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NEWS

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Insurance Day is the world's only daily newspaper for the international insurance and reinsurance and risk industries. Its primary focus is on the London market and what affects it, concentrating on the key areas of catastrophe, property and marine, aviation and transportation. It is available in print, PDF, mobile and online versions and is read by more than 10,000 people in more than 70 countries worldwide.

First published in 1995, *Insurance Day* has become the favourite publication for the London market, which relies on its mix of news, analysis and data to keep in touch with this fast-moving and vitally important sector. Its experienced and highly skilled insurance writers are well known and respected in the market and their insight is both compelling and valuable.

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Exor lobbies for preferred shareholder votes

Exor: the Italian investment firm has continued to stress the 'inferiority' of the proposed Axis merger to PartnerRe shareholders

Claudio Divizia/Shutterstock.com

Latest letter continues to argue 'inferiority' of Axis merger

Alexis Burris
Reporter

Exor is calling for PartnerRe preferred shareholders to vote against the merger with Axis Capital on July 24 in its latest letter to shareholders.

Exor continued to stress the "inferiority" of the Axis merger compared with its $137.50 all-cash binding offer.

The Italian investment firm was dealt a blow on June 5 after the Supreme Court of Bermuda denied its request for PartnerRe to disclose information on its shareholder base.

"PartnerRe has refused to provide us with the contact details of PartnerRe's preferred shareholders, in order to prevent us from communicating with you directly so you may make an informed decision. They want to keep you uninformed," Exor said in its letter.

> **"PartnerRe has refused to provide us with the contact details of PartnerRe's preferred shareholders, in order to prevent us from communicating with you directly so you may make an informed decision. They want to keep you uninformed"**
>
> Exor letter

Exor filed the lawsuit on June 1, accusing the PartnerRe board of trying to hamper its efforts to persuade other shareholders of the merits of its bid.

Exor said under its proposed transaction PartnerRe preferred shares will remain outstanding in exactly the same way as under the Axis transaction, "but in a stronger and safer company that better protects the preferred shareholders' investment".

On June 8, PartnerRe called on preferred shareholders to back the proposed Axis amalgamation.

The Bermudian reinsurer warned of "considerable risk the rating of preferred shares will be downgraded upon sale to Exor".

Capsicum Re appoints Guy Carpenter's Moss

Specialist reinsurance broker Capsicum Re has appointed Andrew Moss partner, with responsibility primarily for the accident and health reinsurance of programme business, *writes Alexis Burris*.

Moss joins from Guy Carpenter, where he was managing director of its programme division. He has more than 20 years of industry experience and has spent the majority of his career to date with Rattner Mackenzie, until it was acquired by Guy Carpenter in 2009.

Moss is the latest of a slew of senior hires Capsicum Re has made over the past few months. Malcolm Payton, also from Guy Carpenter, was appointed in January to head its facultative reinsurance division. Alastair Lockhart-Smith joined to lead the marine and energy specialty division, along with Jerry Reeves and Joseph Lone. The three moved from JLT Re. Meanwhile, Neville Ching joined in March from Aon Benfield Bermuda as managing partner to lead Capsicum Re's retro division and to run its Bermudian operation.

"We are receiving widespread support from customers who value the senior-level expertise provided by the fantastic team we are building," Capsicum Re chief executive, Rupert Swallow, said.

"[Moss] is another great hire for us; his experience will ensure we continue to innovate and provide an unparalleled service to our customers. I look forward to working with him."

NEWS

ID Summit Bermuda: Finance minister warns over tax crackdown complacency

Flying the flag: Bermuda needs to show it is no 'tax haven gimmick', according to its finance minister, Bob Richards

Bermuda must fight back and show it is 'no tax haven gimmick'

Michael Faulkner, Hamilton, Bermuda
Editor

Bermuda's finance minister has called on the re/insurance market to help protect the island from international efforts to crack down on tax havens.

Speaking at the *Insurance Day* Summit Bermuda, Bob Richards said Bermuda needed to "redouble" its efforts to demonstrate it is not a "tax haven gimmick".

He urged the re/insurance industry to work with the government to make this case and warned against complacency. "The maintenance of Bermuda's good name, its brand, is critical. What we have in Bermuda is no tax gimmick. It is real," Richards said.

"Bermuda's past performance in adjusting to tax and regulatory changes has been impressive. But that is not a reason for any of us to drift along and hope everything will be all right. We have to redouble our efforts to differentiate ourselves in this environment."

Richards highlighted the critical role the Bermuda reinsurance market plays in providing catastrophe risk transfer to the US and elsewhere and also the considerable number of jobs its provides to US citizens. "This needs constant telling and reinforcement in the halls of power. We can inform and persuade the key decision-makers," Richards said

"The challenge is to differentiate ourselves from the other [offshore low tax regimes]. The more we drive home that we are not a tax haven gimmick to onshore decision-makers, the less the tax threat from the IRS [Internal Revenue Service] and other tax authorities will be. There is a powerful threat to the Bermuda brand and it must be combated with precision, skill and tenacity."

Over the years, the island has been no stranger to threats from overseas against its status as an offshore jurisdiction.

Last month the IRS published a draft ruling on tax issues arising from hedge fund reinsurance strategies. The IRS has been encouraged to clamp down on the perceived hedge fund reinsurance tax loophole, which some see as a way for hedge funds to avoid tax by using offshore reinsurance operations and for their investors to avoid US tax laws.

"In recent years it has become politically expedient in high-tax jurisdictions to blur the line between avoidance and evasion. But the stream of disinformation [from politicians] has been based on the assumption the dots on the map will not fight back. But all dots on the map are not created equal," Richards said. "Bermuda is not powerless and not guilty as charged. We will fight back."

Richards pointed to the island's legacy of adherence to international standards and tax transparency. "Bermuda complies with all major agreements on tax information exchange, money laundering and transparency. If you are a fraudster, a money launderer, a tax evader or a terrorist financier, you are not welcome."

The conference was officially opened by Bermuda premier, Michael Dunkley, who said investor confidence in Bermuda was growing and the wave of mergers and acquisitions (M&A) sweeping the island was positive.

"M&A has been considered as a threat to Bermuda. I see it as a way of making a stronger, more competitive Bermuda," Dunkley said.

Mathias to leave Lancashire after 10 years

Charles Mathias' 10-year stint with Lancashire will come to an end in November, with his role as chief risk officer due to be filled by Louise Wells, *writes Scott Vincent*.

Wells, the group's head of internal audit, will begin her new role with effect from July 28. She has been with Lancashire since 2011, having previously held a number of operational risk and internal audit roles at Lloyd's. From 1996 to 2005, Wells worked for KPMG.

Alex Maloney, Lancashire group chief executive, said: "[Wells] has been closely engaged with Lancashire's preparations for the implementation of the UK Solvency II regime and is well equipped to lead this important work stream.

"Her appointment demonstrates the importance Lancashire attaches to developing the skills of our staff and maintaining a strong bench of talented employees capable of serving the needs of our business."

Mathias has been with Lancashire since its foundation in 2005, during which time his roles have included chief underwriting officer for Lancashire Insurance Company and group underwriting operations director.

Lancashire's founding chief executive, Richard Brindle, retired from the company last year and is due to return to the market as chief executive of Fidelis Insurance, alongside another Lancashire founder, Neil McConachie, who is due to become chief financial officer.

Aspen Re hires De Couto from RenRe for analytics role

Aspen Re has appointed Douglas De Couto head of portfolio analytics, *writes Scott Vincent*.

De Couto is to join from RenaissanceRe, where he served as assistant vice-president, corporate risk and led a cat-focused team responsible for proprietary model data.

In his new role, De Couto will be based in Bermuda and report to Alan Calder, head of group catastrophe risk management.

De Couto has been at RenRe since 2006, before which he co-founded Inbox.bm, an e-billing and e-payment website for the local Bermuda market.

INSIGHT

Here come the drones

The commercial drone market is expected to see dramatic growth, with a corresponding need for insurance

> **Amazon, FedEx and UPS are in discussions with a number of governments about using [drones] for commercial package deliveries**

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Dr Edward Swan
Elborne Mitchell

A growing population of recreational and commercial drones is beginning to appear in the sky around us.

This past Christmas, recreational drones were a very popular gift. After the holiday, many people were out trying to make them fly with varying degrees of skill. No doubt varying levels of competence among recreational users will create a large and urgent market for insurance, but the principal interest of the insurance business has been in the potential for commercial drones operated by companies that see drones as a way to make their businesses safer, more efficient and less expensive.

The future

There have been numerous stories in the press recently about the desire of companies such as Amazon, Federal Express and UPS to use drones for delivering packages. Facebook has announced it wishes to use large drones to beam free internet around the globe. Amazon wishes to deliver packages to gardens and doorsteps. It has been reported that police in the UK are using drones to replace helicopter patrols, increase surveillance and reduce costs. It is suggested drones can be used to reduce the cost and time needed to transport refrigerated transplant organs between medical facilities.

Some commentators project a global market of $90bn for drone-related businesses by 2022.

The present

The drone market has not reached that level yet, but it is growing rapidly. Sales of small drones, technically known as Remotely Piloted Aircraft Systems (RPAS) are around 2,000 a month in the UK and about 100,000 a month worldwide.

Governments and private individuals are using them for a variety of purposes and commercial organisations are pressing ahead to get approval for expanded commercial uses.

In the UK, police are already using them to monitor crash sites and demonstrations. Italy is using them to monitor migrant crossings. Google is undertaking a programme of testing package deliveries in the Outback of Australia. Amazon, FedEx and UPS are in discussions with a number of governments about using them for commercial package deliveries. Here in the UK, the transport minister recently announced trial deliveries by Amazon will be approved. Even in China, AliBaba – China's answer to Google – is conducting delivery trials.

Unfortunately, the criminal fraternity has also understood the potential of drones. In January 2015, a drone carrying drugs crashed near the US/Mexico border.

Regulation

All of this interest raises fundamental questions about how commercial drone operation is currently (and will in the future) be regulated.

Under EU regulation, Unmanned Aerial Systems (UASs) weighing less than 150 kg are regulated under the member states' national aviation authorities.

In the UK, that is the Civil Aviation Authority (CAA). If one wants to carry out commercial drone business one has to apply for a "permission" to carry out "aerial work". Aerial work is defined as any flying done for valuable consideration. To qualify for aerial work one will need to get airworthiness certificate, a design and construction certificate, a pilot qualification, adequate insurance and CAA approval.

In March of this year the CAA published a 165-page booklet on the regulation of UASs.

The CAA's general policy is that unmanned commercial flights have to meet at least the same standards as manned commercial flights. Drones above 20 kg require registration. Some of the key regulations are that without special permission, one may not fly a drone within 50 m of third parties or property not owned by the drone operator. They may not be flown above 400 m in height and they may not be flown in congested areas. Drones must be kept within eye contact. There are also bans on flying drones in royal parks or near royal residences.

Drones of less than 20 kg do not have the same regulatory burden if they are flown purely for recreational purposes. But they still need to be flown away from third parties and other people's property.

CAA prosecutions

There have already been a few prosecutions by the CAA for improper drone operation. One person was fined £800 for flying the drone in a restricted area near a nuclear submarine base. Another was fined £400 for flying a drone over rides at Alton Towers. Additional investigations are pending.

The CAA does provide a variety of helpful guidance online including lists of safety rules, a short animated guide and other detailed UAS information.

However, this is not all one needs to know. There are a myriad of regulations relating to drone flights, which, depending on the kind of flights undertaken, reach a fair degree of complexity. The regulation of drone operation includes parts of other regulations such as the Airspace Regulations, the Chicago Convention, Data Protection and Privacy regulations and Pilot Qualifications that may, among other things, be relevant. In the event that one does wish to undertake a commercial drone business, one will certainly need detailed legal advice about how to conduct it, and how to avoid the possible pitfalls.

Current business

Some of this may seem rather far in the future, but the rate of growth of commercial drone operation is rapid.

Here in the UK more than 200 companies have already applied for CAA permission to undertake commercial drone operations. This includes such companies as a Northumberland company called Horizon Aerial Photography, which provides aerial pictures for various purposes. In Ireland, one sheep farmer has even used a drone to replace a missing sheepdog and herd his sheep from one location to another. He found it worked very well.

Interestingly enough, the adoption of commercial drones is not proceeding very rapidly in the US. At present, the Federal Aviation Administration (FAA) prohibits commercial drone flights in the US.

The FAA has now published the draft rules on the use of commercial drones.

However, Congress has tasked the FAA to provide for integration of commercial drone flights by late this year. The FAA has projected there may be as many as 30,000 commercial drones in operation in the US by 2020. It has allocated $63.4bn for modernisation of air traffic control systems that will include the integration of commercial of drones.

So, if the US is not leading the world in the development of drone business at present, which country is?

France

France has more than 1,250 registered drone businesses in operation at present. These include businesses that are involved in the agriculture, mining, energy and transport sectors. French drones provide watering and fertiliser plans for farms, monitoring of leaking river levees, monitoring of the level of weed growth on railroad tracks and oversight of mining quarries. The use of drones to perform these tasks saves a great deal of time and a lot of expensive fuel for French businesses.

It is predicted there will be about 20,000 commercial drone flights in France this year.

Of course, like everything in France, there are licensing requirements and regulations imposing fines and prison terms for violation of drone-operation regulations.

Huge market

The commercial drone market will be huge. The London head of investment firm Accel Partners has said: "The potential market is billions." Others project something like $90bn will be spent in the commercial drone business over the next 10 years.

The skill levels of the participants will remain uncertain, though. Consequently, the damage and liability potentials are significant. There will be an urgent need for the insurance market to cover the drone market for both legal compliance and practical reasons.

In the new world of commercial drones, some insurance companies are leaping ahead. In April 2015, AIG was approved by the US Federal Aviation Administration to operate drones. AIG will be able to use drones to get to and quickly survey disaster-stricken towns or accident sites more quickly.

This suggests the possibility insurance companies may, in the future, be able to spy on how diligent one is about keeping up their home, how debilitating a claimed injury really is or how safely one drives. ■

Dr Edward Swan is a partner at Elborne Mitchell

An important need

All of this potential future flying brings into focus the important need for insurance. In the UK, the insurance requirement is covered by the Civil Aviation Insurance Regulations 2005 and the CAA Mandatory Insurance Regulations. The lead agency for insurance matters here is the Department of Transport. Essentially, adequate insurance is required to cover potential damages, injuries or losses resulting from recreational or commercial drone operation. The risks include such things as:

1. Potential injuries to people or property; and
2. Legal violations arising from nuisances such as noise, proximity, privacy or trespass.

There have already been a number of reported drone incidents and accidents, such as:

1. A close call at Heathrow Airport, where a drone passed within 20 ft of a passenger jet;
2. An accident in Australia, where a triathlete was hit by a drone and injured;
3. A Christmas celebration at a Brooklyn TGI Friday, where a journalist was hit by a "mobile mistletoe" drone and had the tip of her nose cut off;
4. Another incident in New York, where drones narrowly missed an New York Police Department helicopter, resulting in two arrests;
5. A drone crash at a Virginia festival that injured five people; and
6. Singer Enrique Iglesias having his fingers sliced by a drone at his concert in Mexico on May 31 of this year, causing photos of him on stage in a blood-soaked T-shirt to be sent around the world.

European regulation requires that most aircraft, regardless of purpose, must have adequate levels of insurance to meet liabilities in case of accident, except in the cases of state aircraft or model aircraft of less than 20 kg.

There are already a small number of companies that provide insurance cover for drone use. The types of insurance that are relevant include the following:

- liability cover for the public, for employers and for products. It is suggested that perhaps coverage amounts of £5m might be adequate;
- indemnity coverage for errors, negligence, mistakes and breaches of professional duty;
- a new category of insurance that may be relevant for "aircraft in flight", which covers aircraft and payloads; and
- business, equipment and stock insurance for ground operation losses that could result from fire, theft or accident.

It is easy to see from the extent of growth projected for drone use that the population of potential insurance customers will be very large. Those requiring insurance could include government operators, commercial operators (small and large, national and international, across many fields and professions) and recreational and hobbyist operators. To some extent, it seems likely recreational and hobbyist operators may include the less well-trained drone operators with, consequently, a great need for insurance to cover them for unfortunate accidents.

In conjunction with the provision of insurance, insurance providers may wish to lobby for or insist in their contract terms on certain controls to limit the potential for drone accidents. Such things could include:

- "geo-fencing" to provide systems whereby controls in restricted areas would be able to cut the operation of drone engines if it were improperly to cross into a restricted area; and
- various kinds of "detect and avoid systems" to enable air controllers, drone operators and other flight operators to detect the presence of drones and take steps to avoid collisions or other accidents.

One company, Drone Systems in the US, is developing a DronNav system, which allows drone operation to be integrated with air traffic control (ATC), permitting ATC to be aware of drones and to integrate and control drone operation in conjunction with other flights. This system would enable ATC operators to shut down drone operations in the event of potential accidents.

It may be necessary for insurance companies to apply pressure to see that such safety measures are adopted in order to reduce the risks of having to pay out large sums for improper drone operation and unfortunate drone accidents.

Enrique Iglesias: the singer grabbed a drone on stage last month, injuring his fingers
© 2015 Francis Ramsden/AP

BIG INTERVIEW

Coming in from the cold

The approval of the Polar Code by the IMO earlier this year is a major step forward for the sustainable underwriting of risks in the Arctic but the corporate governance issues for companies active in the region remain significant, according to the lawyer involved in the development of the code

Rasaad Jamie
Global markets editor

The Arctic represents great opportunities for the energy and maritime industries in the form of substantial new sources of fossil fuels and shorter shipping routes to trading destinations in the fast-growing Asia-Pacific region. But the challenges are huge, not only because of the sheer scale of the physical obstacles and dangers represented by the extreme conditions in the area but also because of the corporate governance and reputational risks the region presents for companies operating there; not least because the Arctic features so prominently in the ongoing debate about global warming and sustainable development. Indeed, the reason the region is now more accessible to maritime transport is because of the substantial melting of the Arctic ice cap over the past decade.

However, Michael Kingston, an Irish lawyer and partner based in the London office of law firm DWF, points out ships do not often sail into Arctic or Antarctic waters compared to other maritime areas of the world because of the extreme conditions. "As a consequence, marine underwriters very rarely provide insurance cover for ships in Arctic waters because the sheer lack of information makes it very difficult for them to analyse the risks involved. For instance, hull and machinery policies require the vessel operator to inform the underwriter if they are going above 70°N latitude," Kingston, whose work spans DWF's insurance, maritime and energy practices, says.

Kingston says protection and indemnity (P&I) clubs do not generally impose navigation limits in or around the Arctic region on their members. "However, the rules require the clubs to be consulted if a voyage does not fall within a vessel's normal trading pattern and, of course, polar waters are not a normal trading pattern for most ship operators."

There are few people in the world more familiar than Kingston with the legal complexities, moral ambiguities and reputational and governance issues surrounding the increasing interest of some industry sectors in, and their engagement with, the Arctic region. At DWF, Kingston has taken an active role in lobbying government bodies in respect of insurance. Indeed, the week before the interview with *Insurance Day*, he had been in the US with a Swedish government delegation. The trip involved meeting with the US Navy, the US Coast Guard at the Pentagon, Nasa and representatives of the Departments of State, the Interior, Environment and Commerce involved in Arctic issues. In August last year, Kingston delivered a presentation at an ice satellite workshop organised by Nasa at its John C Stennis Space Center in Mississippi.

DWF is a full-service corporate practice in which the insurance industry, including the marine mutual P&I sector (in which the P&I clubs insure their shipowner members and their vessels against third-party liability exposures), accounted for slightly less than 50% of the firm's £190m ($291.2m) revenue last year. Kingston himself works closely with Lloyd's performance management directorate (PMD) and has worked on reports issued by the PMD following high-profile loss incidents such as the *Deepwater Horizon* oil spill in April 2010 and the grounding and sinking of the *Costa Concordia* in January 2012. He reviewed and advised on Lloyd's Drilling in Extreme Environments report in 2011, on Lloyd's Arctic report in 2012 and on Lloyd's Removal of Wreck report in 2013.

Arctic risks

Underwriters have a number of concerns about insuring Arctic risks. For ships not equipped to operate in Arctic conditions, the extreme cold can cause engine problems and make it difficult or impossible for safety or other equipment to work. But at that latitude, there are also a number of other challenges, Kingston says. Coverage by navigation aids such as GPS is significantly reduced and magnetic compasses are unreliable at such high latitudes, a situation not helped by the lack of accurate charts of the area. "Also visibility is restricted 90% of the time and the weather is highly unpredictable. Violent storms can occur at any time and the lack of infrastructure in the region means salvage facilities are almost non-existent," he adds. The latter was highlighted by the Removal of Wreck report, which, in particular, highlighted the difficulty in effecting a rescue or removal in the polar waters.

Additionally, there is a far greater problem in the event of crew injury and hospitalisation in the Arctic because of its remoteness, while oil pollution presents huge problems. "Although a search and rescue agreement has been signed by the Arctic states, not a huge amount of progress has been made. Much work remains to be done on a practical level. Russia has made some progress in relation to location of equipment along the Northern Sea Route [NSR] area," he says.

However, according to Kingston, things are likely to change as a result of the adoption at the beginning of this year by the International Maritime Organization (IMO) of the Polar Code, a set of rules and regulations that governs the operation of vessels in polar (Arctic and Antarctic) waters, which will come into force in January 2017. The IMO is the UN agency responsible for the regulation of shipping and offshore energy activities on a global basis.

Kingston first became involved with the Polar Code when he was asked to attend a discussion with representatives of the marine and energy sector and the scientific research community hosted by Dr Dougal Goodman, chief executive of the British Foundation for Science & Technology, in conjunction with the Canadian High Commission and the UK's Natural Environmental Research Council at The Royal Society in 2011.

He was invited to the meeting on the basis of his work on the analysis into *Deepwater Horizon*, working with the PMD. He was subsequently invited by the Artic Council, which represents the interests of the eight countries bordering the Arctic region (Russia, Canada, the US, Norway, Denmark (Greenland), Finland, Sweden and Iceland), to look into best practice with Swedish ice regime experts. He later presented a paper to the IMO about the insurance industry's concerns about insuring vessels and other risks in the Arctic region.

He also gave evidence to the House of Lords for its report on Britain's position in the Arctic and is representing the International Union of Marine Insurance (Iumi) on the world delegation correspondence group set up by the IMO to finalise the ice regime limitation methodology for ships operating in ice under the Polar Code in the Safety of Life at Sea Convention, which is meeting this week at IMO headquarters in London. Kingston will then report to Iumi at its world conference in Berlin in September.

Insurable

The insurance industry, Kingston says, became heavily involved with the Polar Code following Lloyd's Arctic report and has made a significant contribution to its development. "It is understood a mistake in the Arctic or Antarctic could have huge reputational repercussions for the industry. As well as being a financial and moral issue in its own right, it is also a matter of huge importance at corporate governance level. I have been involved in giving corporate governance advice at board level to insurance companies. You need look no further than the BP [Macondo] oil spill and loss of life in the Gulf of Mexico to see what reputational repercussions could arise if a similar disaster occurs in the Arctic. It is also about having respect for the indigenous communities of the Arctic and for the safety of seafarers."

Interest in the region is on the rise. Data released by the US Geological Survey suggests the Arctic accounts for around 25% of the world's oil and gas reserves and more than 80% of this is located offshore. The number of Arctic maritime transits has increased significantly in recent years. For example, in 2010, there were four transits through the NSR. In 2013, there were 71 transits. According to trade estimates from China, which sees the Arctic as an important future trade route, 15% of Chinese international trade will pass though the Arctic by 2020.

According to Kingston, insurers are beginning to get more involved in the underwriting of Arctic risks. He says with their insurers' permission, ships can sail above 70°N and there are a few significant examples of this. "For example, in September 2013, insured in London by RSA, the *Nordic Orion*, owned by Nordic Bulk Carriers of Denmark, became the first bulk cargo vessel to transit the North-West Passage. In 2014, also insured in London, Canada's Fednav company took the first unassisted bulk cargo vessel, *Nunavik*, through the North-West Passage. Operations are being insured but they normally have to be analysed on a case-by-case basis."

The first thing to note from an insurance industry perspective, Kingston says, is there is a lack of data. "One of the key things we have been doing both in London and through Iumi is to bring operators and insurers together to understand each other's approach. There is a limited amount of expertise in Arctic operations available and it is very important best practice rules are developed that have the input of all the stakeholders. In the absence of risk data, a best practice regime devised with the input of the various industries, including the insurance industry, is essential to prevent incidents. Because it will be very difficult to deal with salvage situations, with wreck removal, and/or cleaning up oil pollution in the Arctic region."

Co-operation

The main challenge, according to Kingston, is getting everyone to work together on an Arctic-wide basis. Notably, the insurance industry took an early lead in this regard by engaging with the Arctic Council states and by assisting the Swedish Ministry of Foreign Affairs to organise a conference in London last March, which brought the representatives of Arctic countries and Arctic organisations, including ice captains, to London. Hosted at Lloyd's, this was a significant moment in the development of the Polar Code and an example, Kingston says, "of what we can achieve even before major disaster occurs", adding: "But it will only be as good as we make it through education and enforcement. We all have a duty to assist in that process.

"For the maritime and energy sectors, it is about reducing the risk so operators can trade. For the insurance sector, it is about reducing the risk to an acceptable level. Much of the best practice included in the code has been promoted by guidelines issued by responsible organisations in the insurance industry, such as the Nordic Association of Marine Insurers and Lloyds Market Association. But while the Polar Code will help with these issues, it is important all concerned are aware of the rules so a third party, a rogue operator outside the control of the insurer and the insured, does not bring the house down for everyone in a sensitive place like the Arctic."

The Polar Code, Kingston says, only goes so far. For example, it only applies to vessels over 500 tonnes and it does not cover pollution from fixed structures, an eventuality for which there is no cross-jurisdictional regulation in place. "But this is also the case outside the Arctic, as was highlighted by the *Deepwater Horizon* oil spill, which was described by a US National Commission report into the incident as the inevitable result of years of industry and government complacency and lack of attention to safety. Regulatory regimes across the globe are fundamentally different in certain areas and are sometimes deeply flawed. It often takes a disaster to promote change."

But Kingston describes the Polar Code and the influence of the insurance industry in its development as a major step forward for the safe operation of vessels in polar waters. "While it does not directly provide solutions to some of these issues, it will definitely help to prevent accidents in the Arctic if it is enforced. It will help produce an operational culture that will allow best practice to be achieved in navigation, safety measures in and harnessing all the available knowledge in respect of communications, hydrography and ice data for both pre-planning and for live operations. For example, the current generation of Nasa's satellites are producing better ice data. But it is going to be up to governments, including of course the Arctic Council, and the various industry sectors, including the insurance industry, to educate everyone about the Polar Code and its requirements." ■

Kingston on…

Reputational risks
"It is understood a mistake in the Arctic or Antarctic could have huge reputational repercussions for the industry. As well as being a financial and moral issue in its own right, it is also a matter of huge importance at corporate governance level."

Arctic best practice
"There is a limited amount of expertise in Arctic operations available and it is very important best practice rules are developed that have the input of all the stakeholders."

Polar Code limitations
"While the Polar Code will help, it is important all concerned are aware of the rules so a third party, a rogue operator outside the control of the insurer and the insured, does not bring the house down for everyone in a sensitive place like the Arctic."

Reactionary regulation
"Regulatory regimes across the globe are fundamentally different in certain areas and are sometimes deeply flawed. It often takes a disaster to promote change."

Michael Kingston CV

Michael Kingston is a partner specialising in dispute resolution at law firm DWF.

He has considerable experience in international dispute resolution, representing clients in various court proceedings and arbitration bodies. He also works on international oil pollution issues and was heavily involved in looking into regulatory reviews, including Health and Safety Executive issues, following the Macondo oil spill.

He works with Lloyd's and the Lloyd's Market Association, as well as traders, salvors, and shipowners.

He was named Lloyd's List Global Maritime Lawyer of the Year 2014/15 and featured in *Lloyd's List Top 100 Most Influential People in Shipping* in 2014.

He is the International Union of Marine Insurance representative at the International Maritime Organization's Polar Code world delegation correspondence group.

Environmentally sustainable

Kingston describes the Polar Code, the first geographically specific internationally agreed maritime code covering navigation, vessel design, ship equipment, operational standards, crew training, search and rescue and environmental protection measures in Arctic and Antarctic waters, as a major step forward in the monitoring of the opening up of the Arctic region in a commercially responsible and environmentally sustainable manner. From the perspective of the insurance sector, a critical component of the Polar Code is the Polar Operational Limit Assessment Risk Indexing System (Polaris), which provides marine underwriters with a standardised approach to evaluate the risks to vessels in the conditions expected to be encountered in the Arctic or Antarctic by providing a risk index in any geographical area the ship is intending to travel.

Polaris, Kingston says, is an ice regime system methodology, similar to the existing Canadian Arctic Ice Regime Shipping (Airs) system or the Russian Ice Passport system, but one difference from the other two systems is the extent of the involvement of the insurance industry in its development.

"Under the Polar Code, an operator will have to show how they have prepared and will be able to operate in the extreme conditions prevalent in the area they are intending to operate in by reference to an ice regime system methodology, be it the Canadian Airs system, the Russian Ice Passport system or an alternative system, such as Polaris," he says.

The implementation of the Polar Code, which is set to come into force in January 2017, cannot be derailed, according to Kingston, because it is not a standalone convention. Unlike standalone conventions, which have to be ratified by national governments and usually arrive in the aftermath of a major disaster, the Polar Code is coming into force by way of amendments to three existing conventions.

The environmental aspect of the code comes into force by way of an amendment under the International Convention for the Prevention of Pollution from Ships (Marpol); the crew training certification aspects come under the International Convention on Standards of Training, Certification and Watch (STCW); and the safety aspects under the Safety of Life at Sea Convention (Solas 1974). "The three conventions also included a tacit acceptance procedure – which allows the committees of the IMO to agree amendments which will automatically become law 12 months after a period of six months from adoption, unless in that six-month period more than one-third of parties [ie, the combined merchant fleets which constitute not less than 50% of the gross tonnage of the world's merchant shipping] have notified their objections to the amendments. This has never happened. The reason why the Polar Code is not a standalone convention is that it was thought that it would, like so many other conventions, take too long to ratify, although it was originally intended to be a standalone convention," Kingston says. ■

RISK FORESIGHT

Risk hotspots in Turkey, Tanzania, Russia and the US

A look at major risk hotspots around the world

IHS Country Risk

Russia/G7

G7 leaders have shown their solidarity on Russia – all said a return to the G8 format (including Russia) is impossible under present circumstances. This means Western sanctions against Russia will be extended until Moscow adheres to full implementation of the Minsk II ceasefire agreement.

IHS assesses the EU sanctions will most certainly be extended for another six months at the end of June, possibly for longer. This means Russia's hopes to create differences and tensions between the Europeans and the US, as well as between the EU member states, on the sanctions issue have been shattered.

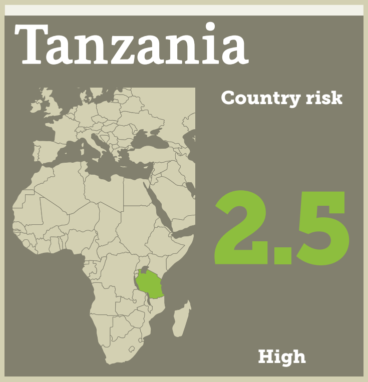
Faced with a united front in the West, Russia is unlikely to re-escalate the military conflict in eastern Ukraine, as any re-escalation would likely lead to new, tougher Western sanctions, especially those targeting Russia's financial sector. As the Russian rouble is losing value again at the backdrop of falling oil prices, the economy is likely to be on top of the Kremlin's agenda for the time being. The fragile state of the Russian economy, which saw a 70% drop in foreign direct investment last year and is forecast to experience $110bn in capital flight this year, will be taken into consideration by the Kremlin in its foreign policy decisions, including on Ukraine.

Tanzania

Disagreements between the ruling Chama Cha Mapinduzi (CCM) and the opposition over the country's proposed new constitution has increased the risk of political instability in the one-year outlook, with opposition-led protests in the run-up to the general elections in October likely.

Opposition parties such as Chadema and the CUF are increasingly undermining the ruling party's political dominance in urban centres such as Dar es Salaam and Arusha. Both cities have seen sporadic violent unrest in 2012 and 2013 that was politically motivated. Opposition parties have also banded together under the banner of the umbrella Coalition of Defenders of People's Constitution (Ukawa) to boycott a vote for a draft constitution that has already faced several delays.

While the CCM is the clear favourite to win the national elections, incumbent president, Jakaya Kikwete, is constitutionally restricted from running for a third term.



Kikwete has been credited with engineering a unity governance arrangement for Zanzibar, which initially served to reduce significantly the levels of political violence on the semi-autonomous island, although there has been a surge in sectarian violence in recent months.

Turkey


Supporters of the HDP during a rally in Istanbul the day after the elections
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The game-changing variable of the general election was the ability of Kurdish opposition party Halkların Demokratik Partisi (HDP) to pass the 10% threshold required for entering parliament, providing it with an unprecedented 80 seats. This was largely the result of the new-found support the party secured beyond its traditional constituency in the country's Kurdish-dominated south-east, garnering votes from liberal and leftist Turks throughout the country.

First, although such an outcome creates uncertainties for the peace process with the separatist Partiya Karkerên Kurdistanê in the short term, this is a positive step for the integration of Turkey's Kurdish population as a legitimate and active player in the country's political system, which is one of the longer-term preconditions of a sustainable peace deal.

Second, the weakened position of the ruling Adalet ve Kalkınma Partisi is likely to curtail political pressure over monetary policy, as well as private sector regulatory bodies, which became an increasingly disruptive factor for the economy in recent months. Lastly, the outcome also means president Recep Tayyip Erdoğan's declared plan for constitutional changes – providing him with executive power – is effectively off the table, at least for the time being.

US

As expected, first-quarter real GDP growth was revised down from growth of 0.2% to a contraction of 0.7%. The culprits in the downward revision were higher imports and a smaller inventory build.

IHS expects a rebound in second-quarter growth to 2.1%. The transitory conditions that depressed first-quarter growth will reverse in the second quarter, with more normal weather and as the effects of the port disruptions diminish.

The longer-lasting drag from the strong dollar and inventory adjustment will depress growth at least into the summer. However, solid growth of disposable income will support consumer spending, the largest component of GDP.

The much stronger than expected May payroll job increase (280,000) confirms the IHS view the first-quarter slump in GDP growth was a blip. While some of the increase in May could be "data noise" (eg, one-off factors and seasonal effects), most of the recent evidence on the US job market points to sustained, solid average monthly employment gains of roughly 200,000 in the coming year. This is consistent with an underlying growth rate in real GDP of 2.5% to 3%.

After news of flat retail sales and consumer spending in April, IHS's estimate of real consumer spending growth in the second quarter has been revised downward from 3% to 2.2%. Consumers are cautious, using some of their savings at the fuel pump to pay down debt or increase savings. One bright sign was the surge in light vehicle sales in May.

Incoming data suggests the housing market recovery is gaining momentum, consistent with our forecast. In April, housing permits, starts, new home sales and prices posted solid increases. Existing home sales retreated, but increases in contract signings and mortgage purchase applications signal renewed momentum in late spring and summer.

IHS Country Risk leverages the company's detailed qualitative and quantitative analysis of 204 countries, covering political, economic, legal, tax and security risks.