



Professional

INSURANCE BROKERS

Walking the tightrope... without a safety net?



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www.m-f-l.co.uk

MFL Professional

Barlow House

Minshull Street

Manchester

M1 3DZ

5th Floor

2 Wellington Place

Leeds

LS1 4AP

Telephone: 0161 236 2532/0113 366 2274

Fax: 0161 236 2583

E-mail: info@m-f-l.co.uk

Walking the tightrope... without a safety net?

In Kevin McParland's latest article, he reviews the solicitors' PI market in 2012.

I was recently asked: "Who has written all the business in 2012, and would it have been less risky for some firms to have avoided Insurers and gone straight to the bookies?"

A general overview of the 2012 renewal season for solicitors' PI insurance was that the expected bunfight never really materialised, with very little hysteria or eye-gouging. The more established insurers had a little more appetite to transact business than of late and were even competing on specific pieces of business, while at the same time continuing to attempt to bring their books of this business back into the black

It was surprising to see that lessons hadn't been learned from Quinn and more recently Lemma, as some financially unrated Insurers who were active in the market for the first time were offering quotations some for 2 year deals, at levels of premium way below what some would regard as sensible and sustainable pricing.

In the table below, I have taken the first cut of the Assigned Risk Pool (ARP) figures and compared the 2012 and 2011 insurance years. These figures will be adjusted in March as usual. The ARP prepares these figures to establish the level of contribution required from each insurer to fund claims made by firms in the ARP during the current insurance period. As many of you will be aware (certainly those who have read my previous musings in these pages or attended one of our seminars) this is the final year of the ARP. This will have some cheering from the rooftops, but they should be careful what they wish for: in the future it may take only a bad run of claims or a single rogue employee to leave a firm walking a tightrope without a safety net

The primary funding of the ARP falls extensively on the Profession in its final year. Any problems with Insurer solvency would impose a tremendous

cost on the profession via the ARP.

Post renewal in 2013, the ARP will effectively go into "run-off". There will then be an obligation on holding insurers to become the insurer of last resort for their existing clients. If a policyholder cannot find or is unable to purchase alternative cover at renewal or within three months thereafter, the holding insurer has to offer six years' run-off cover and the firm has to close its business. If existing insurers will not or cannot offer renewal terms, firms will have to try to find cover elsewhere. That could cause serious problems, as the proven long-term insurers with the necessary expertise will not be very sympathetic to the plight of firms in trouble caused by the solvency problems of unrated Insurers.

The composition of the insurance market and their exposure to the ARP is now as follows:

The numbers shown below pretty much reflect my impression of what was happening during the renewal season, and while I am confident you can arrive at your own conclusions, there are a few points I would like to make.

- There is now a more healthy spread of the business between the Qualifying Insurers. Only three insurers write more than 10% of the business and two of those only marginally so.
- XL is by far the largest writer of business this year. The market does, however, expect them to follow the path previously trodden by Hanover and reduce their income next year. The tendency to date when writing Solicitors' indemnity business has been: Increased Volume = Increased Losses. Many insurers have discovered this to their apparent surprise, when the claims crystallise

ARP 2011 and 2012 INSURANCE YEARS' COMPARISON

Insurer	2012 Position	2011 Position	%	2012 Premium	%	2011 Premium
XL	1	1	16.4	39.4m	18.8	46.7m
Travellers	2	3	10.9	26.2m	11.1	27.6m
QBE	3	4	10.9	26.1m	9.9	24.6m
Zurich	4	5	8.8	21.2m	9.7	24.1m
Hanover	5	2	8.6	20.7m	12.9	32.2m
Chartis	6	6	8.2	19.8m	9.1	22.6m
Allianz	7	7	6.9	16.7m	5.9	14.7m
Balva	8	21	6.8	16.4m	0.002	0.004m
Libra	9	9	4.1	9.9m	3.5	8.9m
Aviva	10	10	3.0	7.3m	3.4	8.5m
Alpha	11	8	2.9	7.0m	3.6	9.0m
Axis	12	-	2.5	6.0m	-	-
Enterprise	13	15	1.9	4.6m	1.2	3.1m
QBE/DAC	14	13	1.6	4.0m	1.7	4.2m
WRB	15	12	1.6	3.9m	1.8	4.4m
Liberty	16	14	0.8	2.1m	1.4	3.4m
RSA	17	16	0.7	1.7m	1.1	2.7m
First Title	18	17	0.7	1.6m	1.0	2.5m
Elite	19	-	0.6	1.6m	-	-
QBE/Synd	20	-	0.3	0.8m	-	-
Pembroke	21	19	0.3	0.7m	0.1	0.3m
AmTrust	22	-	0.2	0.5m	-	-

MFL Professional Barlow House Minshull Street Manchester M1 3DZ

5th Floor 2 Wellington Place Leeds LS1 4AP T 0113 366 2274

Main Switchboard 0161 236 2532 Fax 0161 236 2583 Email info@m-f-l.co.uk Web www.m-f-l.co.uk

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about three years later. It may not be unexpected if XL took some decisive action on their book next year.

- The more established participants in the market, such as Travelers, QBE, Zurich, Chartis, Aviva, WRB and, of more recent vintage, Allianz and Hanover, are to some extent the safest bets for those firms keeping clear of the bookies.
- What should be of concern to the profession, The Law Society and the SRA, is the amount of business written, this year and over the past couple of years, by Insurers who have no financial rating and whose failures would not be protected by the FSCS. The most obvious recent examples are:

2012:	Balva	6.8%	£16.4m
	Alpha	2.9%	£7.0m
	Enterprise	1.9%	£4.6m
	Elite	0.6%	£1.6m
2011:	ERIC	2.8%	£7.2m
	Lemma	0.015%	£38,000

*Alpha has extensive reinsurance arrangements in place with an A-rated market, which considerably reduces any risk.

The total premiums charged reduced from £248.7m in 2011 to £239.1m in 2012 (subject to possible adjustment in March 2013). Of that total, £29.6m was written by unrated Insurers, i.e. 12.4%. That is a substantial amount and may cause insured firms problems in the future. Experience has shown that it takes on average three years for claims to evolve to settlement. It is a brave person who would bet on the continued participation or even existence of all of these unrated markets: Quinn lasted just three years and Lemma only two.

Why is this matter so important now, and why does it appear your regulatory body avoided the issue as it did when Quinn Insurance went into Administration? I could not understand the SRA's response to the Quinn problem, and neither can I

understand why they are still dithering about it now, rather than introducing mandatory minimum financial ratings as a prerequisite to confirmation as a Qualifying Insurer.

There is little point in having a gold-plated insurance policy wording, designed to protect the consumer, if insurers are not going to be around to pay the claims when required. And why would any sensible firm risk placing its cover with an unrated insurer anyway?

Now is the time for all firms to make their business a better insurance risk and create a longer term relationship with their Insurers. It may cost a little more initially but what are your reputation and your business worth?

I have two pleasing developments to report:

- I am pleased to announce that Stuart Dugdill has joined us as Director responsible for Professional Liability Service and Development. Stuart brings with him much expertise gained during his senior positions with major national insurance brokers, Marsh and Lockton, and with Chartis Insurance. I believe Stuart will be well known to many of you. A suitably airbrushed photograph of the young gent in question is below.



- We have developed a Directors & Officers liability product specifically tailored to the legal profession, which will cover not only partners, directors and members of firms, but also the individuals with COLP & COFA responsibilities, and other senior management.

The launch of this policy is imminent to enable firms to effect the cover in advance of the COLP & COFA deadline.

Contact the MFL Professional team to discuss your PI arrangements:

Phone: 0161 236 2532

Web: www.m-f-l.co.uk/solicitors

