

# BIQ

April 2011

## BERMUDA INSURANCE QUARTERLY

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### ALL THE RESULTS & ANALYSIS

# Q4<sub>12</sub>

### RECORD FOR BERMUDA MARKET



### MEET POWER BROKER KRISTA



## THE COST OF DEVASTATION

Bermuda's reinsurers count the cost of the Christchurch earthquake in New Zealand — and the earthquake and tsunami in Japan — six major catastrophes in the Asia-Pacific region in five months: *Page 4*



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**Steve Levitt**

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# BIQ

## BERMUDA INSURANCE QUARTERLY

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## THE QUOTES OF THE QUARTER

“The insurance industry continued to face significant hurdles throughout 2010. In addition to the heightened rate pressure caused by strong competition and an overabundance of capacity, multiple global catastrophes increased loss costs while generally weak economic conditions posed additional challenges. In spite of these factors, we are very proud of our financial, strategic and operational accomplishments throughout the year.”

— **Scott Carmilani, President & CEO of Allied World**, on his company’s record net income of \$665 million for 2010



“Our on-going risk management discipline resulted in our catastrophe losses being at the low end of the expected range, with only modest changes to our initial estimates for the New Zealand earthquake. We reduced exposures to non-core holdings and we continued to return excess capital through share buybacks. We believe XL is in a solid position to meet the challenges of current market conditions and the opportunities that will come as conditions improve.”

— **Mike McGavick, CEO of XL Group**



“During the year we continued to invest heavily in our global underwriting platform that will allow for substantial and broad scalability of our profitable underwriting portfolio when the market turns. This scalability will positively impact a far more diversified profile of business than we have seen at AXIS in any period to date.”

— **John Charman, AXIS Capital CEO & President**



“During the year we completed a strategic review of our US-based insurance operations which ultimately culminated in our announced sale of these operations. This decision reflects our commitment to being nimble and sharpens our focus on being a leading underwriter of low frequency, high-severity risks.”

— **Neill Currie, CEO of Renaissance Re**



# Ratings agencies upbeat about Bermuda

## BUT BEST WARNS NON-LIFE INSURERS FACE DETERIORATING FUNDAMENTALS AS CYCLE HASN'T YET REACHED TROUGH

Leading rating agencies A M Best and Fitch Ratings are both backing the Bermuda market to ride out the challenges of an ongoing soft market, tax threats from the US Government and competition from other jurisdictions. They say the local market will be well placed to capitalise — if and when the market turns.

In its Bermuda Market 2011 update, Fitch said strong 2010 results made it five consecutive years of operating success since significant losses in 2005 due to Hurricanes Katrina, Rita and Wilma. Fitch added: “Bermuda’s top-line results are suffering as insurers have ceded less business during the soft market and organic opportunities diminish with generally weak economic conditions reducing insured exposures. This reduced demand adds to the market’s excess capacity and further intensifies the competitive landscape.”

Fitch said Bermuda companies

stand to benefit from reduced collateral requirements in some US states which it says could lead to an opening up of the US reinsurance market. Tokio Millennium Re and Allied World are the latest firms approved for reduced collateral requirements in Florida meaning that eight of the nine approved companies are Bermuda-based. The XL Group has won similar approval from New York.

Fitch also noted: “Due to regulatory as well as tax uncertainty, some Bermuda-based reinsurers have been positioning themselves within Europe through holding company redemptions or formation of new reinsurance companies in Europe, principally in

Switzerland and Ireland, although for the most part, company operations continue to remain in Bermuda.” It said this positioning should help Bermuda-based companies capitalise on the opportunities that could result from the implementation of the new Solvency II insurance regulations set to take effect in the European Union in 2013.

“In addition, Solvency II may result in increased demand for reinsurance from European cedents as an efficient means to meet higher capital requirements, which could stretch capacity and put upward pressure on premium rates. This could be particularly beneficial for well-capitalised Bermuda reinsur-

ers that have the capacity to provide the added coverage.”

In its report *Favourable Results Conceal Looming Concerns for Bermuda’s Reinsurers*, Best said that despite results, “Bermuda’s non-life insurers are facing deteriorating fundamentals in a market cycle that has yet to reach its trough.” Best said it continues to see more challenges than opportunities as pricing pressures persist, investment portfolios lack sufficient yield and loss-reserve releases — which are masking the symptoms — are likely drying up.”

In a webinar discussing the report, Best Vice President Robert DeRose said: “The level of capitalisation relative to the risk is still very strong [and] we feel these companies can withstand the negative momentum that’s currently out there in the market. We believe that, as a result, most ratings will be affirmed over the next 12 month period.”

‘Bermuda companies stand to benefit from reduced collateral requirements in some US states which could lead to an opening up of US reinsurance market’

## PREVIEW

# Importance of captive conference



**Jill Husbands: chairing the forthcoming captive conference**



**Guest speaker Robert Benmosche, President and CEO of AIG**

## HUSBANDS: 'BERMUDA IS STILL THE WORLD'S PREMIER CAPTIVE DOMICILE'

**R**obert Benmosche, President and CEO of AIG, will be among the guest speakers at the 7th annual Bermuda Captive Conference to be held June 5-8 at the Fairmont Southampton.

Conference chair Jill Husbands said: "We're very honoured that Mr Benmosche has agreed to speak at the conference. I think the fact that someone of his standing in the industry has agreed to come, is recognition that Bermuda is still the world's premier cap-

tive domicile and AIG are certainly very involved in the captive industry and with our captive clients."

Although Bermuda has almost 900 captives — about 20 percent of the world's total — and the biggest volume in premium among the world's captive domiciles, it is facing increasing competition from US states led by Vermont which had 572 captives at the end of 2010. New Jersey is expected to become the 25th US state to enact captive legislation.

Mrs Husbands said the conference was therefore "very important to us as an industry so that we can show all the advantages that there still are to having a captive in Bermuda and the depth of infrastructure here. We have so much experience here — any line of business, any nuance, we have seen it here and can give good advice to our clients on the best way to handle things."

She said the conference continued to attract growing numbers of existing captive owners, prospective clients and global service providers. More than 30 trade booths will include captive managers, banks, law firms, accountants, IT companies and the Bermuda Monetary Authority (BMA).

Mrs Husbands, who is Head of Office, Managing Director with Marsh IAS Management Services (Bermuda) Ltd, said the conference was also a valuable experience for young Bermuda industry professionals.

"At Marsh we use the conference as a training event where up-and-coming colleagues can meet and hear these very experienced industry people speaking. We don't have to put them on a plane; they can hear all these professionals right here in Bermuda."

The conference's opening round table industry session will feature Premier Paula Cox, BMA CEO Jeremy Cox, US Consul General Grace Shelton and Rees Fletcher, President and CEO of ACE Bermuda.

Other key sessions include a regulatory update on the BMA's efforts to ensure that Bermuda's risk based regulations meet or exceed international standards.

*For more information: [www.bermudacaptive.bm/2011-conference](http://www.bermudacaptive.bm/2011-conference)*

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# Hiscox hits out at broker fees

**R**obert Hiscox, Chairman of Bermuda-based insurer Hiscox, has criticised the industry's practice of paying brokers, calling it a "deficiency in the market" and saying that competition on fees is "ridiculous."

In his Chairman's statement accompanying the company's year-end results, Hiscox said: "The clients should pay the broker, as they do their other advisers, for the advice given and the work done to transfer the risks. However, in our market the insurer has traditionally paid the brokers through giving them a slice of the premium as brokerage or commission.

"This not only leads to obvious conflicts (the higher the premium, the bigger the pay; the placing of business with the highest payer of commission not the best insurer), but also made the clients believe that they got the services of brokers for nothing. As fees have properly grown to be the correct way to pay the broker, the broker fraternity has had to learn how to cost their services, and have been reluctant to charge the proper fee.

"They have also competed with each other to a ridiculous extent on fees. Not getting enough revenue as a result, they bring pressure on the insurers to make up the deficiency.

"This is a big issue at the moment and I just hope that it will be resolved sensibly before a solution is imposed either by the law, or again by a crusading regulator."

Hiscox also called on insurers to improve underwriting discipline. The statement said that while brokers provided the majority of business for insurers and had "a difficult job," "their definition of reasonable and ours will obviously sometimes conflict, and we must have the discipline to say no — sometimes not easy to do to a

robust provider of business."

The Chairman's statement hit out at competitors who undercut rates even though some risks were increasing. It cited the example of piracy insurance in the Gulf of Aden where rivals undercut Hiscox's rates by 50 percent even though pirates' ransom demands doubled. "How can any management allow an underwriter to compete at a quarter of the rates of the established market?"

## Mine's a soda!

Evan Greenberg is getting into the soda business. The Chairman and CEO of ACE has been elected to the board of drinks and food giant Coca-Cola. "Evan brings significant financial expertise and a wealth of experience managing global businesses to our Board," said Muhtar Kent, Chairman and Chief Executive Officer of The Coca-Cola Company. "We are delighted to welcome him to The Coca-Cola Company."



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'This is a big issue. I just hope it will be resolved sensibly'

## NEWS REVIEW

# Mother Nature wreaks Asia-Pacific havoc

## BERMUDA REINSURERS FACE MULTI-BILLION DOLLAR CLAIMS AFTER JAPAN QUAKE AND TSUNAMI

Bermuda's reinsurers are counting the cost of the Christchurch earthquake in New Zealand — the sixth major catastrophe event to hit the region in five months.

The 6.3 magnitude quake on February 22, which killed at least 160 people, was the second to strike the city in six months following September's 7.1 quake that caused property damage but resulted in no deaths.

The disaster followed close on the heels of December and January's floods in Queensland and Victoria, Australia, and Tropical Cyclone Yasi. On March 11, an earthquake measuring 8.9 on the Richter scale triggered a 30 ft tsunami off Japan's northeast coast. At press time, estimates for insured losses topped \$35 billion.

According to catastrophe modeller AIR Worldwide, insured losses from the Christchurch quake could top \$12 billion which would make it the 8th largest insurance loss since 1970. Industry costs for the Australian floods are expected to be around \$6 billion, while claims connected to Yasi could be also as high as \$6 billion according to AIR's estimates.

Hurricane Katrina (2005) was the world's costliest insurance loss at more than \$71 billion. If Christchurch losses hit \$12 billion, it would rank eighth, ahead of Hurricane Rita (2005) at about \$11.1 billion and behind 2005's Hurricane Wilma (\$13.8 billion), according to Insurance Information Institute statistics.

Bermudian reinsurers, many of which participate in the New Zealand earthquake reinsurance pool, will bear the brunt of much of the insured losses, suffering losses in the tens of millions. The quake shook the share price of several leading reinsurers including ACE, XL and PartnerRe, which declined for several days afterwards.

Flagstone Re, which had already estimated \$75.5 million in



January floods in Queensland, Australia, led to a state of emergency being declared in Brisbane

losses from the September New Zealand quake, expects to post further losses from the February event but as of March 1, had not issued an estimate.

In a February 28 statement, Flagstone said it had started the estimation process for expected claims relating to its exposures from these events but "believes it's too early to issue an estimate of claims given the significant unknowns and early stages of the claims reporting process. The company is protected by multiple layers of reinsurance which could be triggered should this loss prove to be significant."

The company said its preliminary estimate from first quarter loss events in Australia is expected to be \$60–\$80 million.

PartnerRe, which estimated losses from the September quake at between \$140–\$160 million, and Aspen (\$53 million in estimated losses) are among other

Bermuda firms expecting further significant losses from Christchurch. PartnerRe estimated its Australian losses to be between \$80–\$110 million.

Validus estimates its losses from the February quake will be between \$20–\$50 million.

The XL Group and ACE both expect losses in the \$75–90 million range from the Australian events.

Arch Capital Group said its 2010 fourth-quarter net income dropped 20 percent due to \$22.5 million in net losses in the December flooding in Australia. It expects 2011 first-quarter losses in the range of \$30–\$60 million for subsequent Australian flooding and damage from Cyclone Yasi. Arch said its estimates are based in part on industry-wide loss estimates of \$3 billion to \$6 billion for the floods and \$500 million to \$1.5 billion for Yasi.

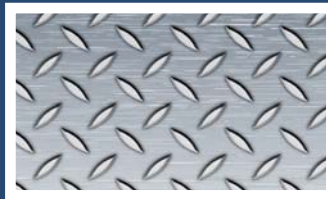
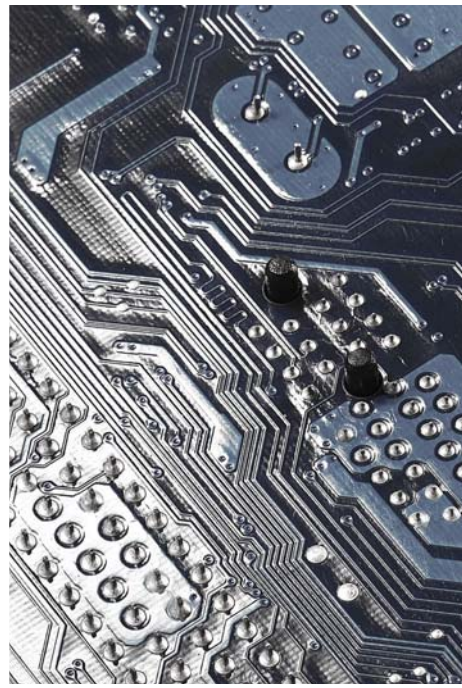
Hiscox said its 34 percent drop in profits for 2010 was due to big

catastrophe losses, including \$58 million in losses from the New Zealand quake last September. At press time it had not announced estimates for first-quarter events.

Announcing the results, Chairman Robert Hiscox commented ruefully: "Mother Nature has well and truly tested us this year."

While the industry expects prices to rise in the wake of the Australia/New Zealand events, few analysts expect it to be a market-hardening event. Global reinsurance capacity remains healthy and much of the pricing impact is likely to be limited to the Australasian markets.

As the *Sydney Morning Herald* reported in early March: "Australian insurance executives have warned reinsurers could be forced to raise rates or retreat from the Australian and New Zealand markets after a succession of natural disasters in the past two years triggered huge payouts."



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## TECHNOLOGY

# Insurance loves the iPad

## DEVICE CLOCKS UP ITS FIRST-EVER FULLY-PLACED CONTRACT



Apple's iPad is set to transform the way companies do business Photo: Courtesy of Apple

Blackberry smartphones may still be the communications weapon of choice for most reinsurance executives but the industry has been quick to adapt to that new icon of tech-cool — the iPad — and it could transform the way firms conduct business.

Apple's lightweight touchscreen device, more commonly used for web browsing, social networking and watching videos, is being used as an alternative to the more traditional underwriting slips — and promises to reduce the huge bundles of paper that can make up complex insurance contracts.

It's also a hit in the boardroom where directors now arrive with documents pre-loaded on their iPads.

On January 17 this year, the first-ever electronic fully-placed contract was made via iPad at Lloyd's in London. Steve Knight, the Direct and Facultative Director of brokering firm BMS, which has operations in Bermuda, met with Catlin Syndicate's

Michael Davern at their box and within minutes had refined and placed a contract using the RI3K paperless trading platform on his iPad.

In the past electronic trading relied on paper copies of contract information to support the process. This new step, which is fully integrated into existing business and systems processes, is entirely electronic and paperless.

Steve Knight said: "No longer will brokers have to shoulder heavy briefcases of files over to Lloyd's, they can be nimble and flexible with only 1.6 pounds of iPad, which is all they really need in the market. Business can happen anywhere. Using this system, a contract can be created on the train on the way to work or over a coffee. It has changed the way we work dramatically." BMS says it plans to roll the iPad platform out across its global group later this year.

RI3K's Market Place Director, Robin Merittens, said: "BMS are the first to have grasped the

power of RI3K and an iPad. Their brokers don't feel threatened by the technology but empowered by it. They now carry around an e-slipcase loaded with all their placing information, and by email and integration are connected to the people and systems they need to access. So now they can spend more time on face to face negotiations and value added services while the technology does the rest."

Meanwhile, Bermuda-based reinsurer Allied World is among those companies who now save thousands of dollars by providing directors with iPads and uploading documents directly to the device via BoardVantage, a secure board portal and app.

Board members, most of who fly into Bermuda from the US for meetings, started using iPads at Allied World's Q3 meeting last November.

"Board meetings are a great use for them because for the most part, board members are reviewing doc-

uments rather than creating them," explained Wesley Dupont, Allied World's General Counsel and Secretary. "The paperwork for board meetings is tremendous and we would spend a day and half in the office just putting everything together. Add the cost of printing and the courier costs to send everything to members ahead of the meeting, and it gets expensive. Now we just send an email and they arrive with everything on their iPad. We love it and the board loves it!"

Board members use the iAnnotate app to make notes, mark up and tag documents or highlight text by using a pen or simply their finger.

Mr Dupont said that while Allied World is not planning to introduce iPads throughout its workforce at present, an increasing number of industry executives are using them.

"I see executives in meetings who come with presentations loaded on their iPads instead of bringing large files with them. They also get their newspapers on the iPad so its easy just to bring one device with everything on it."

In early March, Apple launched the iPad 2, which has cameras and video conferencing capability, but as tablet-type devices become common, Apple may soon have plenty of competition — not least from Blackberry. Find out more:

RI3K: [www.ri3k.com/](http://www.ri3k.com/)

iPad: [www.apple.com/ipad/business/](http://www.apple.com/ipad/business/)

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iAnnotate: [www.ajidev.com/iannotate/](http://www.ajidev.com/iannotate/)

## Chartis see ratings downgraded

Rating agencies Standard & Poor's (S&P) and Fitch Ratings have downgraded the ratings of AIG's property and casualty spinoff Chartis after the company reported a 2010 fourth-quarter underwriting loss of \$5.2 billion and took a \$4.1 billion charge to shore-up reserves.

Both agencies lowered Chartis' rating to A from A-plus. The global company includes significant operations in Bermuda.

S&P said the unit's combined ratio of 111.3 for the last quarter and 103.6 for the year, was a "marked deterioration" from the 101.2 combined ratio at the end of Q3 2010.

In a release, S&P stated: "Although we recognise that some of this deterioration stemmed from nonrecurring items that we don't expect will affect prospective

operating performance, the downgrade reflects our modified view that Chartis will not be able to outperform the industry over the next one to two years despite its formidable competitive global presence."

AIG said it took the charge to cover higher than expected claims on older asbestos and workers' compensation policies.

AIG, which was the subject of a massive \$150 billion bailout by the US Government in 2008, has also been given government approval to keep \$2 billion from recent sales of assets to boost capital at Chartis. AIG has sold several units, including AIG Star Life Insurance Co and AIG Edison Life Insurance Co, to focus on core units such as Chartis and US life insurer SunAmerica, recording a net income of more than \$11 billion.

# Bermuda has clear message for RIMS

## PREMIER AND BUSINESS DEVELOPMENT MINISTER HEAD BERMUDA DELEGATION AT RIMS CONFERENCE

Premier and Finance Minister Paula Cox, along with Business Development Minister Patrice Minors, will head Bermuda's presence at this year's RIMS (Risk & Insurance Management Society) Annual Conference and Exhibition in Vancouver, Canada.

The Bermuda market will be one of more than 350 exhibitors at the Vancouver Convention Centre West during the five-day event — one of the largest and most important events on the insurance industry calendar which attracts thousands of the world's leading risk and insurance professionals.

Premier Cox will also be addressing a marketing breakfast meeting on May 2 that Bermuda will be hosting for the first time.

Roger Gillett, Chairman of the Bermuda Insurance Advisory Committee, explained: "It's an opportunity for some networking and for the Premier to say a bit more than she would normally be able to say at an evening reception.

"We are selling tickets to Bermuda companies who will bring their clients along so we anticipate having about 200 people there. We're excited about the event and if it's successful we hope it will become a regular part of our RIMS calendar."

Mr Gillett said the Premier's attendance would give a boost to the Bermuda presence.

"She's a great asset to an event like this because as Premier and Finance Minister she's speaking with some real authority and knowledge about the market. When we're walking around the exhibit hall, she is able to engage people in a serious way which is always appreciated."

He said Bermuda's message at the conference would focus on the strength and stability of the Bermuda market and its attractiveness as the world's leading captive domicile in the face of increasing competition from US-based domiciles.

"We may not be the leader in terms of the number of captives but we're still significantly bigger than other domiciles in premium volume," said Mr Gillett. "But the US domiciles are giving us some serious competition and we want to make sure we deliver a strong message about our strengths."

He added that with the conference being held in Vancouver, it gave Bermuda an opportunity to leverage the Tax Information Exchange



**Premier and Finance Minister Paula Cox will lead the Bermuda delegation**

Agreement (TIEA) signed with Canada last year.

"Barbados has long had an arrangement with Canada and an advantage over us, but now it's a level playing field and this will be an opportunity for us to generate interest among Canadian firms about setting up captives in Bermuda."

Mr Gillett said the Bermuda delegation would also be underlining the continued financial strength of the Island's insurers and reinsurers. That was clearly illustrated by a survey published in *The Royal Gazette* on March 1 which showed that Bermuda's top 20 reinsurers had a combined net income of \$11.1 billion in 2010, and none recorded a net loss despite paying out billions of dollars in claims for events such as the *Deepwater Horizon* oil disaster, earthquakes in Chile and New Zealand, windstorm Xynthia in Europe and flooding in Australia.

He said that although some of the companies — including ACE, XL, Allied World and Flagstone — were no longer domiciled in Bermuda, they still had a significant presence.

"One of the things we will be addressing at RIMS is the misconceptions about the extent to which companies have redomiciled and how much real business has moved. The companies that have redomiciled have generally done so for strategic reasons, not to actively take business



**Roger Gillett: "An opportunity for some networking"**

away from here. Most of the business is still being done on the Island."

Cyber risk, ERM (enterprise risk management), energy resources, social media threats and global risk will be among the topics covered in the more than 120 sessions addressing critical risk management issues at RIMS. Mr Gillett said while Bermuda was not successful in getting any proposed sessions accepted at this year's conference, several Bermudian executives are expected to take part in the panel discussions.

Michael Angelina, Chief Risk Officer and Chief Actuary at Bermuda-based reinsurer Endurance Specialty, will be among the panelists discussing "The Maturing of the Chief Risk Officer role."

As always, the conference will also feature several high-profile keynote speakers from outside the insurance world.

Among this year's speakers will be Apolo Ohno, the US Olympic gold medal speed skater; Stephen Dubner, co-author of the best-selling books *Freakonomics*, and Ron Holton, who was Vice President, Risk Management and Assurance Services, for the 2010 Vancouver Winter Olympics Organising Committee.

For more about RIMS, visit [www.rims.org/RIMS2011](http://www.rims.org/RIMS2011)

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# Charting the right course

PwC has identified two distinct themes for directors in 2011 — helping management “play offense” and understanding the shifting business environment.

## Helping management ‘play offense’

Despite what may become a prolonged period of downward rate pressure, retrenching operations and reacting to economic stress, reinsurance companies need to focus on growth again. Directors should insist that time is made at the board table for meaningful strategy discussions. Those discussions work best when directors bring their combined perspectives and experience to collaborate with management in identifying, developing and exploring opportunities.

While the shape of the global economic recovery remains uncertain, reinsurers around the world are wasting no time charting new courses for sustainable growth and building a competitive advantage. Some are using the recession as an opportunity to accelerate their strategic agendas. The following are key factors in building competitive advantage in a global economy:

**Global rebalancing:** The global economy is rebalancing as nations change relative position. For example, in 2010 China surpassed Japan as the world’s second-largest economy. Also, while the US economy remains the largest, the demographics of countries such as China, India, Brazil and Indonesia will continue to change the mix. Other global trends include investing internationally and new dimensions of currency, regulatory and complex reputational risk. Directors should understand how global developments affect both existing operations as well as investment opportunities.

**The “Innovation Lab”:** The emergence of these global trends will likely create new competitors from different corners of the world. To promote growth and build competitive advantage, innovation must become a strategic imperative. Reinsurers should remain



## DIRECTORS SHOULD FOCUS ON TWO AREAS IN THE COMING YEAR, ACCORDING TO DAVID THOMPSON, DIRECTOR AT PWC

committed to the operational efficiencies they’ve achieved during the economic crisis but the direct cost-saving value from those changes is generally modest. In addition, cost discipline may stifle innovation, which is vital to achieve growth in a competitive world market. If your company isn’t bringing new ideas to market, your competitors will. Directors should discuss with management how it plans to further pursue and promote innovation as a key growth driver.

**Human capital as a strategic asset:** Structural shifts from the rebalancing of the global economy are being felt as much inside companies as outside. Employees are being challenged to learn new skills and deliver higher productivity in a tough labour market. New skills needed to succeed in today’s business environment include greater risk awareness, change management capabilities and the flexibility to work across diverse cultures and respond to new consumer demands. Reinsurers that recently downsized aggressively could soon face a shortage of skills suited to the new global economy. Directors should understand how management is reshaping the skills and size of the company’s workforce in support of its strategy and in light of today’s economic conditions.

**Not all growth is organic:** As reinsurers deal with the continuing downward pressure on rates — and reducing business volume as a result — many have retained significant excess capital levels and are considering acquisitions as a means of growth. It’s important for management to be able to predict the earnings impact from possible acquisitions but it is challenging to do this reliably. By taking more time in pre-merger negotiations, using more sophisticated valuation

techniques and planning diligently for post-merger integration, management can avoid post-acquisition earnings surprises. If management can more accurately estimate the earnings impact of potential acquisitions, the board is able to make better-informed decisions. Directors should discuss with management the level of analysis performed to support acquisition-related earnings guidance used in decision making.

## Understand the shifting business environment

Numerous changes are on the horizon for the next few years, from shifts in governance requirements and increased regulation driven by the financial crisis, to changes in tax policies and increased activity by various enforcement agencies. These changes are placing a real burden on management, increasing the difficulty of operating the business nimbly. Directors can play a vital role in helping management understand the implications of this changing world and they can help ensure the company is adapting to the new paradigms.

Latest key developments are:

**Dodd-Frank implications:** Since the financial crisis began, executive compensation has been a lightning rod for US legislators and regulators. Accordingly, it is not surprising that the Dodd-Frank Act contains many new executive compensation requirements and disclosures, as well as enhanced proxy access for significant shareholders. In addition, one of the Securities and Exchange Commission’s new powers includes teaming up with the Department of Justice to more vigorously pursue violators of the Foreign Corrupt Practices Act. Directors should collaborate with management on a strategy for fur-

ther developing relationships with significant shareholders and engaging them on sensitive issues such as executive compensation and director nominations.

**Regulatory landscape shift:** The extensive yet still somewhat uncertain changes to regulatory reporting and supervision being established under Solvency II, have already served to stretch reinsurers’ compliance budgets and drain talented risk management resources in Europe. The route to equivalence in Bermuda and the changes being considered in the US will only serve to exacerbate these issues for multinational reinsurance companies. Directors should understand management’s progress to date with regulatory compliance efforts, while discussing the deployment of key staff and the wider benefits that are capable of being derived from these efforts.

**Value from cloud computing:** Information technology, once relegated exclusively to operations, is emerging as a strategic business function. It has become a potential source of competitive advantage. Among the most important technology developments is so-called cloud computing, which allows computing services to be supplied over the Internet without the need for companies to provide their own internal hardware or platform support. Directors should discuss with management the value that cloud computing can bring to the company and how it can exploit the strategic opportunities while managing the risks.

**Tax policy in a deficit-driven world:** Federal deficits and accumulated federal debt will be major factors in shaping tax policies around the globe. Countries are taking significant steps to reduce government spending and raise taxes. That said, corporate tax increases are generally being avoided in an effort to maintain a competitive business environment. Directors should discuss with management its evaluation of the potential impact of the various aspects of revenue-neutral tax reform.

## NEWS REVIEW

# US plan branded 'discriminatory'

## BERMUDA COMPANIES LOBBY US OVER NEW TAX THREAT

Bermuda's major reinsurers have reacted strongly to a Budget proposal by US President Barack Obama to deny tax deductions for certain reinsurance premiums paid to foreign-based affiliates by US insurers.

In a February 14 letter to chairmen and ranking members of the US Senate Finance Committee and House of Representatives Ways and Means Committee, the Coalition for Competitive Insurance Rates (CCIR) said the proposal was "a discriminatory tax that would harm US consumers" and "an isolationist tariff on international insurance companies conducting business in the US" that violated America's commitments to the World Trade Organisation.

The CCIR is a Washington, DC lobby group formed to oppose the Neal Bill. Its members include ABIR (Association of Bermuda Insurers and Reinsurers), ACE, Arch, Argo, XL and other industry groups including the Risk and Insurance Management Society (RIMS) and the Florida Insurance Council.

CCIR said the proposal was similar to legislation proposed by Rep Richard Neal (Democrat, Massachusetts) "which was widely opposed by consumer advocates, insurance industry experts, and trade analysts. Unfortunately, this proposal is being advocated as a possible tax revenue offset by a small group of very large US insurance companies.

"With the enactment of this tax, these companies intend to create a US market share advantage for themselves at the expense of individual and commercial insurance consumers."

The Neal Bill aimed to close the "Bermuda loophole" — which he claimed allowed insurers to avoid paying US taxes by basing their companies overseas — by



**President Obama's administration calculates the proposed reinsurance tax would cut the US budget deficit by \$2.6 billion between 2012 and 2021**

limiting insurers from receiving tax deductions on some reinsurance business they send to foreign-owned affiliates in Bermuda and other jurisdictions.

The Obama Administration calculates the proposed reinsurance tax would cut the US budget deficit by \$2.6 billion between 2012 and 2021 — far less than the \$17 billion over 10 years projected by the Neal Bill.

CCIR said an economic impact study by the Brattle Group in 2008 and updated this year, showed that the Neal Bill would have cost US consumers \$10 billion a year and cut US reinsurance capacity by 20 per cent.

William R Berkley, Chairman and CEO of US insurer W R Berkley Inc, and one of the most vociferous supporters of the Neal Bill, said: "We are pleased that the president has included a proposal to close the tax loophole for affiliated offshore reinsurance.

"[This proposal] would not only generate much needed revenue which helps balance our budget, but more importantly the tax revenue would be derived from income gen-

erated in the United States."

He said that without such legislation, the US, "which generates almost half the world's property and casualty premium, will find the companies that provide property and casualty insurance to businesses in the US, all domiciled offshore."

The CCIR claimed: "The proposals are bad for consumers. This budget proposal would disallow a deduction for certain reinsurance premiums paid by a US insurer to an international affiliate. In effect, this is designed to punish international insurers by imposing additional taxes on their US operations.

"Reinsurance is an important tool used by insurers to manage risk. The US requires a large amount of reinsurance capacity to cover such events as natural disasters, large-scale industrial accidents and acts of terrorism. A substantial part of this reinsurance is supplied by non-US reinsurance companies.

"The effort to create a punitive tax regime on international carriers will result in less insurance capacity and increased costs for US con-

sumers. A robust insurance market open to as many competitors as possible is essential to consumers. This is particularly understood by those in states more exposed to natural disasters where there has been a crisis of insurance availability and affordability and by those who buy certain classes of commercial insurance that have historically suffered from contractions in availability of coverage."

The CCIR said insurance regulators from "hurricane states" including Florida, Louisiana, Mississippi, North Carolina and South Carolina, had gone on record opposing the proposed tax.

"US consumers, whether they know it or not, rely on the international insurance market to protect their homes and businesses," said Bill Newton, Executive Director of the Florida Consumer Action Network, in a related CCIR media release. "Our legislators have a responsibility to make sure that their constituents can afford to conduct business and protect their families. Supporting this budget proposal would be a violation of that responsibility. Given today's financial and economic conditions, now is certainly not the time to make access to insurance more costly."

Powerful industry group RIMS also voiced its objection in a separate statement.

"Despite longstanding opposition by policy makers on a bipartisan basis, the Obama Administration continues to pursue a policy which is harmful to insurance consumers," said John Phelps, Director, Business Risk Solutions, Blue Cross and Blue Shield of Florida Inc, and board liaison on the RIMS external affairs committee.

"This proposal would have a chilling effect on these insurers and reinsurers who provide an important safety valve in many areas of the country."

**'Despite longstanding opposition by policy makers ... the Obama Administration continues to pursue a policy harmful to insurance consumers'**

# BMA: a record year for Bermuda market

## INSURERS REPORT AN INCREASE IN AGGREGATE TOTAL ASSETS TO \$496 BILLION

The Bermuda insurance market recorded impressive results despite facing a challenging year in 2010, according to statistics released by the Bermuda Monetary Authority (BMA), the insurance industry's regulatory body.

In its annual report on the state of the Bermuda market, the BMA said the market remained resilient and continued to write significant levels of business, with growth in the captive sector and a rise in gross premiums written.

BMA statistics showed that Bermuda insurers recorded an increase in aggregate total assets to \$496 billion compared with \$472.9 billion in 2009.

It reported: "Despite the prolonged soft market and global economic recession impacting overall results for the industry to some extent, total gross premiums written remained strong at \$119.7 billion, as compared to the previous year's total of \$123.5 billion. The captive sector wrote \$32.6 billion in gross premiums, a year-on-year increase of 66 percent over the \$19.6 billion recorded for the prior year."

Jeremy Cox, CEO of the BMA, said: "2010 was a challenging year for the global financial sector with continued economic turmoil and uncertainty experienced around the world. Notwithstanding these conditions, the Bermuda insurance market maintained its resilience, still achieving significant results both in underwriting premiums and total assets.

"Our commercial sector especially remains strong. In addition, the volume of gross premiums written by our captive sector demonstrates Bermuda's sustained leadership among captive domiciles."

Bermuda remains the world's leading captive domicile although the total of 845 captives registered at the end of 2010 was down 40 from a year ago.

Shelby Weldon, Director, Insurance, Licensing and Authorisations at the Authority, explained: "The difference between the 885

total captives recorded in 2009 can be attributed to the Authority's reclassification of firms as well as the routine cycle of deregistrations and amalgamations common to global insurance markets."

He added that Bermuda still recorded a comparable level of new company registrations in 2010.

"A total of 35 new reinsurers were registered during the period.

In 2009, 37 were approved for a license and registration. Most of the new market entrants for 2010 were a combination of captive and commercial insurers within the Class 3, 3A and 3B sectors. The companies covered various lines of business. There were also encouraging signs of growth in the formation of special purpose insurers. The greatest proportion of busi-

ness came from the US during the year, with respect to both the captive and commercial markets."

Mr Cox added: "It is gratifying to see that Bermuda remains a significant force in the global insurance market. These latest figures attest to the market's ability to maintain its strong performance despite prevailing economic conditions."



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## OPERATING RATIOS

## ANNUAL LOSS RATIOS

	2010	2009	2008
ACE	59.2%	58.8%	60.6%
Arch	59.5%	58.2%	65.0%
Aspen	66.0%	52.0%	66.0%
Allied World	52.1%	45.9%	57.4%
Alterra	56.1%	62.4%	68.9%
Axis	56.9%	51.0%	63.7%
Endurance	59.6%	53.1%	64.3%
Everest Re	74.9%	61.0%	66.0%
Flagstone Re	62.2%	37.3%	58.1%
Hiscox	50.1%	41.8%	51.1%
Montpelier	48.3%	24.2%	55.8%
PartnerRe	65.9%	52.7%	63.9%
Platinum	59.9%	51.0%	64.4%
Renaissance Re	15.0%	15.5%	54.8%
Validus	56.1%	36.1%	61.5%
White Mountains	65.4%	58.9%	67.6%
XL Capital	63.8%	61.5%	66.1%

## ANNUAL EXPENSE RATIOS

	2010	2009	2008
ACE	31.0%	29.5%	29.0%
Arch	33.0%	29.9%	30.0%
Aspen	31.0%	32.0%	30.0%
Allied World	32.8%	30.2%	26.8%
Alterra	29.6%	25.7%	23.0%
Axis	31.8%	28.3%	26.1%
Endurance	29.1%	30.9%	29.2%
Everest Re	27.9%	28.6%	29.6%
Flagstone Re	39.4%	37.4%	31.3%
Hiscox	39.2%	44.2%	25.0%
Montpelier	33.7%	38.0%	35.2%
PartnerRe	29.1%	29.1%	30.2%
Platinum	26.1%	25.7%	27.5%
Renaissance Re	30.1%	29.8%	24.2%
Validus	30.1%	32.8%	30.7%
White Mountains	41.0%	40.9%	39.4%
XL Capital	31.0%	32.1%	29.6%

## ANNUAL COMBINED RATIOS

	2010	2009	2008
ACE	90.2%	88.3%	89.6%
Arch	92.5%	88.1%	95.0%
Aspen	97.0%	84.0%	96.0%
Allied World	84.9%	76.1%	84.2%
Alterra	85.7%	88.1%	91.9%
Axis	88.7%	79.3%	89.8%
Endurance	88.7%	84.0%	93.5%
Everest Re	102.8%	89.6%	95.6%
Flagstone Re	101.6%	74.7%	89.4%
Hiscox	89.3%	86.0%	76.1%
Montpelier	82.0%	62.2%	91.0%
PartnerRe	95.0%	81.8%	94.1%
Platinum	86.0%	76.7%	91.9%
Renaissance Re	45.1%	45.3%	79.0%
Validus	86.2%	68.9%	92.2%
White Mountains	106.4%	99.8%	107.0%
XL Capital	94.8%	93.6%	95.7%

## FINANCIAL STRENGTH RATINGS

## A M BEST RATING

Mar 4, 2011 Mar 9, 2010

## S&amp;P RATING

Mar 4, 2011 Mar 9, 2010

	Mar 4, 2011	Mar 9, 2010	Mar 4, 2011	Mar 9, 2010
ACE	A+	A+	AA-	A+
Arch	A	A	A+	A
Aspen	A	A	A	A
Allied World	A	A	A-	A-
Alterra	A	NA	A-	NA
Axis	A	A	A+	A+
Endurance	A	A	A	A
Everest Re	A+	A+	A+	A+
Flagstone Re	A-	A-	NR	NR
Hiscox	A	A	NR	NR
Montpelier	A-	A-	A-	A-
PartnerRe	A+	A+	AA-	AA-
Platinum	A	A	A	NR
Renaissance Re	A+	A+	AA-	AA-
Validus	A-	A-	A-	NR
White Mountains	A-	A-	A-	A-
XL Capital	A	A	A	A

NR — Not rated by S&amp;P NA — No data applicable

## ANALYSIS / PWC

## Q4 2011

## Outlook

● The return to an above normal catastrophe year, offset by loss reserve releases and recovering capital markets, led to another profitable year for Bermuda reinsurers.

● January 2011 renewals were competitive with large levels of capital available and some companies indicating that they will write significantly less business in 2011.

● The Q1 2011 earnings for the group are expected to be significantly affected by the Australia floods and the New Zealand and Japan earthquakes. Some commentators believe that recent events may cause a hardening of international catastrophe reinsurance rates.

## Earnings

● In 2010, gross premiums written decreased marginally due to rate decreases and selective underwriting, partially offset by continued expansion into new lines and geographies.

● The average combined ratio for the year increased from 81 percent

to 89 percent driven by higher catastrophe losses from the Chilean, New Zealand, Australia and Deepwater Horizon disasters. The average expense ratio remains at 32 percent.

● Investment income for most reinsurers declined due to continued pressure from declining yields.

● The impact was a decrease in net income for the year and quarter in comparison with the equivalent prior periods.

## Capital Management

● Financial strength ratings held steady for the group, with an S&P rating upgrade for ACE.

● Share repurchase activity increased towards the end of the year due to improved capital market conditions and strengthening of company balance sheets.

## Other

● Alterra Capital's results include the impact of the merger between Max Capital and Harbor Point. Information for RenaissanceRe reflects the disposal of its US-based insurance operations.

## ANNUAL GROSS PREMIUMS WRITTEN \$M

	2010	2009	2008
ACE	19,511	19,164	19,242
Arch	3,267	3,593	3,669
Aspen	2,077	2,067	2,002
Allied World	1,758	1,696	1,446
Alterra	1,411	1,375	1,254
Axis	3,751	3,587	3,390
Endurance	2,053	2,021	2,246
Everest Re	4,201	4,129	3,678
Flagstone Re	1,098	988	782
Hiscox	2,215	2,254	2,123
Montpelier	720	635	620
PartnerRe	4,885	4,001	4,028
Platinum	780	925	1,067
Renaissance Re	1,165	1,229	1,242
Validus	1,991	1,621	1,362
White Mountains	3,554	3,898	4,117
XL Capital	6,673	6,687	8,260

## ANNUAL NET PREMIUMS EARNED \$M

	2010	2009	2008
ACE	13,504	13,240	13,203
Arch	2,552	2,843	2,845
Aspen	1,899	1,823	1,702
Allied World	1,360	1,317	1,117
Alterra	1,172	834	814
Axis	2,947	2,792	2,687
Endurance	1,741	1,633	1,766
Everest Re	3,935	3,894	3,694
Flagstone Re	852	758	654
Hiscox	1,749	1,724	1,763
Montpelier	625	573	529
PartnerRe	4,776	4,120	3,928
Platinum	780	937	1,115
Renaissance Re	865	882	984
Validus	1,761	1,450	1,257
White Mountains	3,162	3,600	3,710
XL Capital	5,414	5,707	6,640

**Q4 EARNINGS (LOSS) DATA**

	Net income (loss) attributable to common shareholders (\$m)			Fully diluted earnings (loss) per share (\$)		
	Q4 2010	Q4 2009	Q4 2008	Q4 2010	Q4 2009	Q4 2008
ACE	1,001	953	20	2.92	2.81	0.06
Arch	228	285	(143)	4.54	4.75	(2.38)
Aspen	93	126	22	1.12	1.40	0.18
Allied World	93	161	20	2.13	3.05	0.39
Alterra	80	45	NA	0.69	0.78	NA
Axis	264	282	131	1.99	1.87	0.88
Endurance	107	151	13	2.09	2.56	0.22
Everest Re	303	197	(17)	5.51	3.28	(0.27)
Flagstone Re	15	72	(76)	0.20	0.86	(0.89)
Hiscox	NA	NA	NA	NA	NA	NA
Montpelier	42	105	(48)	0.63	1.25	(0.57)
PartnerRe	48	346	87	0.65	4.25	1.53
Platinum	(18)	91	61	(0.46)	1.76	1.18
Renaissance Re	123	212	(55)	2.23	3.38	(0.91)
Validus	103	166	37	0.92	1.23	0.47
White Mountains	73	100	(213)	8.83	11.26	(22.92)
XL Capital	188	(40)	(1,433)	0.57	(0.12)	(4.36)

**ANNUAL EARNINGS (LOSS) DATA**

	Net income (loss) attributable to common shareholders (\$m)			Fully diluted earnings (loss) per share (\$)		
	Q4 2010	Q4 2009	Q4 2008	Q4 2010	Q4 2009	Q4 2008
ACE	3,108	2,549	1,197	9.11	7.55	3.50
Arch	817	851	265	15.55	13.74	4.09
Aspen	313	474	104	3.62	5.64	0.89
Allied World	665	607	184	13.32	11.67	3.59
Alterra	302	246	(175)	3.17	4.26	(3.10)
Axis	820	461	351	6.02	3.07	2.26
Endurance	349	521	83	6.38	8.69	1.32
Everest Re	611	807	(19)	10.70	13.22	(0.30)
Flagstone Re	97	242	(187)	1.23	2.87	(2.20)
Hiscox	276	440	131	0.70	1.14	0.34
Montpelier	212	464	(146)	2.97	5.36	(1.69)
PartnerRe	818	1,502	12	10.46	23.51	0.22
Platinum	215	382	216	4.78	7.33	3.98
Renaissance Re	703	839	(13)	12.31	13.40	(0.21)
Validus	403	897	53	3.34	9.24	0.61
White Mountains	87	470	(555)	10.12	53.10	(54.96)
XL Capital	585	207	(2,632)	1.73	0.61	(11.02)

**MARKET CAPITALISATION**

	2010		2009		2008	
	Common shares issued	Market value \$	Common shares issued	Market value \$	Common shares issued	Market value \$
ACE	334,942,852	62.25	336,524,657	50.40	333,645,471	52.92
Arch	46,544,075	88.05	54,761,678	71.55	60,511,974	70.10
Aspen	76,342,632	28.62	83,327,594	25.45	81,506,503	24.25
Allied World	38,089,226	59.44	49,734,487	46.07	49,036,159	40.60
Alterra	110,963,160	21.64	55,867,125	21.71	NA	16.90
Axis	112,393,000	35.88	132,140,000	28.41	136,212,000	29.12
Endurance	47,218,468	46.07	55,115,702	37.23	57,203,454	30.53
Everest Re	54,428,000	84.82	59,318,000	85.68	61,400,000	76.14
Flagstone Re	68,585,588	12.60	82,985,219	10.94	84,801,732	9.77
Hiscox	380,800,000	5.89	375,006,000	5.10	368,665,000	4.89
Montpelier	64,557,204	19.94	79,998,795	17.32	91,826,704	16.79
PartnerRe	69,986,194	80.35	82,585,707	74.66	57,748,507	71.27
Platinum	37,757,926	44.97	45,942,639	38.29	47,482,161	36.08
Renaissance Re	54,109,840	63.69	61,744,857	53.15	61,503,333	51.56
Validus	98,001,226	30.61	128,459,478	26.94	75,624,697	26.16
White Mountains	8,194,925	335.60	8,860,150	332.66	8,808,843	267.11
XL Capital	316,396,289	21.82	342,118,986	18.33	330,812,343	3.70

**SHAREHOLDERS' EQUITY (\$M)**

	2010	2009	2008
ACE	22,974	19,667	14,466
Arch	4,513	4,323	3,433
Aspen	3,242	3,305	2,779
Allied World	3,076	3,213	2,417
Alterra	2,918	1,565	NA
Axis	5,625	5,500	4,461
Endurance	2,848	2,787	2,207
Everest Re	6,284	6,102	4,960
Flagstone Re	1,135	1,211	986
Hiscox	1,988	1,805	1,369
Montpelier	1,629	1,729	1,358
PartnerRe	7,207	7,646	4,199
Platinum	1,895	2,078	1,809
Renaissance Re	3,939	3,841	3,033
Validus	3,505	4,031	1,939
White Mountains	3,653	3,657	2,899
XL Capital	10,613	9,432	6,115

## NEWS REVIEW

# Middle East trouble affects premiums

UNREST AND POLITICAL VIOLENCE ARE CAUSING UNDERWRITERS TO RE-EVALUATE THEIR POLICIES. BY CHRIS GIBBONS

The wave of popular unrest and political violence that has swept across North Africa and the Middle East is causing underwriters in Bermuda and London to re-evaluate their political risk policies as events rapidly change the level of risk exposure for international companies operating in the region.

Analysts expect premiums to rise as capacity is cut and risk appetite reduced following upheavals in countries like Egypt that were rated relatively stable by political experts, and subsequent credit rating downgrades of countries like Bahrain and Libya.

ACE — through Bermuda-based subsidiary Sovereign Risk Insurance Ltd — AXIS Capital, Zurich, Hardy and Catlin are among the global catastrophe reinsurers with Bermuda operations who may face political risk claims from the region, although at press time, with events still moving fast, none had issued statements about possible exposure or estimated losses.

Political risk coverage is usually additional insurance bought by banks, exporters and multinational corporations in high-risk countries to cover things such as non-payment and breach of contract as a result of currency inconvertibility, expropriation and war and political violence.

In a February 28 analysis, *A Region In Transition*, the London-based Chartered Insurance Institute said: “The insurance market is likely to respond by undertaking a comprehensive reappraisal of political risk over the next few months, and underwriters will need to examine each country separately and assess the relative implications. This may mean an increase in premiums for political risk and violence cover in some countries.”

The paper’s author Adrian Lewers, Head of Political Risk at London brokers Beazley, said the unrest “serves as a stark reminder that many emerging markets remain inherently risky places in which to operate. In recent years



London brokers Beazley say the current protests in the Middle East could have profound implications for business

this fact has sometimes been obscured as macroeconomic progress and market liberalisation have lowered the costs and increased the appeal of operating in these environments.”

He believes the current protests mark the start of a new era of unrest with profound implications for business.

“As we are seeing in Egypt, political unrest can lead to investment losses and business interruption due to general strikes and curfews; postponement of government and private projects; loss of or damage to assets because of looting and sabotage; as well as the potential for insolvency risks, capital flight, banking sector restrictions and capital controls. Regime change also frequently entails public contract reviews.”

**‘A stark reminder that many emerging markets remain inherently risky places in which to operate’**

However, Mr Lewers says regime change may not necessarily be negative. He writes: “Once the dust has settled, there is every reason to be optimistic that the removal of a corrupt and reactionary regime will result in a long-term improvement in the business environment. Indeed, our longer-term outlook for Egypt tends towards the positive. We expect a democratic process eventually to be instituted which is likely to deliver a moderate and pragmatic, and probably coalition, government in which the Muslim brotherhood will be the dominant, but not sole, force. We would expect this government to continue to respect the interests of international investors.”

But he said insurers could not rule out the risk of a military coup,

an extremist government or, at the very least, a period of uncertainty that will impact business planning, discourage investment and weaken economic activity.

Despite the fast-moving pace of events in the region, he said there was “little doubt” that major changes would take place over the next few months or even years and that the scale, speed and extent of those transitions would vary from one country to the other.

“For insurers, the losses from these developments will be felt across [the] political risk market on an equally varied timescale. Those political risk professionals will have to closely track the intensity of the developments and take a view on the relative risk characteristics between the countries, and degree of exposure they are prepared to live with.”

*To follow the latest news and political risk analysis of countries affected by the current unrest, see Beazley’s interactive risk map at: [www.beazley.com/riskmap](http://www.beazley.com/riskmap)*

# Bermuda aims to be Islamic finance hub

**PACKWOOD: 'BAHRAIN A GATEWAY FOR BERMUDIAN COMPANIES TO EXPAND THEIR OFFERINGS ACROSS THE MIDDLE EAST'**

Despite the current political turmoil in the Middle East, Bermuda is continuing its marketing campaign to become the offshore jurisdiction of choice for the almost \$1 trillion Islamic finance industry.

And as Bermuda forges closer links with key Arab states such as Dubai and Bahrain, the Island's insurance and reinsurance companies see growing opportunities in the region and Islamic insurance products globally.

A delegation headed by Cheryl Packwood, CEO of Business Bermuda, witnessed first-hand the street protests in Bahrain against King Hamad Bin Isa al-Khalifa during its latest marketing trip that saw them attend the 7th annual Middle East Insurance Forum — and host a Financial Services Conference presentation and reception at the Capital Club in Manama, Bahrain.

Bahrain was among several countries in the region that saw their credit ratings downgraded by several rating agencies in the wake of the protests. Leading Bahraini bankers angrily claimed the downgrades were a knee-jerk reaction to the political situation and that the country's basic economy remained stable and long-term prospects good as oil prices rose.

Bermuda and Bahrain signed a double taxation agreement in May 2010 and Bermuda is hoping that once the political situation stabilises, it will be in a position to build on those ties as Bahrain develops as a Middle East insurance and reinsurance hub.

Ms Packwood said she was "very pleased" with the February 16 presentation that targeted the country's financial decision makers and covered shipping, Islamic finance, fund structures and private wealth management. Business Bermuda plans to return to the Middle East in May to attend events in Riyadh and Dubai.

"We see Bahrain as a gateway for Bermudian companies to expand their offerings from the Kingdom across the Middle East and North Africa regions, while offering Middle East clients access to Bermuda and its markets," said Ms Packwood.

Another member of the delegation, PwC Senior Manager Belaid Jheengoor, said: "Many Bermuda-based companies and trusts have played key roles in Islamic finance transactions and can offer flexible solutions to this nascent industry. Bahrain is widely seen as the global leader in Islamic finance, playing host to the largest concentration of Islamic financial institutions in the world, and we are keen to strengthen our relationship with the Kingdom. It is likely that the global market for Islamic insurance will continue to grow, opening exciting possibilities for Bermuda reinsurers."

A recent report by PwC, *Islamic Finance in Bermuda*, noted: "Investors from the Gulf Cooperation Council (GCC) already invest heavily in Bermuda-based investment funds, including Shariah-compliant funds, and have significant interests in the local hospitality industry. Financing



**Cheryl Packwood: witnessed Bahrain street demonstrations**

vehicles originating from the GCC use Bermuda exempt companies and trusts in sukuk (the Islamic equivalent of bonds) investment holding and wealth management structures.

"Bermuda's legislation is robust, but flexible enough to accommodate Islamic financial products and structures."

Like other Muslim financial organisations, Islamic insurance companies — known as takaful ("guaranteeing each other" or insurance) and retakaful (reinsurance) — must strictly adhere to Shariah investment principles of co-operation, protection and mutual responsibility that also prohibit the charging and paying of interest, gambling and uncertainty. PwC says that as the world's largest offshore reinsurance and insurance domicile, Bermuda

offers a range of opportunities for retakaful operators in the global takaful market

"Bermuda law provides significant flexibility with respect to corporate structures and governance, which allow for establishing and operating of captive takaful and retakaful arrangements."

Demand for takaful is already increasing in Egypt following the protests that led to the downfall of President Hosni Mubarak, according to Tokio Marine Middle East, a unit of Tokio Marine whose global reinsurance operations are headquartered in Bermuda.

CEO Ajmal Bhatti told *Global Islamic Finance* magazine that recent events highlighted the need for financial protection.

"The awareness for insurance, especially personal insurance is generally low in regional markets including Egypt. Events such as the recent ones generally result in increasing the awareness in people that they need to do more about protection of their livelihood and assets."

Tokio Marine launched two takaful companies in Egypt in January 2010 that are expected to generate about \$3.5 million in annual premium income in the first financial year and \$136.4 million within 10 years.

Tokio Marine is also looking at launching micro-takaful in Egypt for people on low incomes that provide accident coverage as well as livestock cover and crop insurance. A copy of PwC's report *Islamic Finance in Bermuda* can be downloaded from [www.pwc.com/bm](http://www.pwc.com/bm)

## HOW DOES TAKAFUL WORK?

According to PwC's report *Islamic Finance in Bermuda*, the most widely used takaful/retakaful models are Mudharaba, Wakala and the hybrid Wakala Watf.

In the profit-sharing Mudharaba model, shareholders share in the profit or loss with the policyholders. In the Wakala model, the operator acts as an agent of the participants.

Shareholders are paid a pre-agreed proportion of the contributions paid by the policyholders in return for running the insurance operations of the business on behalf of the policyholders. If the policyholders' fund makes a loss, the operator provides an interest-free loan to the policyholders' fund that is repaid out of future surplus in the fund.

In the hybrid model, the operator receives a Wakala fee for managing the insurance operation of the policyholders' fund, as well as a Mudharaba fee for managing the investment fund. The policyholders' fund is replaced by a trust (the Waqf fund). Part of the capital of the shareholders' fund is used to create this trust, which is considered charitable under local law.

## PROFILE

# A committed and creative power broker

CHRIS GIBBONS MEETS AWARD-WINNING, PROBLEM-SOLVING KRISTA DORAN



Photo: Kaleidoscope Media

**Krista Doran: “Overall my goal is to put together a good programme that will protect our clients’ balance sheet at the best possible price”**

Bermuda-based Krista Doran, a Senior Vice President at Bowring Marsh, has been named as one of *Risk & Insurance* magazine’s Power Brokers of the Year.

Mrs Doran was one of six winners in the Chemicals category of the prestigious annual list that recognised 144 brokers across 24 industries for their “creativity, problem-solving ability, industry knowledge and commitment to delivering superior client service.”

The magazine’s citation praised her attention to detail in a highly complex sector that faced major challenges following the *Deep-*

*water Horizon* disaster in April last year. The massive oil spill had a knock-on effect on the chemical markets and the companies that make the materials and chemicals used in the clean-up operations.

One client said: “Krista has successfully negotiated consistent and favourable policy terms with multiple insurers within an excess liability programme that are customised for a company with a challenging risk profile. Consistency of policy terms and conditions are extremely important in an excess-liability programme that does not provide follow-form coverage.”

“Large chemical plants and hazardous materials in the supply chain are obvious exposures, but non-obvious ones — odourless and colourless — are what most vex risk managers in the chemical industry,” according to the magazine.

“For one, there are the sheer complexities of hundreds of products, many with multiple grades, forms and specifications. That, complicated by the variables of multiple sites and the ubiquity of contract workers, makes even basic risk management in the chemical industry a challenge.”

The magazine added: “Clients

cite her expertise in working with jittery underwriters to prevent knee-jerk tightening of terms, or increases in premiums or exclusions. Because of exclusions arising out of the *Deepwater Horizon* tragedy, clients are grateful for Doran ... as she unravels the chemistry of the language at renewal and the rest of the year.”

Mrs Doran, who has specialised in the Marine & Energy, Chemical and Life Sciences sectors since joining Marsh in 1992, said she was delighted with the honour, particularly as it came following one of the most challenging years

‘There are some very good energy underwriters in the Bermuda market who foresaw the potential for multiple claims in such a loss as Deepwater Horizon, but some were taken by surprise’



## INSIGHT

# Fighting off the competition

Every employee is obliged by law not to compete with his employer or act in ways that harm his employer's business. But what is the situation after the contract has ended?

In short, all bets are off.

Employees can compete, solicit, poach and entice away to their heart's delight in an effort to take away the business, customers or staff from their former employer. That's part and parcel of our capitalist, competitive society.

To protect themselves, employers insert what are known as restrictive covenants ("non-competition" or "restraint of trade" clauses) in the contract of employment. These clauses are common in the Bermuda marketplace, particularly in the insurance sector where competition is fierce.

The trick with non-competes is making them reasonable; if unreasonable they will be struck down by a court as having no effect. Courts start from the premise that these clauses are unreasonable for being in restraint of trade and thus are unenforceable unless the employer can show that they impose no greater restraint than what is reasonably necessary. Why? Because public policy dictates that a person



BY JULIANA M  
SNELLING, PARTNER  
AT MELLO JONES  
& MARTIN

should not be prevented from earning his living and that Bermuda should not be deprived of the talents and ability of useful, working members of society.

If the clause is unreasonable, the employer cannot get "off the hook" by saying that the employee knew what he was doing when he signed the contract. Signing an unlawful contract does not make it lawful in the same way that a prostitute cannot sue for payment; although the contract was undoubtedly made, the court will refuse to enforce it on public-policy grounds.

To ensure enforceability, the employer must have a "legitimate business interest" that merits protecting. Examples include "trade secrets" or other highly confidential information, customer connections and the retention of key employees in a highly competitive business.

Further, the restrictive covenant must be reasonable with respect to: 1) the nature of activities being restricted; 2) time and 3) geographical scope.

In a leading decision of the Privy Council in 1974 (Stenhouse), the court struck down two clauses in an insurance broker's contract. One clause provided that if any client should place insurance business with the departing employee during the five year period post termination, the employee must pay a 50 percent commission to the former employer. The second clause prohibited the former employee from acting as an insurance broker for any client of the company for three years. The severe effect of the clauses as read together made them unreasonable and unenforceable since it meant that he could not act as a broker for the former employer's clients unless payment was made.

In 2007, the Court of Appeal in England upheld a clause which prohibited the former managing director of Farr plc from operating as an insurance broker in the social housing sector in England for 12 months after termination. The clause was reasonable because the former employee had confidential information which Farr had a legitimate continuing interest to pro-

tect post-termination (eg. pricing and financial information relating to clients and insurers and business development ideas).

Employers can also prevent poaching of their key employees with properly worded "non-solicitation" or "non-dealing" clauses. Poaching is prevalent in the Bermuda insurance industry, particularly with the cyclical waves of start-ups that have an urgent need for highly-qualified underwriters. The easiest place for new set-ups to find staff is in already-established rival companies that stand to lose a great investment in their professional employees. The courts have become alive to this during the past decade, accepting that an employer has a legitimate interest in retaining key employees and a stable workforce through suitably worded clauses.

Another type of restrictive covenant that is commonly upheld is the "non-solicitation of client" clause. This prevents the ex-employee from enticing away former clients to go with the new business. Solicitation is a subtle and difficult phenomenon to monitor, but it's real—just go to Port O' Call on Friday at lunchtime and watch the brokers schmoozing away former clients!

Employers should note that non-solicitation does not prevent a client from leaving the former employer of his own accord and moving with the departing employee. This can possibly be prevented by a "non-dealing" clause that stops the ex-employee from dealing with a former client, even if the ex-employee was not actively solicited. In the Stenhouse case, a separate clause which prohibited the employee from soliciting business from the former company's clients for five years was upheld as reasonable, given the nature of the insurance broking business where the fragility of customer connections makes the risk arising from solicitation more serious.

Employers can protect their business in all of the above ways but, in doing so, should not rely on boilerplate precedents. The clause needs to be tailored to their particular business interests and clearly worded so as to protect only what is absolutely necessary. Otherwise, the courts will strike down the clause and leave the employer with little or no protection.

*Juliana Snelling advises primarily in the fields of employment, labour and immigration law. She advises senior level business executives as well as local and exempted companies and major institutions on the terms of contracts of employment and severance agreements. She has over 13 years of experience at the Bermuda Bar*

'Poaching is prevalent in the Bermuda insurance industry, particularly with cyclical waves of start-ups'



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# Bermuda: pro-business but overcrowded

“There’s a growing feeling that the Island has become overcrowded with too many ‘social’ restrictions on expatriate management and employees. It is difficult to get work permits, to enroll your children into schools and even to rent an apartment or get a car. It is a small place that has to care for its own people. That is why a lot of companies — for example the class of 2005 — now have their staff commuting in on Monday and leaving on Friday. It is difficult if you have a family.”

— unnamed Standard & Poor’s analyst in *Reactions* magazine’s Bermuda Market Report

“For start-up companies, a great advantage Bermuda has is that it is still very fast to get a company formed. It has always been a very pro-business place. The system is geared for the rapid formation of a company. The regulators are very experienced in reinsurance business, very focused on it and they understand the business completely; so do the service providers. Trying to do the same things with a start-up in Switzerland would take



David Brown

longer and be more difficult.”

— Flagstone Re CEO **David Brown** remains bullish about Bermuda in *Reactions* magazine

“It was very, very awkward and I just suggested maybe we focus on this SCA (Security Capital Assurance) thing for a while. I said, ‘Guys, I will have time for some learning about the business, but I’m going to focus on this one thing right now, because if we don’t get this one right, everything else is just sort of interesting.’”

— XL Group’s **Mike McGavick** in the *Financial Times* on his first planning meeting as CEO

## WHAT'S ON

### ONSHORE

May 12

*Seminar: An Introduction to Catastrophe Reinsurance*  
Bermuda Insurance Institute  
[www.bii.bm](http://www.bii.bm)

May 11–20

*Seminar: Insurance Induction for New Employees*  
Bermuda Insurance Institute  
[www.bii.bm](http://www.bii.bm)

June 5–8

Bermuda Captive Conference 2011  
Fairmont Southampton  
[www.bermudacaptive.bm](http://www.bermudacaptive.bm)

### OFFSHORE

May 1–5

*RIMS (Risk & Insurance Management Society) 2011 Annual Conference & Exhibition*  
Vancouver, BC, Canada  
[www.rims.org](http://www.rims.org)

May 22–25

American Association of Managing General Agents Annual Meeting  
Orlando, Florida  
[www.aamga.org](http://www.aamga.org)

May 23–24

European Insurance Forum  
Dublin, Ireland  
[www.europeaninsuranceforum.com](http://www.europeaninsuranceforum.com)

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## PEOPLE



Alison Hill, Argus CEO and COO

# Hill is new CEO at Argus

**Alison Hill**, Chief Operating Officer of Bermuda insurer ARGUS GROUP HOLDINGS LIMITED, has now taken on the additional role of CEO. Former CEO **Gerald Simons** retains his position as President. The company said Ms Hill's expanded role would help ensure a smooth transition in preparation for Mr Simons' expected retirement in 2012. Meanwhile, **Everard Barclay Simmons** has been appointed as a Director of

Argus Group Holdings Limited. He is Managing Partner of Bermuda law firm Attride-Stirling & Woloniecki and currently sits on the Public Funds Investment Committee and is a member of the Board of Directors of the Bermuda Monetary Authority.

Bermuda-based PARTNERRE has announced a series of changes to its catastrophe business unit from April 1. **Brian Secrett**, currently Chief Underwriting Officer

and Deputy Head, Catastrophe, has been appointed Head of Catastrophe. He will be responsible for PartnerRe's worldwide catastrophe reinsurance business and will report to **Emmanuel Clarke**, CEO PartnerRe Global. He succeeds **Ted Dziurman**, who has been appointed to the new position of General Manager and Executive Director of Dublin-based Partner Reinsurance Europe Limited. Dr **Erik Rüttener**, currently Head of Catastrophe Research, will be appointed Chief Underwriting Officer and Deputy Head of Catastrophe, reporting to Mr Secrett. Dr Rüttener is currently Chairman of the Board of PERILS AG, a European insurance industry initiative.

**William H Bolinder** has been elected Chairman of Bermuda-based specialty reinsurer ENDURANCE SPECIALTY HOLDINGS LTD. He has held a seat on the board of directors for the last 10 years and has been lead director for the last five years. **Susan Fleming Cabrera** and **Scott D Moore** have been nominated for the board at the firm's annual meeting on May 11.

**Ramani Ayer**, former Chairman and CEO of The Hartford Financial Services Group, has joined XL GROUP's board. He retired in October 2009 after more than 12 years building The Hartford into a recognised leader in property and casualty insurance and life and investment products.

FLAGSTONE RE has appointed **Richard Housley**, Underwriting Director of Flagstone Syndicate Management Limited (FSML), managers of Syndicate 1861 at Lloyd's. He joins FSML with 25 years experience in the industry and was previously CEO of the Specialty Lines Division at AXIS Capital.

Bermuda-headquartered IRONSHORE INC has named **Daniel Owen** as Senior Vice President of its New York-based Global Property Builders Risk Unit, responsible for underwriting global property coverages.



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