), Family Medical Leave Act (FMLA) and Health Insurance Portability and Accountability Act (HIPPA).

- Due to COVID19, increased exposures are likely to arise from the perceived inconsistencies of applying specific policies, such as remote working, resulting in allegations of discrimination and inconsistent application.

- A major Lloyd’s syndicate has instructed all their coverholders to stop quoting hotels, restaurants, bars and hospitality in general, as they remain very concerned of Reduction in Force class actions as companies lay-off huge swathes of their workforce.
Medical Malpractice
The impact of COVID-19 is an evident concern to the Healthcare space but the pandemic’s significance and severity to both insurers and insureds is dependent on specific product line and jurisdiction.

Long-Term Care (Nursing Facilities)
- In an already hardened market, COVID19 has further suppressed underwriting appetite with most markets no longer considering any new proposals and few still writing new business, only considering the most opportunistic of deals.
- Underwriters are particularly concerned about the strict regulatory environment and the inpatient nature of care for patients particularly vulnerable to COVID-19. This presents a multitude of distinct opportunities for transmission – leaving insureds exposed to plaintiff class actions through alleged negligent staffing procedures, such as lack of PPE – within what is a highly litigious line of business.
- Claims are likely to arise in a facilities PL/GL policy as a result of negligence through the following examples:
  o “Wrongful death”
  o “Lack of preparedness in implementing emergency plans”
  o “Inadvertent patient exposures”
- Some markets are implementing coronavirus exclusions on all business.

Hospitals/Health Systems
- Here, insurers are generally being more flexible. Some markets are supporting health systems by agreeing to coverage expansions for additional exposures such as retired physicians and childcare services offered to staff. The Doctors Co is offering medical malpractice coverage at no cost to retired physicians re-entering the system who were previously covered by the company.
- Insurers are anticipating increases in claims frequencies within PL/GL policies due to the rise in risks and exposures associated with COVID19. Hospital policies typically operate with large self-insured retentions, to coverage for the most catastrophic of claims. Underwriters are concerned about insureds exhausting aggregated retentions.
- Providing that insured’s have demonstrated preparedness, underwriters are not anticipating a vast number of catastrophic claims in relation to the pandemic.
- There is some uncertainty regarding COVID19’s applicability towards batch claims (where an insurer is exposed to multi-claimants from single incidents). For example, would a hospital’s unpreparedness, by not providing staff with PPE equipment and nurses then inadvertently transmitting to COVID19 to an entire cancer ward a single act of negligence?

Ultimately, there is likely to be a considerable time-lag before the overall impact of COVID19 on the healthcare market can be assessed as a result of the slow claims process and long-tail nature of the business. The pandemic could create sympathy towards hospitals and lead to a change in social inflation dynamics.
Marine
- No significant losses are expected in respect of the Marine market as a result of COVID-19.
  o Potential costs from the repatriation of crews in the event of cruise lines failing.
  o Potential for lawsuits from passengers infected during a period of quarantine on a cruise vessel but given the scale of the pandemic proving the loss would be difficult.
  o There may be some cargo spoilage but again this would be relatively small.
- The real impact is on the business going forward as the Marine and Energy sector is particularly sensitive to the worldwide economic conditions.
  
  - The profile of the risks will change. If a vessel is not required it will be put into lay-up or “slow-running” (conserving fuel).
  - Although the value at risk may not change (many vessels are insured for their mortgage value rather than their market value) the rate for such risks will be much lower driving the total premium yield down.
  - Actual rate adequacy could be maintained or even improved.
  - There is unlikely to be any shipbuilding risk in the market any time soon.
  - How the pandemic will affect port accumulations is still unknown – on one hand we will see less goods, but we could see them remaining in ports for longer due to transit restrictions. This is something XL reinsurers are keeping a close eye on.

Energy
- The Energy sector is sensitive to worldwide economic conditions but more in terms of how that affects oil price; empirical studies show that the two do not correlate as much as one might assume.
  - In this instance it seems that the oil price will drop as demand decreases.
  - Once storage facilities fill up the oil price is expected to drop dramatically, some commentators even talking as low as $10 a barrel which would be unprecedented.
  - If the oil price did get to this level investment would dry up, projects would be postponed and activity in many regions would all but cease.
  - Like the Marine sector this will have a dramatic effect on premium yield but may not affect rate adequacy for the same reasons; a mobile rig in lay-up commands about 10% of the operating rate but could actually be a “better write”.

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Trade Credit

- Credit risks insurers had adopted a more cautious approach to underwriting in response to growing challenges in the economy in 2019. Nonetheless, they remain exposed to the SME firms which are most vulnerable to recession, especially without the right governmental support.
- As with many other lines of business, force majeure provisions and government mandates may play influential roles in losses.
- Short tail nature of the class will partly offset the negative impacts, allowing insurers to reprice and de-risk their portfolios.
- Trade credit insurers rely on extensive reinsurance programs which although may dampen the impact of losses, may leave them exposed to capacity withdrawals and rate increases over renewals. A diversified reinsurance panel of high-credit quality will serve them well.
- German government is in talks to backstop credit insurers ahead of the inevitable defaults that are to come.

Cyber

- As companies continually encourage employees to work from home, an increase in remote working is creating opportunities for cybercriminals. When firms are not utilising multi-factor authentication amongst remote working employees or working through insecure network, this will open the gateway to hackers.
- Insurers are already experiencing increases in claims made as a result of social engineering, where cybercriminals have capitalized upon the uncertainty and fear to take advantage of new systems and processes. Action Fraud have indicated that victims have lost over £800,000 due to attacks mentioning Coronavirus or COVID-19 since February 2020.
- Cyber business has currently only experienced a limited impact from COVID-19, as the market remains highly competitive and profitable. However, as the employees remain at home for longer periods, we would anticipate a rise in the frequency and severity of these attacks which may lead to sub-limits for social engineering claims.
- The United States Health and Human Services Department experienced two separate cyber-attacks since the onset of COVID-19, with the attacks aimed at sowing panic and overloading the HHS servers. These attacks have been reported across the globe — hackers launched a cyber-attack on a hospital in the Czech Republic, stalling dozens of coronavirus test results, days after the government declared a national emergency.

Property

- Personal lines property exposure will be minimal unless there is damage from rioting.
- On treaties covering commercial property which are therefore BI exposed, if the renewal was negotiated considerably in advance of 1/4 then reinsurers are more lenient in respect of COVID-19 exclusions.
- However, for new policies or those being negotiated shortly prior to 1/4 it is likely there will be some form of exclusion.
- There is substantial regulatory risk whereby carriers who offer BI will be pressured to provide coverage in certain circumstances by insurance departments or legislative bodies.

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3 Source: https://www.cyberscoop.com/czech-hospital-cyberattack-coronavirus/
- Major reinsurance markets are increasingly enforcing COVID-19 exclusions on all property quotes largely to protect against BI/CBI from large Fortune 500 companies without any physical damage claims.

**Business Interruption**
- Many companies are reporting a rise in BI claims – although the insurance agent/broker know the claim is not covered they are filing claims just the same as they do not want an E&O issue to arise.
- Companies reliant on BI coverage to mitigate COVID-19 financial impact are likely to find that policy language specifically precludes claims for business interruption resulting from pandemics.

"My organisation has adequate insurance coverage to protect against risk of business interruption posed by Coronavirus". Please indicate whether you agree or disagree.

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Of 698 respondents, nearly 2/3 of organisations think they have adequate BI insurance coverage for Coronavirus risks.

The Finance industry is the most confident in its coronavirus-related BI coverage.

**Source**: 451 Research’s Voice of the Enterprise: Digital Pulse, Coronavirus Flash Survey March 2020

**Balance Sheets**

The sudden drop in the financial markets will add volatility and reduce balance sheets of insurers exposed, although it is generally believed to have limited effect as many insurers have moved away from equities in light of the 2008 financial crisis.

Due to lacklustre yields, many insurance companies have moved to riskier bonds, looking at lower quality instruments with a view to greater returns. The trend in BBB bonds in insurers’ bond portfolios are significantly higher than before. The key risk with BBB bonds is that they get downgraded to “junk” status, which would require investors to apply a greater loading factor to them, further reducing returns.

Notable Claims Update

Houston Wig Store

- A Houston-area wig store filed the first Texas COVID-19 lawsuit concerning business interruption losses.
- The plaintiff filed suit against Twin City Fire Insurance Company, a Hartford Insurance company.
- The lawsuit alleges that plaintiff has sustained and will continue to sustain covered losses during the COVID-19 outbreak and subsequent Harris County Stay Home Order.
- The lawsuit further alleges that plaintiff already sought coverage for its business interruption costs under the Twin City policy, but that claim was denied. Accordingly, plaintiff has alleged breach of contract, unfair settlement practices, violation of the Prompt Pay Act, and breach of the duty of good faith and fair dealing for Twin City’s wrongful denial of the claim.
- The seemingly quick denial of coverage is evidence that insurance companies will readily deny COVID-19-related claims with little investigation.

Source: https://www.huntoninsurancerecoveryblog.com/
The New Bond: Corona Bond

At the time of writing, Europe is the epicentre of the Coronavirus outbreak, and thus European countries are facing increasing pressure to issue a new form of debt to alleviate the economic problems the pandemic has created. Heads of State, Central Bankers and economists are asking the Eurozone to issue Corona Bonds, in what would be an unprecedented move – this would be a new instrument that would combine securities from multiple countries.

The prospect of issuing joint debt was first raised at the peak of the sovereign debt crisis in 2011, however some nations believed this to be a risky approach as it would involve joining their debt with higher risk countries. Due to the coronavirus pandemic causing widespread economic shock, this debate has resurfaced and appears to be equally as controversial as before. Germany, the Netherlands and Austria are among the countries opposing Corona Bonds, as they are wary of the idea of issuing debt alongside already heavily indebted nations including Italy, Greece and Portugal.

Some believe that the issuing of corona bonds is an inevitability, with those protesting against them purely doing so to convince their respective nations that they put up a fight against them.

One proposal to make this amicable for all is for the European Stability Mechanism, the single-currency area’s rescue fund, to issue the bonds. The proceeds would be distributed to member states according to a previously agreed weighting, and all the countries would be jointly and individually liable.

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6 Source: https://www.bloomberg.com/opinion/articles/2020-03-30/coronavirus-coronabonds-are-inevitable-everybody-knows-it
Positives – We’ve been here before...

During times of global crisis, the insurance market is renowned for providing innovative solutions which has proven to be fundamental in restoring both financial and political stability.

After the 2008 Global Financial Crisis, the rise of event-specific Initial Public Offering D&O insurance provided directors with the confidence to float on financial markets. This paved way to global exchanges attracting a record number of listings, contributing to a global economic boom.

The last truly market-turning event was the impact of the 9/11 attacks, where insurers understood the necessity to both manage and track aggregates. This has helped terrorism insurance become one of the most profitable markets in the industry and the market has further innovated to create new product lines such as Malicious Attack.

The London market has a long, loyal and creative history in the Healthcare class. During the late 1970's and early 1980's the US medical malpractice market contracted hugely, leaving many physicians and surgeons without the affordable or available cover to enable them to practice medicine. In many cases, their privileges were restricted to the point that in certain US States, the actual delivery of babies was impossible at certain institutions without insurance cover. The London market worked with the physicians and surgeons, who set up their own mutual insurance companies, known initially as 'Bed Pan Mutuals' and which became the Physician Insurance Association of America (PIAA) by offering them flexible reinsurance cover, on a retrospective rating basis. Some of these relationships endure to this day and many of those companies still trade, some of them now as huge providers of many lines of healthcare related insurance. Without the Lloyd's and London market, these companies would not have been able to provide cover to doctors on the ground.
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