i-notes
Newsletter from India's Leading Insurance Broking House
May-June 09

Summary

- Changing landscape of directors' liability
- Claims Case Study: *Theft and Intruder Alarm Condition*
- Interviews – *Insurer & Corporate*
- Readers Speak

india insure
The risk managers

Message from the Editor

Dear Readers,

The economic slowdown has had its effect on the Indian insurance industry. This clubbed with the falling premium rates across all lines defied the predictions made by the industry pundits (that the year would witness a growth rate of at least 18%), and the general insurance industry clocked a rate of 9.8% (including the health, credit and agricultural insurers). Meanwhile the Life insurance industry ended with a drop of 6%, it being the first drop ever since the industry was opened up. An interesting observation is that in the general insurance industry, while the Public sector companies doubled their growth rate, there was a deceleration with the Private insurers and their growth rate halved as against the figures of 2007-08.

The step taken by IRDA on the renewability of health insurance has been heartening and we look to have many more such steps being taken by the Regulator.

Driven by fear of their reputation getting tarnished, at least 500 independent directors in India have quit the boards of different companies since Jan 01st this year and this has lead us to write an article on the 'Changing landscape of directors' liability'.

Our thanks to Mr. I S Phukela, General Manager, New India and Mr. R Madhusudhan, General Manager- Insurance, Lanco Infratech Ltd for having shared their valuable insights with our readers. We have had an overwhelming response to the 'Readers speak' column which was commenced early this year.

A special thanks to all our readers!

V Ramakrishna

Editor – *i-notes* & Chairman – India Insure

Changing landscape of directors' liability

- *Times of India, February 6, 2009: 150 firms now under Government scanner*

  Government will inspect the books of as many as 150 companies to check if their accounts are in order. Some big names will come under the scanner. The ministry wants to send out a signal, as much to Indian companies as to global investors, that there will be zero tolerance for any financial fiddles.
- *Times of India, February 6, 2009: Bhave hints at tighter norms, India Inc wary*

  Addressing a select gathering at the inauguration of CII's corporate governance summit, SEBI Chairman seemed determined to bring "tighter regulations" soon despite pleas from India Inc. not to over react and bring about drastic changes.
- *Business Standard, February 16, 2009: Cos not filing disclosures to face fine of up to Rs. 1 crore: SEBI*

  Companies delaying or not filing full disclosures with stock exchanges and with Sebi, as mandated will face a penalty of up to Rs 1 crore, a Sebi representative said. "The names of offending companies will be put up on our website which people and investors can read. That is the only way to punish them," he added.
- *Economic Times, 19 Apr 2009, SEBI may make D&O liability insurance must for listed companies*

  Capital markets regulator SEBI may make it mandatory for all listed companies to buy directors' & officers' (D&O) liability insurance to shield them from the risk of huge liabilities in the event of frauds stemming from poor corporate governance practices. Less than 10% of companies listed on the BSE now have any kind of D&O policies.
- *Business Standard, April 26, 2009: Why independent directors are quitting in droves?*

  More than 500 independent directors have quit the boards of different companies since January 1 this year, driven by fear that their reputations may get tarnished if they get embroiled in a controversy. As a result, companies may find it difficult to retain or attract reputed independent directors, who have become highly circumspect.

The past few months have seen a heightened level of interest and concern in the area of corporate governance. At a time when the Government is contemplating increasing regulations for companies, the noose is tightening around the job of a director. The plush leather chairs in corporate boardrooms are feeling a little less cozy these days.

Being a director has become far more demanding

Serving on a corporate board of directors was once seen as a sinecure, the reward for a lifetime of achievement. But, not any longer. The continuing saga of corporate failures and accountability breakdowns has heightened corporate scrutiny and serving as a director requires a vastly greater investment of time, effort and energy than ever before. The duties and responsibilities of a director have expanded and increasingly punitive corporate governance standards focusing on individual accountability have increased the risk of personal liability. No longer are governments, regulators, markets or investors prepared to accept that the role of the board should be anything other than proactive and transparent.

Despite the intensity of continuing public discussion of corporate governance issues, remarkably little attention has been paid to the liability position of individual directors. One of the issues that is making the job of being a director more daunting is the endless personal liability and loss of reputation. A person who has worked hard to establish a fortune and reputation will not want to see this disappear overnight as a result of making a bad decision in his capacity as a director – as has happened to several high-profile and extremely successful executives in recent years. With significant headwinds continuing from the financial crisis, well-qualified directors are suddenly growing shy of the job, because they just can't see the point of putting all their assets and reputation at risk.

(Contd... 02)

Basis of Liability

Under the various incorporating acts, directors are required to manage or at least supervise the management of the company. The law imposes duties upon the directors of companies which they are personally liable for, including:

- To act honestly, in good faith and in the best interests of the company
- To exercise a reasonable degree of care and due diligence in the conduct of their duties and use of the power of their position
- Not make improper use of information or their position to gain advantage for themselves or to disadvantage shareholders or the company

The thing to remember in all of this is that directors are looking after the company for others – principally this means the shareholders but it also includes the creditors and the employees. *So, every decision that the director takes has an impact on someone.* And this brings in a lot of responsibilities, obligations and some serious risks also. The bottom line is that - there are real personal risks involved in holding a directorship and the reality is that sometimes even well-governed companies make bad decisions. Things do go wrong.

The mechanisms by which a company may indemnify an officer or director, whether for judgment, settlement or defense amounts, have therefore become more important in enabling companies to attract qualified and capable decision makers. One mechanism includes indemnification as allowed by the incorporating statutes. There are however potential problems relying upon this as "absolute" protection for the individual director. Certain claims against individual directors may not be indemnified by law, thus not triggering the indemnification agreement. Also, if the corporation goes insolvent and judgments were awarded against the directors of the corporation, most likely the funds would not be there to pay the claimants. Payment would again, need to be made from the individual director's personal assets or from their spouse or estate. So, there may be situations in which a corporation can't (or, for some reason, wont) honour its indemnification commitment.

This is where the Directors and Officers (D&O) insurance policy comes into picture. A D&O insurance policy protects the Directors and Officers against:

- Legal costs in defending allegations or suits brought against them alleging wrongful act.
- Any awards granted to the claimants against the Directors & Officers, including out of court settlements.

The acute risks of D&O insurance remain tied to capital markets as it insures the civil, criminal and regulatory liabilities of the board of directors.

Increase in director's risks

There are many reasons why the number and severity of liability claims involving directors are on the increase. Some include

Difficult economic environment for companies: The bubble of soaring economic growth had to burst and when it did, share prices dropped dramatically. Billions of market capitalization disappeared, seemingly overnight. The enormous losses suffered by investors led to a huge public and shareholder outrage which resulted in a morass of securities litigation. A poor economic environment does often lead to increased litigation. When there are more companies in distress, it is not uncommon to see parties pointing the finger at each other.

Increased sophistication of regulatory systems and governance standards: Directors are faced with a plethora of new laws and provisions including cross-border collaboration among insurance, tax and securities regulators. Sarbanes-Oxley, J-SOX and similar corporate governance laws and regulations in countries around the world also have sharpened the focus on the efficacy of local and global D&O's.

Increasing litigation: Public awareness of directors' behaviour is constantly increasing and as a result, the number of shareholder lawsuits is rising worldwide. Rising claims frequency has led to increased visibility of D&O risk and exposures, particularly since many countries are now adopting, to some degree, the litigious attitudes so prevalent in the US, making protections for local country directors a business imperative.

The Storm now brewing in India

And if you are thinking that stringent corporate regulation and litigation are just a western issue – then you are wrong! The financial crisis has demonstrated how interconnected the business world is. Corporate governance has become increasingly important for Indian companies in India and also those listed on overseas stock exchanges with a large number of foreign investors. To date, relatively few cases involving the directors' of a Company have reached the Courts in India. However, the recent increase in number of actions brought against directors in Indian Courts suggests that this is about to change.

For years, directors were not overly concerned about personal liability. Litigation was rare and they took comfort in the corporate indemnification provided by the organizations they served. This is no longer true today. In today's environment of large bankruptcies, increased litigation and criminal prosecutions, the personal exposure of directors has never been greater and in many of these cases, the availability of indemnification is far from certain.

Some real cases in India*

Case I: A shareholder class action suit is filed in a district court in the U.S. on behalf of American depository receipt holders of an Indian Company against its D&O's for allegedly issuing false and misleading statements regarding the Company's expected sales and profits thereby violating US Federal Securities laws. The financial statements were released by the company as per Indian accounting standards but the shareholders misunderstood it to be as per US GAAP which caused them to purchase shares in the Company. When the shareholders realized the same, they filed a suit against the company.

The level of financial transparency and accounting norms demanded by foreign investors are much higher than what Indian management is used to.

Case II: In Dec 2001, a MNC Corporation hired two senior Bankers to head a new subsidiary to be formed in the BPO sector in India. Formation of new subsidiary was delayed and slowly the relationship between the two employees and the senior management of MNC turned sour. After exchange of a lot of acrimonious mails, in Feb 2003, the MNC dismissed the two officials citing incompetence and absenteeism and issued press statements to that effect. Both the dismissed employees lodged criminal cases against all the directors of MNC (alleging cheating, fraudulent misrepresentations about the job profile, remuneration, failing to fulfill

**Source : TATA AIG*

(Contd... 08)

inotes
Newsletter from India's Leading
Insurance Broking House
May-June 09

Interviews – *Insurer & Corporate*

(Views expressed are personal and not of the company)

It is almost 10 years since liberalization. But in the background of current business environment, insurers both life & non-life alike are finding it difficult to break through and achieve a profitable bottom line. The years immediately after liberalization had witnessed private insurers make stunning performances in terms of premium growth. But the initial euphoria seems to be dying slowly. The market gradually seems to be realizing that the marketing battles & bloodbath may not be sustainable any more. Though the ongoing price war may continue for some more time, insurers are getting selective especially in areas like health insurance.

In this issue, we speak to Mr. I S Phukela, General Manager of New India Assurance, where he gives us an insight into how his company has fared in the last financial year, his plans and strategies for the new FY and his views on whether the market is ready for hardening.

We also speak to Mr.R. Madhusudhan, General Manager-Insurance of Lanco Infratech on his views of the current insurance market

1) How has The New India Assurance Co. Ltd. fared in the last financial year in terms of premium and growth rate?

In the year 2008-09 we have seen fierce competition in General Insurance Market in India. The overall market has shown a growth of 9% (approx) for the year. NIA has shown a modest growth of 5.0% (approx) in premium. Though the Property Insurance and Health Portfolio have achieved growth of 6% and 12% respectively, there was setback in Motor portfolio.

2) As we enter the new Financial year, we are seeing an economy in free fall, a soft insurance market and the shock waves of the credit crisis. How is NIA gearing to ride through the current challenging times?

The process of removing tariffs has taken place in 2 phases. In the first phase introduced on 1/1/07 there were certain Regulatory restrictions on free pricing which was done away w.e.f. 1/1/08. As is evident there was free fall of price, which touched abysmal low levels. To add to insurers woes there was global economy meltdown leading to credit crisis and postponement of projects particularly on Infrastructure side. Notwithstanding this set back, NIA was able to retain their existing accounts and have also bagged several new accounts.

The financial and technical strengths of NIA shall be leveraged to ride through current challenges.

3) The past 2 years has been a bonanza for insurance buyers as premium rates have continued to slide due to detariffication and additional capacity in the market. But the free fall of stock markets has hit insurers' investment income badly and they now solely have to rely on their underwriting income. Do you think the time has now come for a turn around in the premium rates?

The Indian Insurers have added capacity in respect of Property Insurance. The world over capacities are shrinking because of the economic crises through which we are passing. The reinsurers have hiked their prices to cope with losses of investment income. The domestic insurers have to fall in place and adopt strategies similar to that of reinsurers. This will lead to correction in premium price for various classes of insurance, more specifically for Property and Health.

4) What should the insurance buyer expect to see in the coming months from your company in terms of add-on covers? Which are the areas/segments you are focusing on for growth?

As on date NIA has been offering its clients Insurance Policies with widest possible coverage in line with International Practices. We have also filed with the Regulator Add-on-Covers under various classes of business we underwrite. The buyer of insurance will have no complaint on this count as regards their insurance needs from NIA.

Our focus area for growth for the current year shall be retail business, SME's, Health and Infrastructure projects. We have already drawn our budgets and strategies in the desired direction.

5) IRDA has recently issued a circular that incorporates some changes in terms while renewing health Insurance. Your views on this?

The circular by IRDA formalizes the fair trade practice of not refusing a renewal on arbitrary grounds. Moreover, the Supreme Court has also delivered a judgment on similar lines. Given the fact that the refusal to renew, especially after a claim has been lodged, will effectively deprive the client from any other source of insurance cover, we are of the view that the circular is welcome.

(Contd... 04)

News TitBits

IRDA's circular on renewability of health insurance

Source: IRDA

In compliance with recent court judgments and recommendations of various committees, the insurance regulator has brought about some changes in terms while renewing health insurance. **The new regulations make it mandatory for an insurance company to renew a health insurance policy except on grounds of fraud, misrepresentation or when there is a moral hazard. The circular specifies that no renewal shall be denied on the basis that the insured had made a claim under the policy.** A prospectus of a health insurance policy should contain detailed information related to coverage, likely premium for future renewals, the maximum age up to which the policy can be renewed, any changes in the scope of cover after a certain period like coverage of pre-existing diseases.

The terms of the renewal should also state the premium currently being charged at different slabs and details of specific circumstances where the premium could be loaded. **More significantly, insurers now have to condone delays up to 15 days from the renewal date so that the insured is treated as continuously covered in terms of waiting period and pre-existing diseases.** In the case of group health insurance policy, the prospectus should contain details as to how individual members under the policy can continue the coverage in case the group policy is not renewed or if any insured member leaves the company on account of resignation, retirement or termination from employment. This circular shall be applicable to all health policies renewed or issued after 1st June, 2009.

India's Uco Bank to finalise general insurance JV structure

Source: Zee News

The state-run Uco Bank plans to foray into general insurance and the details are to be worked out by September, including the selection of partners, a top official has said. "We hope to finalise the JV structure by September," Uco Bank Chairman and Managing Director S K Goel said here. "A final picture about the company will emerge in 2-3 months. We are currently in talks with potential players to set up the joint venture," Goel said. Besides the government lender, the JV would have three more partners - a state-owned bank, a foreign bank and a private general insurance company, he said.

Interviews – Insurer & Corporate ..... Contd. # 3

6) What according to you is driving high health claim costs in-group business and what can employers do to help bring the situation under control?

In the earlier years, where property insurance prices were regulated, Group Health insurance business cross-subsidized property business. The scope of health cover was considerably widened with such benefits as cover to the parents, in-laws, Maternity benefit, cover for pre-existing disease, etc. Though with the de-regulation of the Property Insurance prices, Health cover is being rated on stand-alone basis, the scope of cover continues to be wide. Moreover, Corporates have been resisting the attempts to regulate the outgo in terms of placing caps on room rent, specified procedures, etc. However, with the continuance of fall in property insurance pricing, the market will have corrections in future. The corporates are now understanding the need for containment of health care costs and gradually realizing the need for controls necessary to bring down group health claim ratio.

7) We observe from the latest IRDA published Handbook on Indian Insurance Statistics – 2007-08 that New India has been successful in reducing the claim ratio on the health portfolio from 112.00% in the year 2006-07 to 89.88% in the year 2007-08. What are the measures and controls adopted by New India, which have resulted in this kind of reduction?

The reasons for reduction of the Incurred Claim ratio are rationalization of Age Bands and Zone wise pricing after analyzing the claims data from the various parts of the country.

Mr. R. Madhusudhan, GM – Insurance, Lanco Infratech Ltd

1. It's been almost 10 years since liberalization. Do you think insurance today is still being sold as a commodity or are insurers and brokers being able to differentiate themselves on parameters other than price?

Unfortunately, even after 10 years of liberalization, Insurance is still being treated as an expenditure by most companies and not as a Risk Mitigation Tool. I personally feel that, the insurers & brokers are still not able to bring out insurance from its commodity status. Whether it is the Client, Broker or the Insurer - everyone is focusing only on price. Insurers are not able to assess the risk scientifically and there is no proper underwriting philosophy to accept the risk. Hope in the coming years, the industry would mature and consider other parameters apart from only price.

2. What kind of risk is your biggest exposure? How are risks managed at LANCO so that the potential losses are minimized?

Our major focus is on Power Generation and Construction. The biggest risk we anticipate in Power Plants is MBD & MLOP and there is a possibility of testing period claims associated with MBD & ALOP. We are taking all possible risk minimization steps to avoid such accidents. We are giving utmost priority to housekeeping, fire & safety measures. To minimize the loss during any mishap, we are maintaining all critical parts and people with high expertise to handle such situations.

3. What effect do you think will the current high-profile bankruptcies and accounting scandals have on a firm's directors and officers?

Firm's directors and officers will hereafter be more vigilant and feel highly responsible and accountable for their actions to avoid accounting lapses.

4. What do you think would be the impact on the board to account for their performance due to the likely emergence of class-action lawsuits?

All these days, Class-action lawsuit was a threat only for the companies operating/ having activity in US and European countries. But now it is gearing-up in India too. Class-action lawsuits are likely to have a big impact as it exposes corporates to expensive litigation. I feel D & O Insurance with Entity Securities extension is the ideal solution.

5. What according to you are the emerging risks likely to impact the companies in India?

The need for insurance is being felt by Companies as well as individuals and awareness has increased due to the recent scams. The emerging risks likely to impact the companies in India are Liability (DOL, CGL) risks.

6. What would you like to see improve in the insurance industry in order to help your business?

As already mentioned, even after 10 years of liberalization, there is not much innovation in developing new products to suit the corporate/ individual needs. There is a lot of scope for designing specific products to cater the requirements of Corporate Clients like us, based on the claims/statistics available for the past 40 to 50 years.

Claims Case Study: *Theft and Intruder Alarm Condition*

Background Facts: Magna Ltd is a wholesaler of audio-visual presentation equipment and home cinema systems. They were based in a building including a warehouse in Ahmedabad. In December 2007, their insurance brokers obtained a quotation for a burglary policy from Sigma Insurance Company. The policy included cover in respect of damage caused by

a) Theft or attempted theft involving entry into or exit from the claimant's premises by forcible and violent means; and

b) Theft involving violence or threat of violence to the claimant's directors or employees.

Amongst various additional conditions it also contained an intruder alarm clause. This provided that,

while the premises are unattended you must ensure that

- The premises are protected by an Intruder Alarm System.
- The protected premises must not be left without at least one responsible person in attendance… unless the Intruder Alarm System is set in its entirety with all means of communication in full operation.
- In the event of notification of any activation of the Intruder Alarm System, a keyholder shall attend the premises as soon as reasonably possible.

At around 8.30 pm on 16 April 2008, the premises cleaner called Mr. Chopra, the managing director, to tell him that the alarm pad was beeping since there was a fault with the telephone line used for the alarm system. Mr. Chopra returned to the warehouse and telephoned BT, the telephone operators but they were unable to tell him when they could get an engineer there. Mr. Chopra parked a fork lift truck in front of the doors and ensured that all the locks were secure but at around 10.30 pm, feeling unsafe alone in the remote warehouse, he returned home.

Later that night a burglary took place. A number of plasma screens were stolen and the company claimed around Rs.2 lakhs from its insurer.

The Issues & Outcome: Sigma Insurance Company declined liability on the ground that, at the time of the burglary, the alarm was not working and there was no-one in attendance at the warehouse.

The insured raised a number of arguments in response:

1) The intruder alarm condition in the policy did not apply to the second type of theft covered, i.e. theft involving violence or threat of violence. The claimant therefore sought to argue that there was such a threat of violence in this case. The burglars had already disabled the alarm system by the time Mr. Chopra attended the warehouse. Violence was used in the burglary, in the sense of damage to property. It therefore followed, it was said, that there had been a threat of violence to the claimant's MD because he was at risk of attack when alone at the warehouse. However, at the trial before the Court, the judge was not persuaded. Rather, he agreed with the insurers' contention that, it had to refer to threatening words or conduct directed against the individual. As that had not happened to Mr. Chopra, he could not rely on this as a way out of the intruder alarm condition.

2) The second argument was that the insurer has been unreasonable in putting a condition in the policy that a keyholder remain at the premises. And if Mr. Chopra had remained in the premises, that would have put him in personal danger. The court rejected this argument saying that all the terms & conditions were already agreed to at the time of placement. Although the judge was satisfied that the claimant's MD had acted entirely reasonably, given the situation in which he found himself, it did not follow that insurers had acted unreasonably in declining to extend the cover. It had been open to the claimant to put in place alternative arrangements to ensure that the premises were attended if the alarm was not working.

3) The intruder alarm condition had not been referred to at the time of quotation and had not been specifically highlighted in the policy. The judge similarly rejected this argument since an insured seeking cover from a particular insurer impliedly offers to take out insurance on their standard terms of cover. Moreover, the clause was not so onerous so as to be printed in red ink.

   Even though, the Judge had much sympathy for the claimant, he concluded that the insurer was right in rejecting cover under the policy.

Our Learnings:

Where an insurance policy contained a condition that the insured premises be protected by an intruder alarm system or attended by at least one person, failure to comply with that condition could not be overridden by the implication of a term that the insured would not be required to remain at the premises if that would put him in personal danger. Mr. Chopra had not read the insurance policy and was hence unaware of the terms of the intruder alarm condition. Indeed, the case provides a lesson to insureds of the need to read and understand the policy terms and hints that, in this case, the brokers concerned should perhaps have brought this particular term and its effects expressly to the insured's attention.

Readers Speak

Will the increased focus on company directors and thrust on corporate governance boost the demand for D&O liability insurance?

For years, directors and officers were not overly concerned about personal liability arising from their service as directors of Indian firms. Litigation was rare, and they took comfort in the indemnification provided by the organizations they served. This is no longer true today.

In this era of heightened corporate scrutiny, greater transparency, increased litigation and criminal prosecutions - the personal exposure to directors and officers has never been greater. That is where the need for D&O liability insurance comes into picture. Many companies are now realizing the importance of effective risk management and insurance protection and its role in a corporate governance program to help attract experienced directors. We would like to know what you think.

Will the increased focus on company directors and thrust on corporate governance boost the demand for D&O liability insurance? Should D&O insurance be made mandatory by SEBI for all the listed companies? Will companies not having a D&O insurance policy find it difficult to attract & retain independent directors? Will D&O insurance provide comfort to competent individuals who are otherwise hesitant to serve on boards?

Your opinion is solicited.

We invite our readers to share their thoughts, ideas and opinions on this topic (not more than 300 words). The responses should be sent to knowledge@indiainsure.com and will be published in the July issue of inotes.

How long will the soft market continue? Mar – Apr issue

The last issue of inotes asked readers whether they were expecting a hardening of insurance market in 2009.

Below are some of the responses we received.

Mr. Ramabhadhran - D.G.M, United India Insurance, Bangalore

I think the soft markets are likely to continue for another 2 years. The current market scenario is a result of the initial aggression displayed by the then new entrants in the post-liberalized insurance market, due to which the PSU players were forced to drop the rates to stay afloat in the competition. After complete detariffication of markets, the private players have taken a back seat as they have realized that survival in the market at such low rates is very difficult. However, PSUs still continue to be aggressive to grab the maximum market share. According to the past experience in various countries, this trend is expected to continue for 2 more years and then settle down over a period of time.

Ms. T.L. Alamelu, A.G.M, United India Insurance – Mumbai RO

We are in the midst of a recession apart from severe economic crisis

(Contd... 07)

Report Card - Financial Year 2008-09

Gross premium underwritten by non life industry for the FY 08-09 (Rs. In crores)

INSURER	APRIL-MARCH 2008-09	APRIL-MARCH 2007-08	GROWTH OVER THE SAME PERIOD OF PREVIOUS YEAR	Market share MAR 09	Market share MAR 08
New India	5516.62	5277.6	4.53%	18.03%	18.81%
National	4276.81	4007.23	6.73%	13.98%	14.29%
United India	4275.44	3739.56	14.33%	13.97%	13.33%
Oriental	3960.57	3808.14	4.00%	12.94%	13.58%
ICICI-Lombard	3419.84	3344.69	2.25%	11.18%	11.92%
Bajaj Allianz	2640.49	2404.34	9.82%	8.63%	8.57%
Reliance	1914.87	1946.42	-1.62%	6.26%	6.94%
IFFCO-Tokio	1515.52	1235.83	22.63%	4.95%	4.41%
Tata-AIG	882.93	816.62	8.12%	2.89%	2.91%
Royal Sundaram	806.22	696.63	15.73%	2.63%	2.48%
Cholamandalam	685.44	524.26	30.74%	2.24%	1.87%
HDFC ERGO	339.48	239.69	41.63%	1.11%	0.85%
Future Generali	194.85	10.64	1730.84%	0.64%	0.04%
Shriram General	113.59	0		0.37%	0.00%
Universal Sompo	30.03	0		0.10%	0.00%
Bharti AXA	28.5	0		0.09%	0.00%
PRIVATE TOTAL	12571.8	11219.1	12.06%	41.08%	39.99%
PUBLIC TOTAL	18029.4	16832.5	7.11%	58.92%	60.01%
GRAND TOTAL	**30601.2**	**28051.6**	**9.09%**		
SPECIALISED INSTITUTIONS:					
1.Credit Insurance					
ECGC	744.67	669.39	11.25%		
2.Health Insurance					
Star Health	511.93	168.19	204.38%		
Apollo DKV	48.95	2.98	1542.11%		
Health Total	**560.88**	**171.17**	**227.67%**		
3.Agriculture Insurance					
AIC	805.74	828.66	-2.77%		

OBSERVATIONS

Non-Life Industry logs 9% growth in 08-09

- The year has ended with the industry logging a growth rate of 9.09 percent (compared to 12.6 per cent last fiscal) and collecting gross written premiums of Rs.30601 crores. The industry has added Rs.2550 crore in accretion to cross Rs.30000 crore mark. Except for Reliance, all other players have recorded a positive growth.
- The industry (incl stand alone health insurers) have collected a premium of Rs.31162 crores with a growth rate of 10.41% compared to Rs.28223 crores during the same period last year. The stand alone health insurers have earned a premium of Rs 561 crore against Rs 171 crore in the previous financial year.

	FY 08-09 Premium (Rs. crs)	FY 07-08 Premium (Rs. crs)	Accretion (crs)	Growth
PSU	18029	16833	1197	7.11%
Private	12572	11219	1353	12.06%
Standalone health	561	171	390	228%
Total	**31162**	**28223**	**2939**	**10.41%**

News TitBits

Life sector sees new business declining for the first time since 2000

Source: Economic Times

For the first time since the sector was opened up, the life insurance industry has suffered a drop in premium from new business. According to the latest data released by the Insurance Regulatory and Development Authority (Irda), premium from the sale of new life covers fell by 6.32 per cent to Rs 87,107.62 crore during 2008-09, as against Rs 92,988.71 crore in the previous financial year. SBI Life, which grew 12.35 per cent during 2008-09, has now emerged as the third-largest player, overtaking Bajaj Allianz. With stock markets crashing, the demand for unit-linked insurance plans was hit, resulting in a fall in the sale of new policies.

Liberty Mutual, Religare may tie up for non-life JV

Source: Economic Times

US insurer Liberty Mutual is understood to have approached Religare Enterprises for a possible joint venture in non-life space after its proposed joint venture with Dabur fell through.

- The PSU's improved their growth rate to 7.11% in this fiscal year compared to 3.94% during the same period last year. On the other hand, the growth rate of the private players declined to 12% in this fiscal compared to 29% during the same period last year.
- United India has dominated the growth scene this fiscal year by adding 536 crs and is the only public sector insurer to have clocked a double digit growth of 14.33 per cent. Market leader New India witnessed a growth of 4.5 per cent to Rs 5,517 crore. It was followed by Kolkata-based National Insurance with premium collection of Rs 4,277 crore & growth rate of 6.73 per cent.
- The competition between National & United has intensified and National has retained the second spot just by a difference of 1.4 crs.
- The private players who were initially on a high growth trajectory seem to have lost steam at the end of the fiscal year. The private players who had shown 24% growth in Apr 2008 – at the beginning of FY 09 are now down to 4% at the end of Mar 09. The private players are also slowly realizing that their price battles to grab market share may not be sustainable anymore.
- Among the private players, ITGI has dominated the growth scene this FY by adding 280 crores followed by Bajaj with 236 crs. Among the new players Future Generali's growth has been impressive with an accretion of 184 crs & Shriram General with an accretion of 114 crs. ICICI Lombard's accretion dwindled to 75 crs this FY compared to 341 crs during the same period last year. Reliance which clocked a 125-per cent growth in business (with an accretion of 1000 crs) last year has de-grown in FY 09.
- The share of the four public sector insurers dipped a tad to 59 per cent in 2008-09 from 60 per cent in 2007-08.
- Export Credit Guarantee Corporation of India grew by 11 per cent in 2008-09, while Agricultural Insurance Company reported a negative growth of 2.7 per cent during the same period.

Readers Speak ..... Contd. # 5

fuelled by credit crunch and financial meltdown. This would mean that the insuring sector would like to cut costs and prune their insurance portfolio. On the other hand the Insurers have to do business and we still have more new players coming into the market. This would ensure that soft market will continue for some more time. The good thing about Indian market is insurance penetration is still very low and Insurers will now be forced to expand horizontally to grow the business. The hardening will be triggered if all insurers find themselves in red which is unlikely!

Mr. Sumit Sengupta, Zonal Manager- North, Future Generali India Insurance Co. ltd

The current soft market trend might continue for some more time. As on date, Insurers are not responding very wisely and are buckling under the pressure created by them only. All stake holders – the Insurers, brokers and the client are generally of the opinion that current pricing levels are not sustainable and the correction should happen ASAP. It can be predicted that during the year 2009, correction to the extent of 15% should take place. Many of the insurers are not very keen to launch the new products in the market due to apprehension of not being able to charge requisite premium due to fierce market competition. However, it is high time that better sense should prevail and conscious effort is made by one and all to ensure some sanity and offer value additions towards betterment of risk instead of mindless discounts.

With the falling premium, capacity has already become an issue. RI terms are hardening up and most of the reputed re-insurers have started avoiding Indian market and are no longer providing decent capacity.

Mr. Kishore Krishna Panda, Chief- Corporate Cell & Mr. Vijay Sharma, Relationship Manager, United India Insurance, Delhi

It is a universal fact that whenever controls are loosened, the prices of controlled commodity tend to break all barriers and act against the demand & supply rules. Indian Insurance Market was first opened up to the private sector and then the tariffs, to the extent of pricing only, were also withdrawn. This created a virtual mayhem in insurance sector. All players in the field, without any proper risk profiling, started reducing the rates just to grab the business. This has resulted in absurd rating over past two years since the pricing controls were withdrawn .This has resulted in sharp drop in the margins & increase in re-insurance rates, thus affecting the balance sheets of various players. Whatever profit was earned by erstwhile tariffed products, subsidizing the losses in other portfolios also vanished.

But in the competitive scenario, insurers face a dilemma, if they quote higher they do not get the business and if they quote at existing trends, they do not get enough money to continue. Under these circumstances, there is every possibility that once again all the insurers might have to sit down together and decide on some minimum rates to bring some sanity to the market. Such an understanding between the insurers will be an unwritten tariff and will be good both for the insured as well as the underwriters as it will bring back the market capacity which is eroding very fast. I am of the opinion that the current soft market is likely to harden but not before it takes toll by way of merger & acquisition of some current operators in the market.

Ms. Reena Bhatnagar, D.G.M, Oriental Insurance, Mumbai RO

For Property Insurance, currently the market continues to remain soft. Group Mediclaim Insurance, however, is showing an upward swing. These policies were not rightly priced earlier as they were subsidized by the profitable property premium. Detariffing in property insurance left no cross subsidy for GMC, resulting in hardening of mediclaim pricing. Clients have started either paying rational premium or are accepting claims control measures.

In the prevailing soft property insurance market, cut-throat competition is taking its toll. This competition has not only lead to extremely low pricing but also better and broader coverage at low prices. Every Insurer has top line targets and they look to retain their client base, as well as procure new clients, to achieve this target. If they lose their existing clients now when the market is soft, it may not be easy to gain them back when the market tightens up.

Property insurance market will probably continue to remain soft for some time more - at least this year - though we anticipate that it will start hardening up slowly by the end of the year. This process may hasten up - depending on the claims experience of the insurers. In the ideal market, the insurers will look at making each product stand on its own.

Mr. Kalyan Gupta, National Head- Broking relationship, TATA AIG

General Insurance pricing in India, as in most countries, is not determined by pure market dynamics. In today's scenario, the three factors that would perhaps be influencing market hardening include entry of new players and their need to build market share quickly, reinsurance treaty protection costs and the capability of existing players to absorb severity & incidence of AOG perils.

There should be no irrationality in Insurance pricing but more affordability. If an existing company continues to find its book burning, it necessarily needs to reverse or adjust its actions. Ultimately a risk is perceived from many aspects & bad risk would lead to a peril operating irrespective of an existing carrier or a new Insurer. In a free market however imperfect the competition is, market forces would eventually determine the equilibrium & hence the softness.

Mr. J.R. Bhandage, Bangalore

The General Insurance Industry has enjoyed the Comfort of Protected "Tariff Regime" for over two and a half decades. It was felt that the time is ripe to remove the industry from the shackles of Tariff so as to inject "Market Dynamism" and induce a better competitiveness. After detariffication, it was genuinely expected that Market shall stabilize in a reasonable time.

All said and done, for any Commercial Organisation, whilst the "Top Line" does matter, the "Bottom Line" is the one which ultimately every one is concerned about for survival of an organisation. Ironically, in order to show "Top Line" and also to retain their existing clients, the Insurers, mainly PSUs tend to offer renewals at a much lower price than the risk demands. Such pricing is generally found to be "Un-economical", particularly in health sector. Though the brokers seek competitive quote for their clients in the guise of 'Market Demand', the very essence of "Bottom Line" takes a back seat. The stiff competition to increase their client base, all the brokers are eager on zeroing down the issue more on pricing than on risk perception and others.

The initial set back was more. Now all the Professional Managed Insurers and Brokers are equally concerned about the grave situation and resorting to more meaningful, proper underwriting and pricing discipline. Hopefully, good sense will prevail upon all and situation will stabilize in another 6 months time, keeping in view the larger interest of "Customer Need and Customer Satisfaction" as TOP MOST PRIORITY.

(Views expressed are personal and not of the company)

Changing landscape of directors' liability..... Contd. # 2

terms of employment contract, defamation by press releases of dismissal)in Metropolitan Magistrate's court immediately. The Magistrate passed an order directing the issuance of process in the criminal case. The dismissed employees also filed a civil suit for damages of Rs.100 crores.

Case III: ABC Pvt Ltd is the promoter of a group of Companies. YY India Private Limited is one of the subsidiary companies and is engaged in a niche area of software development. In Oct 2002, the Promoter along with the fund managers entered into a subscription cum shareholders agreement with YY Private Limited which stipulated that any work/opportunity offered to ABC in YY's specialty area shall only be pursued or taken up through YY Private Limited. Down the years, the Promoter and the Fund entered into other ventures which encroached on YY's area of specialization. Aggrieved by this, the shareholders of YY Pvt Ltd filed a suit alleging that the signatories to the agreement have violated it by promoting and developing other entities in YY's area of specialization and in doing so they have caused monetary loss to YY as well as to its shareholders. The damages claimed were to the extent of Rs. 3000 crores.

Class Action in the Companies Bill 2008- India

The Companies Bill 2008, a potentially significant piece of legislation for Indian companies seeks to increase the levels of transparency and corporate governance to ensure greater accountability to stakeholders. Key proposals within the Companies Bill 2008 focus on providing clarity as to the specific duties of directors and introducing procedures to allow shareholders to bring CLASS ACTION SUITS. According to Clause 32 of the Bill, a suit may be filed or any other action may be taken by any person, group of persons or any association of persons affected by any misleading statement or the inclusion or omission of any matter in the prospectus. Although this legislation protects shareholders and is expected to improve corporate governance, it also bears the risk of increasing the number of litigations.

Case IV: AAA Solutions, a multi-national specialized software services provider sold one of their software to various banks in Germany through their French Subsidiary. AAA used to depute their employees from India to Germany to install the software and provide requisite training in operation of the software during the period 2003-2006. The employees went to Germany from India, on business visas. The German Govt on coming to know of this took a hard stance that this was being done intentionally by AAA Solutions to defraud the Government of its rightful dues. According to them, AAA's employees coming from India should take work permits and pay taxes. The German Government requested French Government for extradition of the CFO, Director HR and Director Operations of the French subsidiary of AAA for Violation of Immigration rules and non payment of corresponding taxes by their Company. The officers were arrested in France on charges of violation of Immigration rules and non payment of corresponding taxes.

Conclusion

This is a new era for Directors and Officers, and if the Companies Bill 2008 is passed into law, it will reinvent D&O liability. As the economic crisis deepens and investors suffer one blow after another, boards are becoming the hotspots for public spite. Because the stakes of serving on a board are now much higher, savvy decision makers are more closely scrutinizing their board opportunities, conducting more due diligence and asking more serious and pointed questions of the organizations whose boards they have been invited to join.

With so many corporate scandals littering the global economy, being a company director has arguably never been less appealing. Public scrutiny on boardrooms now promises to get much, much worse. All this makes risk-management an imperative. And D&O insurance, being a component of an effective risk management program will go a long way towards reducing these exposures and also help attract and retain experienced directors.

Looking at the future horizon, it seems that *director's liability will emerge as a serious issue for companies and one that cannot be ignored.*

Disclaimer

Contact us

India Insure Risk Management & Insurance Broking Services P Ltd.

Ahmedabad # 401-402 Aditya Arcade, Near Choice Restaurant, Off C.G Road, Navrangpura, Ahmedabad - 380009
Tel: + 91 79 40018500/40018400, Fax: + 91 79 40018515
Mr. Pawan Kumar Mediratta email : pawan.mediratta@indiainsure.com

Bangalore # 34, Royal Park Apartment, 2nd floor, Office No.12, Park Road, Tasker Town, Shivajinagar, Bangalore - 560051.Ph: 080-41128057-58. Fax: 080-41128685
Contact: Ms. Chetna Wasu
e-mail : chetna.wasu@indiainsure.com

Chennai Sri Valli Griha, Flat GA, Ground Floor, New # 34, (Old # 26), Raman Street, T Nagar, Chennai-600 017. Ph: 044-4202 3797/98 Fax: 044-42023799
Contact: Mr. V.G. Dhanasekaran
e-mail : dhanasekaran.vg@indiainsure.com

Kolkatta 4th Floor, Larica , 7 Redcross Palace, Kolkatta- 700001
Ph: 033-64602097 / 98

Hyderabad # 405, Archana Arcade, St John's Road, Secunderabad - 500025
Ph: 040-27822989/90/91, Fax: 040-27822993
Contact: Mr. Vinod Kalevar
email: vinod.kalevar@indiainsure.com

Mumbai **Branch & Corporate Office :** Gala # 16,1st floor, Mehta Industrial Estate M & T Studio Compound, A.K.Road, Andheri (E), Mumbai - 400 093
Tel : 022-66791416 /17/18, Fax : 022-66791421
Contact: Mr. Rama Rao email: ramarao@indiainsure.com

New Delhi # B-3/6, 2nd Floor, Asaf Ali Road,New Delhi - 110002
Phone No: 011 43538760/61
Contact: Mr. P. Srinivas Rao email: srinivas.rao@indiainsure.com

Pune # 101, Premium Point, Opp. Modern High School, J.M. Road, Shivajinagar, Pune - 411005,
Tel : 020-66016676 Fax: 020-66030713
Contact: Ms. Deepali.A.Rao
email : deepali.rao@indiainsure.com