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IRLA ROUNDTABLE 2014

Steady as she goes

Diversity is the new legacy buzzword, but quality remains essential

Insight and Intelligence from *The Insurance Insider*

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Steady as she goes

Dear friends,

In May, key players in the legacy market prised themselves from their desks in London, the US and across mainland Europe and headed to the rain-battered promenades of Brighton for the annual IRLA Congress.

But within the faded grandeur of the Brighton Grand, the picture wasn't so gloomy. The buzzword was "legacy-to-live" and at *The Insurance Insider* roundtable it was the first topic on the agenda, asking whether firms needed to go live to survive.

The run-off industry is in a state of flux. The number of books up for grabs seems to be dwindling and, due to new regulation being imposed by the Prudential Regulation Authority, the value that can be extracted from those books is expected to follow a downward trend to boot.

Two distinct schools of thought are forming as legacy players race to defend themselves against what could be a turning tide in the run-off market.

One camp is moving to straddle the gap between writing legacy and live business. This has the advantage of giving run-off firms access to new opportunities and books of business that they would not be able to write without the live underwriting capability.

However, there is a significant downside, as Enstar found to its peril when it bought two live underwriting platforms last year.

The ink was barely dry on its contract to acquire Lloyd's platform Atrium in June when well-respected carrier Ace dropped the underwriter from its reinsurance security list.

This highlights the often-overlooked fact that when a live player commutes its book to a legacy company it's not just its liabilities that are being outsourced, it's the live carrier's reputation as well.

Sources told *The Insurance Insider* that past disputes over claims handling had given rise to a fractious relationship between Ace and Enstar.

The second school of thought puts the emphasis entirely on reputation. It recognises the fact that live underwriters take a real reputational risk when they farm out their liabilities to run-off firms.

The executives of these firms know that long-term reputation is worth more to a live firm than an extra nought on the paycheque offered for a legacy book.

Playing with electricity can be dangerous and legacy-to-live players risk getting a shock if they don't expect their years in the run-off market to come back to bite them.

But as with the tortoise and the hare, slow and steady wins the race. By focusing on paying claims and managing capital, pure run-off players can sell themselves on quality and not diversity, which will offer a solid foundation for a platform in the live market.

Enjoy the read.

Dan Ascher
Reporter
The Insurance Insider

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The IRLA Roundtable 2014

Dan Ascher
Thank you very much for joining us today. One of the most prominent topics of conversation at this year's IRLA Congress, seemingly, is the move by some legacy players into the live market. So it's only fitting that we move around the table to get your insight on where the market's going.

Paul Corver
The legacy market is still very vibrant and remains an important area for Randall & Quilter (R&Q). We are seeing a lot of transaction potential across UK and Europe, the US and other regions. There's also a lot of competition, with plenty of capital chasing opportunities.

One ambition for R&Q in diversification is to smooth out the lumpy shareholder returns that come from books of legacy business. Having something that provides a more even flow of income and profit generates a more consistent return to shareholders. Diversifying into captive management, Lloyd's underwriting and MGAs provides an alternative investment flow for shareholders – rather than irregular returns from legacy acquisitions.

It also provides a more diverse work environment across the group. The skills that are learnt in legacy translate across to the live market.

Dan Ascher
Shaun, would you agree with that, because Charles Taylor is going the opposite way – stopping acquisition of legacy business?

Shaun Linton
That's right. Charles Taylor pulled out of the acquisition market three or four years ago. We felt that competition was probably too stiff and therefore what we tried to focus on, like Paul, was diversifying our business.

Notwithstanding that, there are opportunities all the time in legacy portfolios. For businesses, whether they're traditional live or legacy, opportunities still arise.

> "Transferring legacy portfolios is quite a new instrument for many continental European insurers. But the size of run-off that they hold in their books is tremendous"
> **Arndt Gossmann**

Whilst we are not in that particular space for acquisition, we still have a major percentage of our revenue that comes from providing legacy-type services. So while traditional legacy business is probably diminishing, it's certainly not drying up.

Philip Grant
What's happening is what perhaps we couldn't foresee a number of years ago, which is that the legacy market has matured. What we're seeing now is, as legacy business becomes recognised in the insurance cycle, it's less obviously visible that a lot of companies and groups are making the decision to manage their legacy in-house as part of the normal cycle of business. So I agree with Shaun and Paul, there's potentially an endless supply of this stuff, but it's not quite as securely earmarked as what we used to see.

Carolyn Fahey
The run-off industry is very far from drying up. It's easy to see that when you attend events hosted by groups like IRLA and Airroc. We are seeing increased attendance and interest in what we are doing – all signs that point to the legacy sector's continued relevance in the industry. If it was drying up and going away then I don't think we would see this trend of increased membership and activity.

Joe McCullough
My clients are having to dig deeper to persuade companies with books of legacy business to consider for the first time that they have an opportunity to outsource run-off of their business to experts who have the resources and capability to efficiently handle the day-to-day burdens of winding it up. Clients searching for new legacy business targets are having to go farther afield. The low-hanging fruit has already been identified, and those opportunities are now gone. Increasingly intense competition for acquisitions of legacy business make this a challenge.

So I am seeing clients travelling to the US "backwater", which means outside the major East Coast business centres. Most opportunities are in the Midwest, south and west. The opportunities are there, and the challenge is educating companies in those locations that there may be a way for them to get rid of a headache book of legacy business, selling it to a run-off provider of services that can use economies of scale to handle it much more cost-effectively.

Dan Ascher
Arndt, you've always said that you'd stick with the specialty and stay exclusively in the legacy markets. Do you think there's plenty of potential out there?

Arndt Gossmann
Continental Europe is in a completely different position to the UK, as transferring legacy portfolios is quite a new instrument for many insurers. But the size of run-off that they hold in their books is tremendous. Hence, that simple growth offers a broad potential for diversification. And the opportunity to grow is too big to lose sight of it.

Charlotte Echarti
From a German perspective, I see the pool of legacy business remaining unchanged even though the amount of legacy business for sale has increased a little in past years, as the awareness of companies with respect to Solvency II and other things coming up has grown.

In past years, some companies were looking for the first time at their books from a run-off perspective and deciding that they don't have the staff or the capabilities to deal with a legacy business in-house, so some were exploring outsourced solutions. And, possibly, now the available legacy business on the market is reducing again, as some companies have built up their own divisions in order to deal with it. So I do believe that there is still huge potential – in the German and also the UK market.

Another thing is diversification. A reinsurance company that does not have a dedicated run-off division might see run-off in the underwriting division and expect them to deal with it, as they have underwritten the risk. But the outcome is generally not very high.

One reason for (re)insurers to sell legacy business is because they see their core business somewhere else. I agree with Paul regarding diversification of run-off companies' service providers through adding value in new areas. But I don't know whether this should be for run-off service providers going into active business underwriting, except for large entities. On the other side, if run-off or legacy companies can set up a substantial division dealing with active business, that might be an option.

Dan Ascher
Steve, what's your take on that – is legacy going to dry up?

Steve Hennessey
I don't think it will dry up. If you look from a Lloyd's perspective, we're post-93 now, and therefore each additional year of business you write arguably creates legacy going forward. Internal procedures and support is much greater now than in the past and I don't see a return to past underwriting practices. Most agencies have a more diverse underwriting portfolio, but at the same time the units are under more scrutiny to return a profit.

With regard to outsourcing, I think opportunities still exist, probably not as much as there was in the past, but there is growth, certainly within Lloyd's. And with the amount of premium income that companies are now writing and as workloads increase, it is only natural that Lloyd's agencies would look more towards outsourcing certain functions. Whether this is transferring whole books of business I am not so sure, but certainly some support functions could be outsourced.

While I agree that the live market could benefit from legacy professionals, I would caveat this in that I think equally the legacy market could benefit from some of the live professionals' practices.

Dan Ascher
Alan, what are you seeing come across your desk?

Alan Augustin
In answer to the question about whether legacy is drying up, no it's not. In the PwC European survey, we've seen a recategorisation of legacy business to the recent years. This is part of an ongoing cycle, so there will be a continuing replenishment of the legacy pot.

The issue for me is more the access to that pot. The pure legacy players have certainly got challenges to replenish their own pots. There needs to be a good story about replenishment for investors and there needs to be opportunities in the market to be able to do that.

I have watched with interest this access into the live markets, as new pockets develop which have created an awful lot of interest. And actually there is potentially a new revenue stream in the live business and underwriting platforms. If all goes to plan they'll deliver growth and revenue, and if for any reason that doesn't quite work out there is a readymade run-off to service over time. So maybe there's a bit of a natural hedge there.

Dan Ascher
Will, what about in your line of work? Is it hard to come across books?

Will Bridger
The traditional London market run-off transaction and that whole sector has evolved enormously in the last four or five years. Like Arndt, we're very focused on continental Europe and that brings a different type of legacy opportunity, which means that you need to approach the market in a different way. One size doesn't fit all in continental Europe. There's far greater

> "While the live market could benefit from legacy professionals, equally the legacy market could benefit from some of the live professionals' practices"
> **Steve Hennessey**

acceptance of the legacy market in continental Europe, as it's embedded in the live market now. You're not an outsider – the legacy market is part of the Monte Carlo market and the live market now.

Picking up on Steve's comments – as long as there are underwriters, they will make mistakes and they will create legacy. We've seen that in *The Insurance Insider* with the Delta Lloyd deal, which was legacy business as recently as 2012. So people do still make mistakes and as long as they make mistakes, they'll create the opportunity for us and our market.

Dan Ascher
Jim, as Alan was saying, it's about access to capital. Is capital flowing in?

Jim Freeman
Yes, as a lender to the insurance sector, we see a number of different things, but what's clear to me is that we fund legacy/run-off transactions and we fund live businesses too. Increasingly now, we're seeing a combination of legacy and live, so that potentially changes the dynamic. It seems to me as an outsider, that there are very different disciplines between a live underwriter and a run-off business and I think the focus is very different.

So as a lender to the sector, I guess we will always try to make sure that people are fully aware of the risks involved. In terms of capital – yes, capital is flowing into the market all the time and we're seeing an increase in debt availability. It's a good time to be a borrower at the moment I would say, so if you're a good client with a track record, debt should be attainable at the moment.

Dan Ascher
Paul, how have you found the transition from pure legacy to live and legacy?

Paul Corver
Well, I suppose we haven't had a transition. All we've done is expand and diversify. On a general note, legacy is a natural end to the process of the insurance cycle, and what the market appreciates is that there is a marketplace for companies to be able to get rid of legacy if they so wish. It is becoming an acceptable part of the (re)insurance sector to be able to dispose of those liabilities.

To a certain extent, we've seen Lloyds practicing a form of it for decades with the RITC process, where their business is on a three-year cycle, at the end of which they'll usually either reinsure into the current year of that syndicate or another specialist syndicate will take it.

And perhaps now the commercial (re)insurance market is beginning to appreciate that when you've got legacy you don't have to carry it all in-house. The issues of reputation and other factors that have been a concern in the past have been addressed. There are now more robust, well-financed and supported run-off consolidators that don't raise concerns with sellers as to the viability of that business going forward.

"A couple of US states have thrown their cap in the ring and attempted to make available some kind of scheme of arrangement"
Carolyn Fahey

Dan Ascher
Will, would you ever consider going live?

Will Bridger
No. The reason for that is we believe that sticking to what you're good at and what you know and do well is the right thing for our business model. We don't have live underwriters in our business. We want to stay focused on what we're good at.

But I absolutely understand and appreciate Paul's comments and the rationale behind R&Q wanting to create a more dependable income stream for shareholders.

At Compre, although we're a private company our accounts are available and you will see that income is lumpy. It's the nature of run-off. As you diminish the liabilities, you need to top up the hopper. And that's the function of the business model we have. We're happy as a private company in the legacy market, sticking to our knitting.

Steve Hennessey
The Lloyd's market looks at things slightly differently. There is still a strong feeling that business written should be retained and run off through the traditional natural passage of time, as it has been, excluding the Equitas project obviously, for the majority of its 325-year history. I think the more forward-thinking professionals realise there are opportunities to close off some relationships and that accelerating your liabilities towards closure can have a benefit to the business as a whole.

What is interesting from a Lloyd's perspective, picking up on Paul's point about RITC, is the recent part-transfer of Argo to a prominent TP acquirer. This may change the landscape from a Lloyd's perspective in allowing closed years to be transferred via a partial RITC, and maybe others will follow suit. I don't see a great rush in the immediate future, but certainly as portfolios change and underwriting personnel move on, or possibly retire, you may see partial RITCs of Lloyd's business become more popular, particularly if they contain long-tail liabilities such as PPOs.

Arndt Gossmann
At the end of the day, any business aims to provide attractive returns to investors, on a risk-adjusted basis. The broader the book is, the more risk diversification there is.

So the question is: how to broaden the book? Darag is in pole position to tap the breathtaking continental market. We can diversify easily in our core business. The moves from large players like Enstar or Berkshire have the same aim: broadening their books. But as they are already quite big and as they see saturation in their core markets, they are now going for live business. It's a bright move!

Dan Ascher

The new Prudential Regulation Authority (PRA) guidelines around alternative schemes of arrangement have come out. That's probably good news for you guys as alternative schemes are going to become more frequently used.

Alan Augustin

It's interesting that people are saying that alternative schemes or arrangements are the future. I think alternative schemes of arrangement are the here and now. The focus in the market has been on policyholder protection for a long time. And actually what's happened has been more of an endorsement and a statement that this is the position of the regulator rather than anything changing.

From an adviser perspective, certainty is good. We're then able to clearly advise our clients in terms of what schemes will and will not work, what the current environment is and so construct the proposal around that.

Schemes have always been living, moving things in any case – there's always been innovation, there's always been evolution. So therefore, what's in front of us is just a different environment. The historic traditional finality schemes, which cut off all liabilities, are probably going to be applicable in a more limited context than we've seen before.

We will see schemes with different features, such as opt-outs and replacement cover, and, if constructed in a fair manner, I can see those getting regulatory consent.

Will Bridger

If you take the two consultation papers in the round, on capital extraction as well as on schemes, my reaction would be that the PRA is pulling the UK legacy market back from its position at the forefront of driving innovation – which from a personal perspective is a shame.

The London market has been very good at adapting to client needs, adapting to circumstances. Will it push more people to take their business overseas? Will it drive a broader European legacy market? Will we get regulatory arbitrage?

It's clear we don't have harmonisation across the regulatory regimes in the EU anyway. I don't see that is going to change necessarily, but it's clear that the UK is a tougher place to do business from a regulatory perspective, and definitely a tougher place to get capital out of.

You look around some of the jurisdictions around continental Europe and it is much easier to extract dividends from companies that have been run off, from those companies that are producing profits. Whereas in the UK, you're going to have at least one arm tied behind your back going forward.

Arndt Gossmann

I don't agree with the notion that there's some regulatory advantage in continental Europe. We haven't had schemes in continental Europe as the instrument simply wasn't available. What is now happening as the result of the new PRA approach is some kind of Europe-wide harmonisation. The consequence is that transactions into the UK in order to scheme certain portfolios are now blocked.

Shaun Linton

Does that mean therefore that London needs to become innovative again?

Alan Augustin

Absolutely. What we have is a new challenge ahead of us. Do I think schemes will continue to evolve? Yes, we've seen a new broker scheme out in the market over the last few months and we've got some clients we're advising on schemes which will introduce new features. That will continue, and as an industry we've been able to respond to those challenges. I believe we will continue to do that and to create value for the industry.

Philip Grant

It's obvious from more recent types of business that are now comprising legacy books that the days of the old-fashioned schemes of arrangement are numbered. The old schemes were really reliant on there being quite a lot of clear blue water between the company proposing the scheme and the company that originally underwrote the business.

These days, from a reputational perspective, it is probably less acceptable to use those schemes so I wonder as a tool, whether the classic solvency model has had its day and we have to rebuild our models from a profitability perspective around different risk profiling and age profiling.

Carolyn Fahey

Bringing it across the pond to the US, we don't have tools such as schemes, so we need to look at it in a different way. We have a couple of states that have thrown their cap in the ring and attempted to make available some kind of scheme of arrangement.

One of these is Vermont. In February, the Legacy Insurance Management Act (LIMA) was enacted. LIMA is the first US legislation to enable the transfer of closed blocks

"The PRA is pulling the UK legacy market back from its position at the forefront of driving innovation"

Will Bridger

of commercial insurance and reinsurance. There are a lot of questions about if and how it will really work transactionally, but at least Vermont is being progressive and has made an attempt to bring some of these tools to the market.

Dan Ascher
If there's no such thing as a scheme in the US as we know it, is the UK putting itself at a disadvantage by cutting off that business?

Joe McCullough
The regulation of insurance in the US is handled by the individual states and not the federal government. Policyholders have incredible power in the US, as voters. State governors are elected officials, and, in some states, even insurance commissioners are elected – so there's great sensitivity to offending the voting public and powerful lobbies.

The plaintiffs' bar can wield a tremendous amount of influence over state officials, and legislation that could impact the rights of policyholders to pursue individual claims on long-tail business would be met with strong opposition. So the chance of schemes taking off big time in the US is a pipe dream, in my opinion.

Most states are going to resist implementing legislation which would facilitate solvent schemes. And there will also be a lot of pushback on re-domestication of companies to Rhode Island for the purpose of side-stepping particular states' impediments to cut off scheme arrangements. They're hugely unpopular in the US with insurance departments and with other elected officials.

Jim Freeman
If you go back to the capital extraction point, the deals that have been done in the market are usually predicated on capital that's extracted either repaying in full or in part the debt that's been raised. So on the face of it, it feels like it'd be negative if you say suddenly you can't get the money out as you could before. So does it become an attractive lending proposition all of a sudden? It doesn't mean to say it will stop, and you've still got the capital in the business. The question is, when does it come out?

As to the point on capital inflows: absolutely, people are looking for a home for investments and they want to invest to get some sort of yield, because the yields that we're seeing now are so low compared to historical levels.

Insurance has got this reputation as a non-correlated asset class and therefore that seems to be something that people are attracted to. And if you can get a good yield on it, this will continue. What happens when interest rates return to what we might call more normal levels is a moot point. It may well disappear again. But there's a feeling of permanence about the new capital coming in so, again, it's potentially a good time to be in the industry.

Dan Ascher
Are solvent schemes in their present form moral?

Steve Hennessey
What I would say is that it is rarely black or white, I have seen some schemes over the years that have been beneficial for all parties – the traditional crystallised insolvent schemes for example. Solvent schemes are something else. If they are being used to close down a branch office, which some of the large US carriers did, it can leave an unsavoury taste, and nobody likes to be forced into a decision. Of course, the flip is the solvent schemes actually took work away from the legacy sector. Rather than go via a crystallised solvent scheme, the book of business could have been run off in the traditional manner via commutations etc.

Paul Corver
There's been a useful clarification of the PRA stance. They've slightly softened what was a pretty strict interpretation of their rules in the consultation. I think there is obviously scope for schemes to still be used in some format if there is general consensus from the parties. For something like the EW Payne pool, a scheme was the only solution to wind that up. There are other pools out there that we could be processing $3 claims on in the 50 years to come.

There are scenarios where a scheme is the only solution and it solves a lot of administrative headache for cedants and reinsurers that actually doesn't benefit their balance sheet whatsoever to continue. So it is pleasing that the PRA seems to have acknowledged that there are certain circumstances where they will still look at it case by case. The concern I have is how far a company has to go in the process before they get a clear steer from the PRA.

Dan Ascher
What the PRA have said is essentially that they are going to submit their views on some schemes to the court once it's subject to judicial approval. In a more general sense, do you really feel the legacy sector gets a fair hearing, in UK courts to start with?

Paul Corver
I suppose a concern is if you've got to get all the way to a Directions hearing before you understand what the regulator might think about it, and whether they are going to submit something – it's almost "well, could we not know a little bit sooner?" There needs to be good communication in that

"It's obvious from more recent types of business that are now comprising legacy books that the days of the old-fashioned schemes of arrangement are numbered"
Philip Grant

process. So back to your question, are legacy companies treated fairly in the courts? Yes, they have been. Are legacy companies treated fairly in the US courts against the large US policyholder? Not always. But that's just general litigation – it's no different for legacy to a live company. We all get unfavourable decisions where policies have been incorrectly interpreted.

Dan Ascher
That's one for you, Joe.

Joe McCullough
In the US there's a distinct difference between how disputes involving policyholders and insurers are typically resolved, and how reinsurance disputes are resolved. Around 90 percent of disputes between cedants and reinsurers are arbitrated and are not submitted to courts for resolution. There are lessons to be learned from the legacy market's history of handling reinsurance disputes with American ceding companies. Legacy reinsurers, particularly those outside the US, need to carefully document their good faith in the handling of claims.

In the past, some run-off reinsurers often made the mistake of waiting too long to challenge claims and then they were unresponsive to correspondence sent by their US ceding companies. Such delay and lack of response to billings by a US insurer creates a record that the US cedant can exploit in an arbitration, accusing the legacy reinsurer of being a "no pay, no way" company, looking for excuses to dodge its liabilities.

Legacy reinsurers can overcome these typical accusations by being proactive, auditing earlier, raising legitimate claims and defences, and creating a record of their good faith in claims handling. Provided they demonstrate their good faith, and a neutral umpire is selected, reinsurers can get a fair hearing in the US.

Carolyn Fahey
One of the other things to consider is there are some alternative dispute mechanisms out there. Airroc, for example, has a streamlined procedure that is a single arbitrator procedure to resolve disputes. It's been out there for a while and it hasn't been used as widely as we'd like to see it used. Part of the challenge is that both parties need to agree to use it.

So, as Joe mentioned, we're aware that US the arbitration system isn't working as effectively as it could be – especially when you're the owner of a run-off block with limited funds for dispute resolution. Looking for ways that you can resolve any disputes you might have expediently is an important step to consider for the business and for the industry.

Dan Ascher
We should mention Solvency II. Are there more opportunities ahead or are we going to see companies keeping the capital that sits behind the legacy books in order to maintain the capital standard?

Will Bridger
You're going to see more deals from the larger groups that are going to be driven by Solvency II and the capital piece. It's not because they haven't got enough capital, but it's about the risk-adjusted returns on the capital employed in the business.

But also what we're seeing is a number of mid-sized and small insurers that are actually well capitalised, but they don't have the infrastructure, the skill set or the knowledge to respond to Solvency II.

We're seeing a lot of counterparties asking how they respond to this and whether there is an alternative viable business model post-January 2016. So they are saying: "We still want to carry on business – do we have to carry on with business in an insurance company structure or is there an alternative?"

Arndt Gossmann
Under Solvency II any reserves need to be submitted with capital – unlike today where we have a maximum three-year period to cover under Solvency I. Liabilities will require much more capital. At the same time capital will become a scarce resource that requires proactive management.

And now the key question is: "Do I really want to tie up capital in business which I have closed for good reason in the past?" That is a no-brainer, regardless of whether it is a small, a mid-sized or a large player or however well-capitalised the company is. I should manage my capital and I can improve it by externalisation of my liabilities.

Alan Augustin
What the market has been looking for is market certainty on Solvency II. It has been moving and no one has really been able to see exactly when and how it's going to be landing. Now there is a rigid timetable in place for readiness and preparedness, that is going to create change and it will also create management action as well.

I'd like to go a stage further – I think the Nirvana with Solvency II is that it will create a platform where there is sufficient data to inform strategic decision-making on what to underwrite, what not to underwrite, what to retain and what to sell. That will be a key development in the availability of portfolios for the run-off market going forward.

Philip Grant
There will be opportunities but they won't be totally apparent until after 2016, once

"There are lessons to be learned from the legacy market's history of handling reinsurance disputes with American ceding companies"
Joe McCullough

companies have actually had to implement and understand what they have to do. And aside from the capital management side, Pillar 2 and Pillar 3 create a lot of issues and obstacles that many companies haven't even considered yet.

If you've got a large discontinued book and you've got to do a full assessment on the book of business that you're perhaps not that familiar with anymore, it's going to be "why are we spending all this time" and "let's just look at an alternative".

Charlotte Echarti

A lot of it is about management awareness. In the past, management didn't need to care about run-off – nobody was taking care of it. Now they have to take a decision.

They have to ask actuaries "will that influence our business?" and "do we have lines of business to dispose of?" If you look at the Monte Carlo *Rendez-Vous* for the last two to three years, run-off is even a topic there, so it has become a greater focus.

Whether Solvency II will be a driver for run-off is very dependent on the book of business of the company. Nevertheless, what you hear very often is "why should I commute with a 'good name'?" Because you can add value to your own company. It has to be mutually rewarding from a profit, risk-management or administrative perspective. If it isn't, you should not commute, simple as that.

Dan Ascher

Looking 10 years ahead, what risks should we be looking for? Steve, you've got some fairly interesting ideas as to what will be the next asbestosis.

Steve Hennessey

I am not sure that there will ever be another asbestos to be honest. In the short term I do not see too much changing; we will still see long-tail liabilities emanating from med-mal and healthcare out of the US, workers' compensation and EL too – and financial institutions of course.

We have been talking about UK PPOs for the last couple of years, but at the moment the trend still seems to be towards a lump sum in the UK rather than a PPO. Maybe this will change in the short term if private care costs start to rise. This will make the valuation of the lump sum more complex.

Likewise, this may also alter if there is more government intervention, but maybe this will only occur if those awarded lump sums use their pot of cash up and then rely on the NHS for their ongoing and future care.

But obviously a great number of such cases would need to occur for the government to intervene. As for environmental, possibly fracking, but it has been out there since the 1930s and 1940s and yet we still do not seem to know too much about it, maybe something from that, possibly it will be the next big EL/WCA tail.

Alan Augustin

Of the two areas where I can't believe there won't be any claims activity, one is very much cyber in terms of customer data and intellectual property.

It's such a huge risk to every single worldwide business, that I can't believe there won't be threats and claims around that. And the other area is in the financial sector. If we look at PPI, we've looked at these huge provisions that have been put up for mis-selling. There is going to be litigation and there will continue to be litigation. Those will find their way into the insurance markets and there will be some pain to be had.

Joe McCullough

As far as head injury claims are concerned in the States, the blood's in the water with the number of claims being filed by professional and amateur athletes – not just US football players, but athletes playing other sports such as ice hockey. It's the wave of the future. And the US plaintiffs' bar has found a new, shiny, highly lucrative toy and it's certainly going to be filing more and more lawsuits.

One of the big challenges of course is you can't diagnose chronic traumatic encephalopathy (CTE) in a living person yet. Medical researchers are looking for ways to diagnose it, but there are many former professional athletes who are now claiming that they have memory loss and other symptoms of CTE, even though there is no way at present to prove they have the disease. Of course, the media publishes stories everywhere, and so more claimants are filing suits both on an individual and on a class action basis.

Shaun Linton

Regardless of what the next big thing is – and it could be anything, it could be something we haven't even discussed – big businesses are actually managed far better than they were 25 years ago. There are tighter controls and regulation. And therefore the impact of the next big thing might not have the same impact that asbestos did, all those years ago.

Charlotte Echarti

There's also another big difference as asbestos was underwritten over a long time, even after people knew of its danger, so challenges were generated over a long period. There might be more claims from sports injuries but I don't think they will be a topic in the legacy business because CTEs are causing "all or nothing" situations to the books, making them non-commutable in most cases.

Fracking reminds me a little bit of financial guarantee business – it's a question of how it is underwritten. It depends on the proper assessment of exposure and adequate wording exclusions. Therefore, I tend to see a lot of legacy business of the future being now created due to the soft market rather than by a specific topic. You see some companies starting underwriting MGA business and the question is, will they manage it properly or will they be the topic in 10 years' time?

Alan Augustin

There's a read-across into the UK employers' liability markets where we have been surprised by the number of claims that have come through, even in the last 12 months. So yes, we are better prepared, we have got better controls in place, but there are still surprises to come, no doubt.

Dan Ascher

Thank you so much.