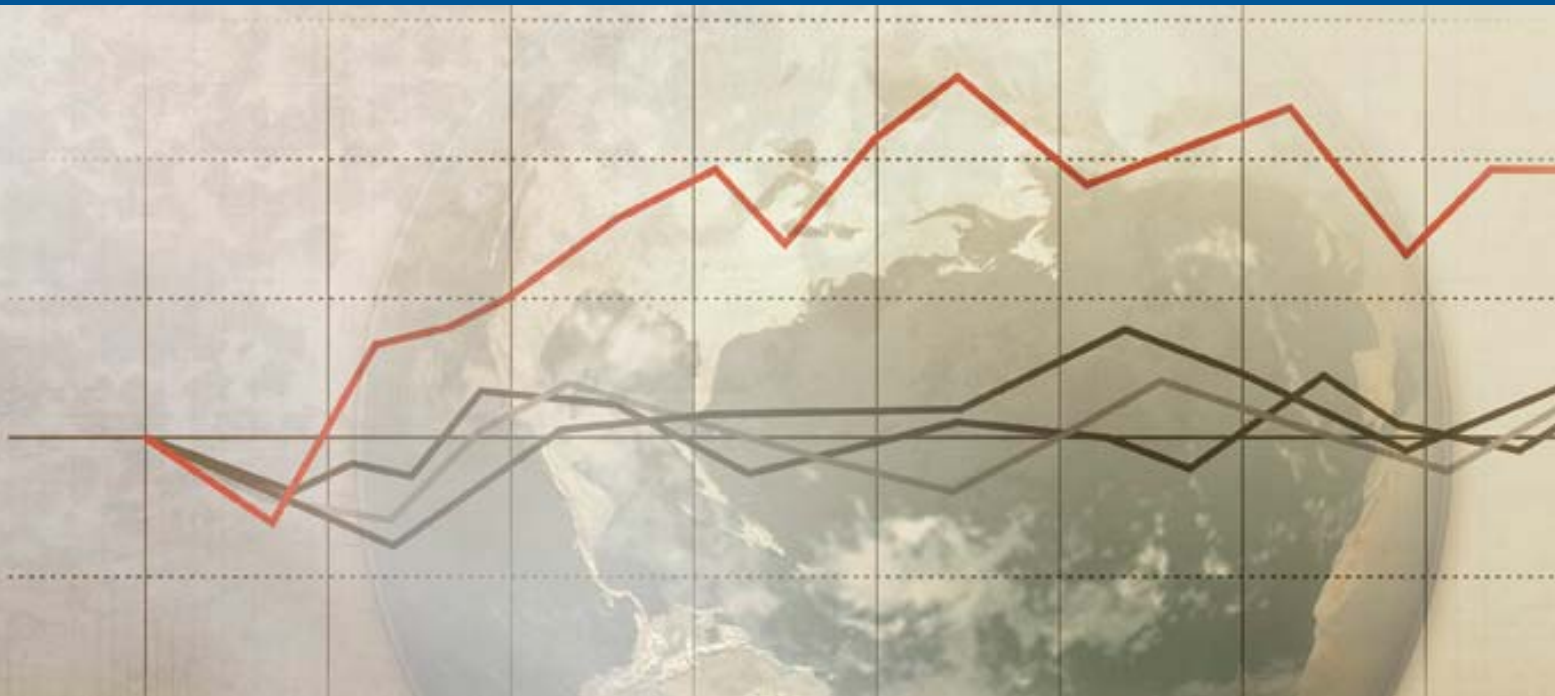


Financial Risks—International

Market Update Fall 2009



Contact



Chris Hewitt

Executive Director
London, U.K.

Telephone: +44 (0)20 7933 2212
E-mail: chris.hewitt@uk.lockton.com

With the recent corporate scandals and the current global financial crisis, many corporations are entering uncharted waters. Couple this with the responsibilities mounting for both executive and non executive directors and officers of corporations, there has never been a time when financial lines insurance—namely Directors and Officers Liability, Professional liability, Pension Trustees Liability, Employment Practices Liability, and related insurances—have become such critical policies for the corporation to have. These are needed to provide protection to their most valuable assets—those who lead the corporation.

Putting aside the current global financial issues, the regulatory environment that companies now operate within has continued to present ever-increasing challenges for the management team. Not only are there regulators in the home country but, with corporations expanding their footprint across the globe, there are regulators to deal with in each of those different jurisdictions. Further, there are the varied groups or bodies that have a close eye on the management team, namely employees, shareholders, regulators, competitors, and environmental groups, to name a few. The legal environment is becoming increasingly hostile as the plaintiff bar looks for opportunity, and management is held ever-more accountable for their actions or lack of action. Consequently, corporations have to comply with a more aggressive regulation environment than ever before.

In light of the above, what is the current market reaction? The market has become clearly divided between those corporations involved in the financial

markets, and those that are not. There are again subdivisions within each, which I will highlight below.

Financial Markets

At present, the market continues to be very cautious of those corporations involved in the financial markets sector. There is some appetite to underwrite the financial exposures currently sending convulsions through the banking sector; however, insurers are proceeding cautiously. Prices are rising significantly in the areas of most concern, namely the banking sector, but no product has been withdrawn. On the plus side, products are still available; however, many have concluded that it is uneconomic to buy and cannot obtain the limit of indemnity they desire.

However, well-presented risks in this area are being considered and underwritten responsibly. Detailed, in-depth underwriting guidelines have been imposed upon the underwriters, and if a client can demonstrate risk controls and satisfy underwriters' requirements, favorable terms can be achieved.

The fundamental underwriting benchmark is robust reporting and quality of accounts. If clients can demonstrate that, then the markets are willing to come to the table. That being said, there are also markets that are willing to look at the more-distressed accounts but will impose more-restrictive coverage terms. As with any marketplace, there are always those who are willing to be opportunistic and prepared to offer terms for the trade-off of a hefty premium. The entrepreneurial spirit of the market is still very much alive and kicking; it is whether or not the client is prepared to pay the price!

The investment banks, private equity, and hedge funds are also severely challenged across their financial portfolios; however, again if those institutions that can demonstrate a commitment to quality portfolios and stability across their capital investments, they will be looked upon favorably.

Despite the reputations that financial instruments have been appropriated as complex weapons of mass financial destruction, there are those whose investment portfolios have out-performed due to their conservative nature. Equally, private equity firms will also receive favorable terms from insurers as long as they have made a conscious effort to select quality investment options.

Commercial

The commercial D&O sector is seeing a very different market position. There is over-capacity and carriers are looking to gain market share. There is greater underwriting based on the financials of accounts, and those with a leveraged position will be asked to expand on their ability to service that debt. However, the market continues to offer highly competitive terms, and they are looking for opportunities.

With insurers looking to understand the quality of a company's debt and precisely how much leverage there is on the balance sheet, there are certain industry sectors that are seeing greater scrutiny. Therefore, those companies that are adequately prepared when discussing their renewal with carriers will fare better. Similar to the financial sector, if a firm can demonstrate that it is not too highly leveraged and that it has put in place solid financial controls, insurers will look favorably upon these exposures.

Looking to 2010, it is impossible to forecast with 100 percent accuracy, but we can expect more of the same. All the signs right now are that the market is stable and that there is no immediate prospect of a general hardening in the market.