

# GLOBAL RISK DIALOGUE

ALLIANZ GLOBAL CORPORATE & SPECIALTY

ANALYSIS AND INSIGHT FROM  
THE WORLD OF CORPORATE  
RISK AND INSURANCE

## COVID-19 – THE ROAD AHEAD FOR DIRECTORS AND OFFICERS

The pandemic and a looming downturn means the risks couldn't be greater for executives. How can D&O threats be mitigated?

### CHANGING CLAIMS PATTERNS

Covid-19 has posed a unique test for commercial insurance claims. What are the new trends?

### DIVERSITY AND D&O

Diversity awareness is more important than ever. How is the risk landscape changing for those who don't comply?

### AUTONOMOUS VESSELS

AGCS jumps on board an innovative autonomous dredging operation in the North Sea

**Allianz** 

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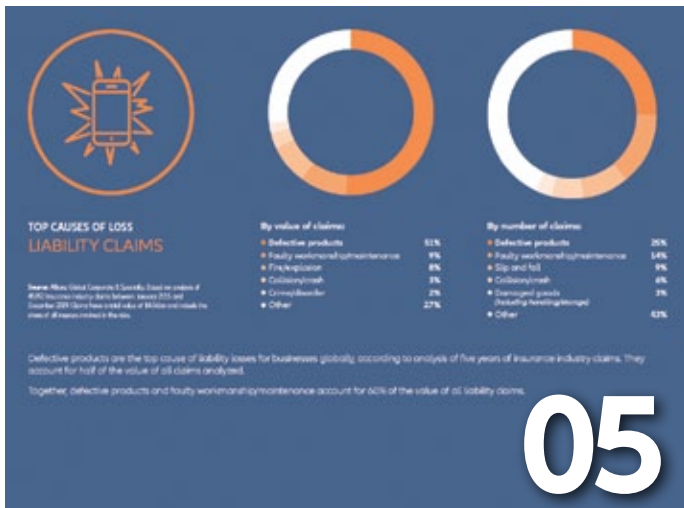
Diversity awareness is more important than ever before for senior management in all companies, as investors, activists and shareholders, not to mention regulators, take it more seriously

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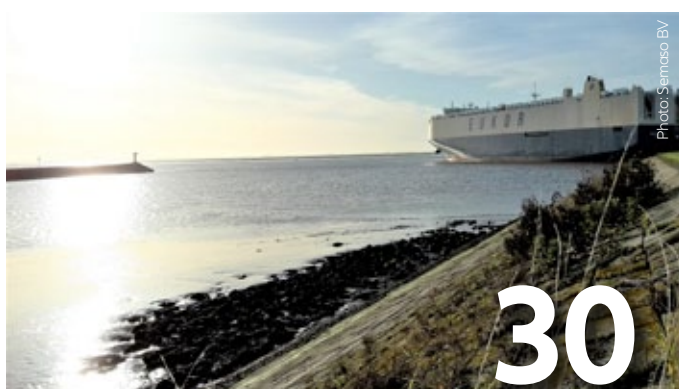
Defective products is the top cause of liability claims over the past five years, but Covid-19 is impacting loss scenarios in different ways



**AGCS is on Twitter and LinkedIn**  
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## LET'S START THE DIALOGUE

Thank you for taking the time to read **Global Risk Dialogue**, our biannual dialogue between AGCS experts and thought leaders for a global audience of risk managers, broker partners, insurance professionals, experts and media about issues of interest to the industry. It's one way we showcase the considerable depth of talent AGCS underwriters, claims experts, risk engineers and leaders can bring to the conversation.

Thanks for stopping by.

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# NEWS FROM AGCS AND ALLIANZ

## AGCS BOARD OF MANAGEMENT REALIGNMENT



Renate Strasser



Tony Buckle

AGCS has announced a realignment of its Board of Management focusing on responsibilities for regions and markets as well as for underwriting and claims functions.

**Henning Haagen** assumes responsibility for all AGCS regional units outside North America, while **Bill Scaldaferrri** will continue to head

the North America Regional Group.

As a successor to Haagen's current role, AGCS has appointed **Renate Strasser, Chief Underwriting Officer Specialty**, joining from the Zurich-based New Reinsurance Company Ltd. (NewRe), a subsidiary of Munich Re, where she was

CEO. Strasser has responsibility for the specialty lines of business – (Aviation, Marine, Entertainment, and MidCorp).

**Thomas Sepp** has assumed a re-established board role as **AGCS Chief Claims Officer** and is succeeded as **Chief Underwriting Officer Corporate at AGCS**, by **Tony Buckle** who joins from Axa XL.

## NEW HEAD OF CYBER CENTER OF COMPETENCE ANNOUNCED



**Catharina Richter** has been appointed Global Head of the **Cyber Center of Competence (CoC) for Allianz Group**, which is embedded into AGCS, charged with coordinating and steering cyber risk underwriting and governance.

Richter joins AGCS from Allianz SE, where she was Head of Digital Regulation, responsible for developing regulatory strategy for digitalization on behalf of Allianz Group and shaping the regulatory and supervisory debate in the field of cyber.

A lawyer by training, she joined Mondial Assistance (now Allianz Partners) in 2000 as General Counsel, and since that time has been Head of Distribution and Solutions Legal Europe for Allianz Global Investors and Head of Regulatory Management for Allianz SE.

The CoC was established in 2018 and focuses on Group-wide coordination and alignment of cyber exposures and insurance in the commercial insurance segment.

## NEW HEAD OF ALTERNATIVE RISK TRANSFER BUSINESS AT AGCS



**Grant Maxwell** has been named **Global Head of Alternative Risk Transfer (ART) at AGCS**. AGCS' ART line of business provides

structured (re)insurance including fronting solutions tailored to companies' specific needs.

ART Head of Underwriting and Portfolio Management since May 2019, Maxwell originally joined AGCS in March 2008 and was Regional Head of ART for AGCS' Regional Unit

London and also Head of ART Deal Management since February 2010. Prior to his time with AGCS, he held senior underwriting roles at XL Capital, Gerling and St Paul Re.

A major focus of AGCS is serving large, multinational companies – which are increasingly seeking innovative solutions to protect their earnings and cash flow risks or to cover unusual or complex risks, where traditional insurance products are inadequate. Therefore, ART solutions are an increasingly important differentiator for AGCS in the market.

Find out more at  
[www.agcs.allianz.com/news-and-insights.html](http://www.agcs.allianz.com/news-and-insights.html)



# LOSS LOG

## LIABILITY TRENDS

Analysis shows defective products is the top cause of liability claims over the past five years and that the Covid-19 pandemic is impacting loss scenarios in different ways.



Liability exposures for companies around the world are increasing. Factors such as rising litigation, collective redress and large court verdicts, costly and frequent recalls in the automotive and food sectors, the disruptive impact of civil unrest and riots in a growing number of countries, and environmental concerns such as indoor air quality and higher fines and remediation standards will likely impact businesses and their insurers in future – all in the face of a challenging global pandemic – according to a new report from Allianz Global Corporate & Specialty (AGCS) which highlights five trends for the sector.

The report also analyzes some of the major causes of insurance industry liability

claims over the past five years – defective product incidents account for half of the value of all claims (see graphic) while faulty workmanship/maintenance incidents rank as the second major cause of losses – and looks at how the coronavirus outbreak is already impacting the liability insurance sector.

With more people staying at home through the pandemic, and with the temporary closure of many shops, airports and businesses, notifications of slip and fall incidents, which are one of the most frequent causes of liability claims, have slowed.

However, the liability insurance market could yet see claims brought by third-parties for injury or property damage

due to failure to adequately protect against the coronavirus, as well as employee action against employers who did not appropriately protect them. Product liability and recall claims tend to follow economic activity, so there could be an impact in these areas with the economic downturn. Coronavirus also could affect claims through changes to hygiene and working practices. Meanwhile, restarting production after periods of hibernation may give rise to human error incidents.

Find out more about **5 Liability Risk Trends: 2020 And Beyond** at [www.agcs.allianz.com/news-and-insights/reports/liability-loss-trends-2020.html](http://www.agcs.allianz.com/news-and-insights/reports/liability-loss-trends-2020.html)

# IT ALL STARTED WITH A RIDE ON BART

One day, on a Bay Area Rapid Transit (BART) train elevated above San Francisco traffic, a young Tesla engineer had an epiphany: Moving critical parts or medicine quickly, safely and cheaply anywhere, anytime could be more efficient using drone technology.

Fast-forward several years and that young engineer, **Hannan Parvizian**, is CEO and co-founder, with **Wesley Zang**, of **Volansi Systems**, a California start-up desiring to “free the world from the limits of infrastructure” by flying critical parts or medicines to wherever and whenever they’re needed using small commercial drones.

Volansi’s first test-flight to deliver temperature-controlled vaccines or other medicines occurred in Lugano, Switzerland, in 2017. Two other flights in Puerto Rico in late 2018 – a year after Hurricane Maria – and in the Bahamas and North Carolina after Hurricane Dorian helped the project team refine the technology over varied terrain and water. Other successful tests were held in Singapore in 2019. Regular delivery operations of parts and medicine in Africa have already begun, as the widespread use of cellphone technology and lack of consistent regulations have seen drone technology flourish.

In the US, where the Federal Aviation Administration (FAA) has registered more than 1 million drones, regulations limit them to daytime flights within the ‘visual line of sight’ (VLOS) of the pilot – and not over people. Disaster relief provides a strong rationale for exempting drones from restrictions after catastrophic events. Beyond line-of-sight (BVLOS) technology will need to be permitted for Volansi to begin commercial flights in most countries.

**HOW DOES IT WORK?**

Missing parts can often result in substantial losses due to production



Photo: Volansi

Drone technology can be the perfect solution to getting vital packages and supplies to remote areas quickly and efficiently

delays, so remote drone delivery makes sense.

When a mine or oil rig needs a missing part or a doctor or hospital needs vital medical equipment, staff can virtually communicate with a ground operations team in California – or anywhere with cellphone technology – to send a drone with up to 20 pounds of supplies in a temperature-controlled smart-box, either landing nearby or, if infrastructure is destroyed, by parachute.

Upon landing, aid workers retrieve the supplies. Once the smart-box is opened, the operations team is notified so the drone can be brought back, recharged and resupplied for another mission.

“AGCS is proud to provide liability and research and development insurance cover to Volansi Systems and to assist their future growth with other insurance products,” says **Adam Johnson, Underwriter, Aviation North America at AGCS.**

“As BVLOS operations ramp-up and are regulated, we think Volansi can be a substantial operator in this market space.”

**OUR EXPERT**

**Adam Johnson**

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## DATA MANAGEMENT TRENDS

# 4 QUESTIONS FOR ...

ALI SHAHKARAMI, CHIEF DATA OFFICER, AGCS

Data should be easily accessed and analyzed, for it to drive organizational decision-making

Data management is one of the most important areas of focus for insurers in an ever more interconnected world. Data, to an insurer, is as important as oil to an energy producer – it's the lubricant that drives performance. But, it is also something that we should all be able to access, as **Ali Shahkarami**, AGCS' first-ever Chief Data Officer, explains.

### WHY IS DATA MANAGEMENT IMPORTANT FOR A GLOBAL INSURER LIKE AGCS? WHAT IS YOUR 30-SECOND ELEVATOR PITCH TO EXPLAIN AGCS' DATA STRATEGY?

Data and analytics are of a vital importance for the future success of AGCS. Not only for reporting and the day-to-day steering of our business but also to discover new growth opportunities. Insurance business by nature is heavily data-driven. It is to an insurer what oil is to an energy production firm. To get the full potential benefit out of it, you need to refine it. That is exactly what we are trying to do with our data management. Given the scale and the global nature of our

business, AGCS has a vast amount of valuable data to tap into. However, to get the most out of it, we need to make sure all our data sources are connected and we need to ensure that those sources offer the full picture.

On top of that, data should be easily accessed and analyzed. Our data offers a unique viewpoint on global risks which support our business and our clients. We have the responsibility to steer the data topic holistically, drive it forward in support of AGCS' strategy and align our various initiatives so we really get a data-first decision culture at AGCS. My team will also make sure we are aligned with and support the overall Allianz Group data strategy.

### WHAT ARE THE MAIN AREAS YOU INTEND TO FOCUS ON AS YOU DEVELOP AND DELIVER THE DATA STRATEGY OF AGCS?

I see three areas where my team and I want to focus. First of all, we have to strengthen our data foundations. We have a new global data warehouse in place which brings data together from our source systems in real time. More and more source systems need to be connected to this warehouse and their data needs to be checked for quality and made ready for use. Our second priority is to improve the accessibility of data and ease of reporting for our colleagues in various business functions. Lastly, we aim to further strengthen our



Trust in data needs to grow, as well as the expectation that data should be the main driver for a company's decisions

capabilities in advanced analytics technology that allows us to create value from our data for our clients, AGCS and Allianz.

Data and analytics are important drivers for the future success of AGCS and form an essential part of the AGCS transformation. This has been recognized by the AGCS board with the creation of the Chief Data Officer role. The overall aim is to implement a data-first decision-making culture at AGCS with five immediate focus topics:

- **Strategy:** Aligning data initiatives, tools and investments around the business outcomes guided by the business strategy.
- **People & Culture:** Ensure AGCS has the capabilities needed to deliver the data strategy and analytics and create a data-first decision-making culture.
- **Governance:** Further empower and expand AGCS' data governance framework to ensure the fidelity of the data and outcomes of algorithms powered by it.
- **Technology:** Align technology, tools and architecture to support the overall data and analytics strategy.

- **Solutions and Analytics:** Develop and expand capabilities to deliver business-ready solutions and align the activities and efforts of the existing experts within the company.

**PART OF YOUR CHARGE IS TO IMPLEMENT A "DATA-FIRST DECISION-MAKING CULTURE" AT AGCS. WHAT DOES THIS ENTAIL?**

In the past it happened that business decisions were at times driven by instinct as the availability of data and the trust in technology was limited. However, this has changed and good data management is a key lever for any organization that wants to be successful in the future. It is an integral part of our new strategy and we continue to invest in new technologies and expand our team of data scientists.

It is, however, not just a question of increasing investment in technology and data; and advanced solutions need to grow for a real cultural acceptance and expectation that data should be the main driver for decisions within the organization.

**CAN YOU PROVIDE SOME EXAMPLES OF HOW DATA ANALYTICS CAN HELP IMPROVE CLAIMS/UNDERWRITING BEHAVIOR?**

Of course, we are already using data in all aspects of our day-to-day

business: In underwriting, we use data analytics by combining external and internal data sources to improve risk selection and assessment. Within financial lines insurance, for example, we are currently working on the next generation of portfolio steering through data analytics.

Through data modelling, we want to achieve a leaner decision-making process which aims for the best outcome for our clients and for AGCS.



**BIOGRAPHY  
ALI SHAHKARAMI**

Before joining AGCS, Shahkarami held various positions as a risk modeler and obtained a PhD in Structural Engineering from the University of British Columbia (Vancouver, Canada). As Chief Data Officer for AGCS, Shahkarami is responsible for the development and the delivery of AGCS' data strategy. Shahkarami joined AGCS in 2012 as Head of Catastrophe Risk Research, where he was responsible for research and development activities to capture risks of man-made and natural catastrophes. In 2018, he moved to XSE, within AGCS, to become the Global Capability Lead on Underwriting where he led activities on the digital transformation of client-facing functions.



# A VIRTUAL RISK JOURNEY

AGCS' **MirrorMe**, an app-free solution with remote risk assessment in mind, allows engineers to conduct remote surveys based on images captured and uploaded by customers.



A remote risk survey can be a sound solution during the Covid-19 pandemic

With **MirrorMe**, AGCS risk engineers have a virtual customer service presence customizing the workflow for customers to self-submit images of exposures to include with a questionnaire to the engineer for analysis. While MirrorMe is ideal for routine surveys, it can also be good for difficult survey situations such as properties after floods, wildfires, windstorms or other catastrophic events.

Likewise, during the coronavirus pandemic, businesses restricted from normal operations can benefit from risk control services remotely through MirrorMe. With clients with multiple locations, engineers may still go to priority locations, but for satellite locations MirrorMe is a good way to keep business moving.

## WORKFLOW DESIGN

The workflow design allows engineers to collaborate with and list exposures to analyze for customers to focus on. The customer answers specific questions, including detailed instructions with examples, based on an engineer's expert knowledge of conducting surveys. The basic questionnaire is usually sufficient to complete the survey, but

AGCS can provide bespoke solutions for a customer with unique exposures.

## WORKFLOW ISSUANCE

To begin, questions are sent to the customer via text or email which can be answered online, before taking photos or videos of specific requests – for example, the outside perimeter of the property, pictures of the façade, production equipment for industry-specific risks, fire-protection equipment, sprinklers and so on. Documents like a site plan or images of specific sprinkler systems may also be required.

## RESULTS ANALYSIS

When the customer has completed the workflow, the engineer downloads and assesses the information based on the submitted photos, videos and comments. A personal risk review for each site is prepared and shared with the customer, including recommended follow-up activities, if any.

## IN THE REAL WORLD

"A good example of how we've used MirrorMe is with a European retail

chain with several large warehouses and multiple stores," says **Mads Svendstrup, Senior Risk Consultant, AGCS Nordic, and Member of Allianz's new Global Expert Group for Digital Solutions for Property.**

"We analyzed industry-specific risks such as fire prevention in their warehouses and retail locations. The workflow responses provided what we needed related to fire prevention. The company is able to see reviews and recommendations for themselves."

Another example is of a large firm whose insurance was up for annual renewal when some risk information issues materialized. Two locations which had already been surveyed were closed down due to Covid-19 and a new larger location which had never been surveyed required the risk information to go forward. By utilizing the MirrorMe tool, the risk engineer quickly gathered the relevant risk information to support the account's renewal.

In more general terms, customers have rated the app positively for ease of use and for being less disruptive during Covid-19. Typically, underwriters use it to follow up on recommendations, conduct remote surveys and establish project follow-up and tailored review conditions.

"We feel it puts us one step ahead leading into the pandemic," says Svendstrup.

See more about MirrorMe  
<https://youtu.be/pxLe09s9hx0>  
 and at [www.agcs.allianz.com/news-and-insights/expert-risk-articles/remote-insurance.html](http://www.agcs.allianz.com/news-and-insights/expert-risk-articles/remote-insurance.html)





# DIVERSITY AND DIRECTORS AND OFFICERS LITIGATION

Diversity awareness is more important than ever before for senior management in all companies, as more and more investors, activists and shareholders, not to mention regulators, begin taking it more seriously. Those companies who put the correct emphasis on it can reap a number of different benefits. But, for those who don't, a flurry of recent lawsuits should raise concerns that directors and officers might be impacted.



Diversity should be at the top of the agenda of all organizations, for ethical reasons, as well as for the financial benefits. Not only is it a metric to strive towards, but it is part of a successful revenue-generating business.

Companies putting emphasis on diversity are more likely to outperform their peers in terms of profitability, are more attractive to skilled talent and improve customer orientation. A lack of diversity is negatively perceived by investors, activists and shareholders and is also highly relevant to directors and officers (D&O) litigation. Changes

in diversity legislation create additional pressure on companies to address the composition of their board and management team.

## FINANCIAL PERFORMANCE

Diversity is directly correlated with better financial performance. A 2019 study by McKinsey & Company confirms that companies in the top quartile for gender, ethnic and cultural diversity on their executive team are 25% more likely to have above-average profitability of outperformance on the earnings



A variety of perspectives, thinking and skills makes a diverse employee base and the corporate boardroom should follow suit

## THE 1 MINUTE DIALOGUE

- ▶ Top companies for gender, ethnic and cultural diversity among their D&Os can be up to 25% more likely to financially outperform less diverse competitors
- ▶ Lack of diversity on a company's board is increasingly negatively perceived by investors, activists and shareholders, and can be relevant to D&O litigation
- ▶ In the wake of the “**Black Lives Matter**” protests, the frequency of diversity-related lawsuits is increasing
- ▶ D&O litigation risk will also increase with potential changes in regulation and legislation on diversity

## CUSTOMER ORIENTATION

By committing to diversity within management boards, companies can align their own organizations more closely with a wider customer base. In other words, diversity gives improved customer orientation. This enables companies to form a tighter bond with customers of different backgrounds, specifically relating to customers by defining a clearer customer perspective and reaching key purchasing decision-makers.

Corporations with diverse leaders holding a customer-centric perspective can adapt to market developments more creatively by reacting more effectively to market shifts and customer needs. Many industries are now looking at the management board from the perspective that it is crucial for a company's employees to reflect the people they serve.

Diverse management boards, whose composition more closely mirror the demographics of the general population, also can more effectively reach key decision-makers among their clients and customers. For example, in the UK, 80% of purchasing decisions are made by women. According to McKinsey, by 2025 women are estimated to own 60% of all personal wealth and control £400mn (\$510mn) more per week in

before interest and taxes (EBIT) margin than companies in the fourth quartile<sup>1</sup>.

What is more, the greater the representation, the higher the likelihood of outperformance. The study also analyzes how companies navigated the Covid-19 pandemic, concluding that diverse and inclusive companies are likely to leverage those factors to more quickly recover.

## TALENT MANAGEMENT

Diversity has an advantage in talent recruitment. Dynamics in leadership can help a company to secure more sources of talent and subsequently have the upper hand in competitive recruitment, improving its global relevance. It is widely recognized that

the pool of skilled experts and leaders has not kept pace with demand, hence increasing competition for talent in emerging markets.

Diversity management means that it addresses talent shortages – giving an advantage in competing for the best talent. As they are usually underrepresented, the diversity groups are often good sources of desirable talent.

A 2017 Gallup poll found that only 13% of employees are actively engaged at work, and that the management behavior most likely to affect active engagement was to “demonstrate strong commitment to diversity”<sup>2</sup>. Multiple surveys have indicated that diversity is important to Generation Y (the millennials), the current working generation.

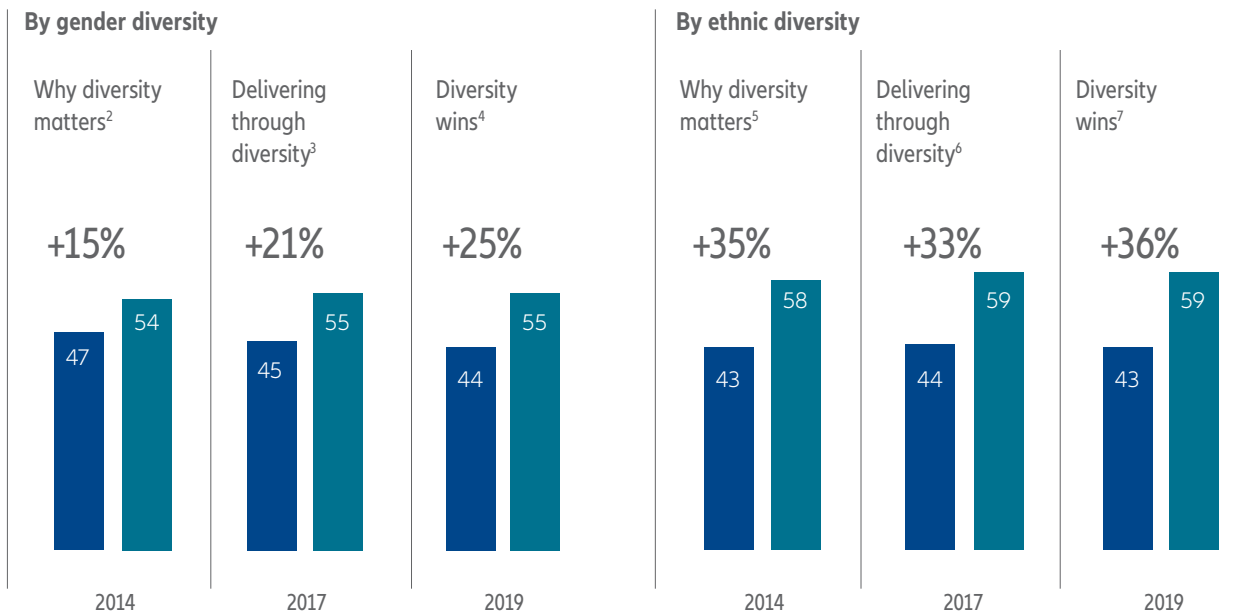
<sup>1</sup> McKinsey, Diversity works: A study on why inclusion matters, May 19, 2020

<sup>2</sup> Gallup, Dismal employee engagement is a sign of global mismanagement, December 13, 2017

## THE BUSINESS CASE FOR DIVERSITY IN EXECUTIVE TEAMS REMAINS STRONG

Likelihood of financial outperformance<sup>1</sup> %

Bottom quartile Top quartile



<sup>1</sup> Likelihood of financial outperformance vs the national industry median; p-value <0.05, except 2014 data, where p-value <0.1. <sup>2</sup>n = 383; Latin America, UK, and US; earnings before interest and taxes (EBIT) margin 2010-13. <sup>3</sup>n = 991; Australia, Brazil, France, Germany, India, Japan, Mexico, Nigeria, Singapore, South Africa, UK, and US; EBIT margin 2011-15. <sup>4</sup>n = 1,039; 2017 companies for which gender data available in 2019, plus Denmark, Norway, and Sweden; EBIT margin 2014-18. <sup>5</sup>n = 364; Latin America, UK, and US; EBIT margin 2010-13. <sup>6</sup>n = 589; Brazil, Mexico, Singapore, South Africa, UK, and US; EBIT margin 2011-15. <sup>7</sup>n = 533; Brazil, Mexico, Nigeria, Singapore, South Africa, UK, and US, where ethnicity data available in 2019; EBIT margin 2014-2018.

Source: Diversity Wins data set.

expenditures than their male counterparts<sup>3</sup>.

### DECISION-MAKING AND INNOVATION

Managers working on tough problems often assemble a diverse team in order to challenge one another and improve the quality of their deliverables. With a diverse input of opinions, multiple objections and alternatives can be explored in order to solve problems more efficiently and be adopted with greater confidence. Research has shown that the presence of women and minority members on a leadership team enhances the problem-solving capability as they each contribute perspectives from their different backgrounds and experiences. Ethnic- and gender-diverse leaders provide companies with a different set of problem-solving tools, broader thinking and better solutions.

### DIVERSITY-RELATED LAWSUITS

In the wake of the **“Black Lives Matter”** protests over racial inequality, companies including Oracle, Facebook, Qualcomm, Norton LifeLock, Gap and

Danaher have been hit by diversity-related lawsuits.

Essentially, the complaints in each of these lawsuits are very similar. In each case, shareholders, acting derivatively on behalf of the subject company, allege that the company’s board of directors violated their fiduciary duties by their inaction on diversity issues, abuse of control, unjust enrichment and also violation of Section 14(a) of the Securities Exchange Act of 1934 in the US, which outlines requirements that the company govern disclosures during proxy contests, when various parties might solicit an investor’s vote on a corporate action or for certain board members.

Some of the complaints seek a number of actions by the respective defendant companies by way of relief. These vary broadly, but are related to the return of board members’ remuneration, nomination of new black board directors, creation of a company fund to hire black talent and other minorities or the aim to tie executive compensation to diversity-related goals.

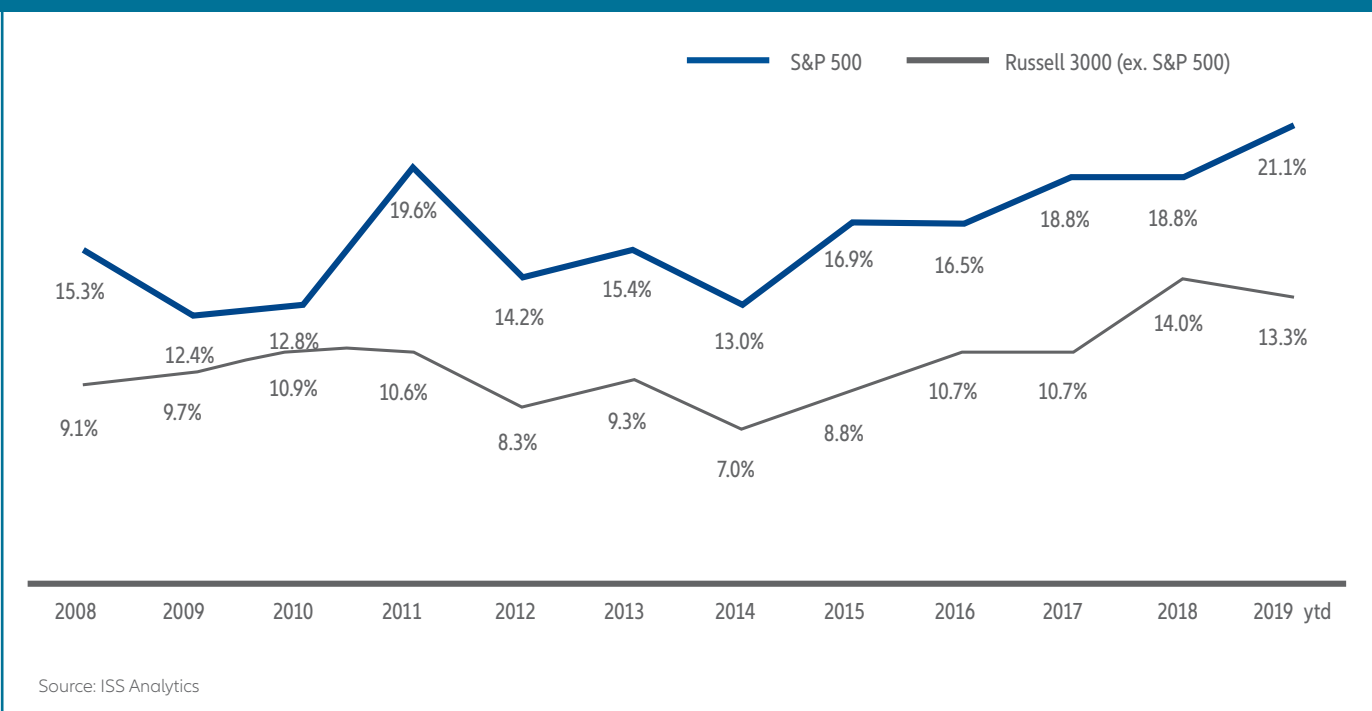
While it might be too early to talk about a D&O claim trend, the frequency of diversity lawsuits brought since the beginning of July 2020 should raise the concern that any company lacking racial, gender and age diversity in its board of directors might be impacted by similar lawsuits. This applies also to companies headquartered in other countries, particularly those listed in US.

A recent study<sup>4</sup> shows that the US is the country with the lowest percentage of foreign board members (8%). However, in terms of percentage of women on the board, the US, at 26%, is actually more advanced than other countries, such as The Netherlands (22%) or Brazil (11%).

The increased public attention to the topic of diversity is impacting companies’ internal managerial practices and recent D&O lawsuits should intensify the momentum. The awareness of how the lack of diversity may impact the image and reputation of the company is increasing substantially.

“Businesses are increasingly globally interconnected and this trend is not

## PERCENTAGE OF S&P 500 NEW DIRECTORSHIPS APPOINTED TO ETHNIC MINORITIES (EXCLUDING DIRECTORS WHOSE ETHNICITY WAS NOT IDENTIFIED)



going to reverse itself," says **Claire-Marie Coste-Lepoutre, CFO of AGCS**.

"For AGCS, as we are starting our transformation journey into the 'New AGCS,' it is tremendously important to actively promote and take advantage of the variety of perspectives, minds and skills that a diverse employee base and management board can only bring.

"We have recently rejuvenated some of our collective steps on diversity and inclusion, with a particular focus on anti-racism, and I'm a strong believer that our collective engagement will create a stronger and better place for all of us to thrive and belong."

### IMPACTS OF DIVERSITY NEGLECT ON D&O

What impact can be expected in the D&O insurance market following the recent lawsuits related to the lack of board diversity? While the ultimate financial impact of these D&O lawsuits remains to be seen, there will be substantial legal defense costs involved in their settlement. This growing D&O liability threat may further drive the increase in frequency and severity of US securities class actions noted over recent years. This risk is further girded by the US Securities and Exchange Commission (SEC) disclosure requirements obligating

companies to be more transparent concerning diversity.

One other expected impact on the D&O market is the type of information underwriters will be looking for and questions that can be expected at customer/carrier meetings. D&O underwriters will increasingly be interested to understand how important diversity, equity and inclusion are to the management team and how this is reflected in related key performance indicators.

Does a Chief Diversity Officer (CDO) role or a Diversity Council exist in the organization? How these key values are lived across the company and reflected in key processes such as training and recruiting, is also a key component of inclusion. At any rate, underwriters will want to know whether the organization has a CDO or Diversity Council and, if so, the scope of authority and responsibility for such role or office.

D&O litigation risk will also increase with potential changes in regulation and legislation on diversity. For example, in the US, the State of California recently passed a bill which requires any publicly-traded company in the state to have at least one director from "an

underrepresented community" by the end of 2021<sup>5</sup>, although larger boards of between five and eight directors must have two underrepresented community members by the end of 2022 and those over nine directors must have at least three such members by the end of 2023. Other US states such as Illinois or New York may adopt similar board diversity legislation. Also in Europe, the European Commission (EC) is proposing in its European 2020 strategy a gender diversity requirement for country governance codes.

Racial, age and gender diversity should top all companies' agendas, driven by beneficial impacts as illustrated in topical literature. How the lack of diversity is perceived by investors, activists and shareholders, the threat of D&O litigation and changes in diversity legislation further pressure companies to address board and management team diversity as early as possible.

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<sup>5</sup> Roll Call, California board diversity mandate spreads to other states, Washington, July 19, 2019



# COVID-19: NAVIGATING THE 'CEO MOMENT'

In the wake of the Covid-19 shockwaves, companies are still having to plan and implement return-to-office measures. Given that, and a looming global recession, the pressure – and risks – couldn't be higher for executives, as highlighted in a recent **Clyde & Co.** and **AGCS joint-webinar, 'Covid-19: D&O Impact and Opportunities'**.

**+35%**

Expected 2020-2021  
global insolvency index

"Never let a good crisis go to waste," is the often brandished call-to-arms being brought out by a number of trade media outlets and financial publications, as they call for corporate leaders to be brave in the face of the Covid-19 uncertainty.

Indeed, McKinsey has termed it as the "CEO moment", namely, the "once-in-a-generation opportunity"<sup>1</sup> business leaders have to use the current crisis as a springboard to shape how they and their companies work in the future.

The pandemic has hit a reset button, changing customer behavior, disrupting supply chains, and dislocating employees from their traditional places of work. Crucially, it has also contributed to a global recession expected to surpass the spiral of the global financial crash in 2008. As a result, the stakes could not be higher for executives.

## **RUN FOR COVER**

"This is something of a moment of truth for directors and, as insurers, the



Photo: iStock

To protect themselves and their company, executives should be proactive in informing stakeholders about what the Covid-19 crisis means for them



## THE 1 MINUTE DIALOGUE

- ▶ Risks range from class action lawsuits and shareholder derivative litigation to bankruptcy and an increase in cyber threats
- ▶ In event of a class action, D&Os need to show thorough proof they haven't ignored their oversight duties
- ▶ Getting into the specifics of how Covid-19 affects individual aspects of a company is vital
- ▶ Return to work steps taken by businesses could result in litigation

## TAKE ACTION

As is the case with the virus itself, there is no miracle one-size-fits-all cure for the effects of the pandemic. What companies and executives can do to protect themselves – especially against class actions – is to be diligent and proactive in informing themselves and stakeholders about what the Covid-19 crisis means for them.

“It is really important to document the work you are doing,” says **Paul Schiavone, Regional Head of Long-Tail and Alternative Risk Transfer, North America at AGCS**, “If there is a class action, you need to show through proof that you haven’t ignored your oversight duties and did what you could to assess the risks and made informed business judgements. Document what you’re doing and have thorough board minutes and other documentation to show your actions.”

Getting into the specifics of how Covid-19 affects individual aspects of a company – such as its impact on supply chains, distributions channels and key markets – is vitally important, while ignoring any potential red flag dangers only serves to heighten risk exposure.

“Don’t make over-qualified statements about your operations, don’t mask the problem; and make sure to give an accurate portrayal of the Covid-19 dangers to shareholders,” adds **Kim West, Senior Equity Partner, Clyde & Co**. “For mitigation against shareholder derivative actions, the board must

Covid-19 crisis arrives as a complex obstacle impacting a challenging financial lines insurance market,” says **Shanil Williams, Global Head of Financial Lines at AGCS**.

With such a widespread reach, the threat that Covid-19 carries for directors and officers (D&O) is diverse in terms of what it means to each business, with the scope of risks ranging from class action lawsuits and shareholder derivative litigation to bankruptcy and an increase in cyber risk as more and more employees work from home.

“We’ve also seen a number of consumer class actions as a result of a failure to reimburse customers,” adds **James Ilardi, Head of Financial Lines Claims North America, at AGCS**. “This ranges from gym memberships to cancelled sporting

events. These are some of the things that could lead to future D&O claims going forward.”

Williams adds that of the class actions already brought forward during the early stages of the pandemic, most have been generally characterized with shorter class periods (meaning less damages exposure), given that the spread of the economic downturn is so wide, and cannot be attributed to failures from the companies in question.

This is a protection, however, that may no longer be valid as the pandemic continues, with those companies slower to recover leaving themselves open for litigation from shareholders and consumers alike if they underperform compared to industry competitors.



Returning to the office during a pandemic can open companies to a host of liability scenarios

show evidence of a true understanding of the Covid-19 risk before making decisions, which can often mean reaching out to third-parties.”

**RETURN TO WORK**

While the field for D&O related litigation has been somewhat calm so far, perhaps the biggest threat looming on the horizon comes from the return to work steps taken by businesses, which are expected to be ramped up in the near future. The return to office is fraught with peril, with particular regard to shareholder derivative actions, but also in relation to other forms of litigation.

Employers are in a tough spot when asking employees to return, and in particular, on deciding which employees to choose. While it has been established that a number of factors increase the risk of contracting Covid-19 (such as age and the presence of pre-existing medical conditions), employers are restricted by regulations regarding what they can ask and how they can act.

In the US, for example, companies know that they cannot exclude a 65+ year-old or a disabled employee from the workplace – even to protect them from infection – as it violates pre-existing regulations, such as the Americans with Disabilities Act (ADA).

“While you can’t ask about specific employee medical issues, surveys about employee willingness to return

to work are extremely helpful in showing due care and demonstrating that you have considered those in at-risk groups,” says West.

Although there are benefits of home-working – many industries and companies are able to cope with having the majority of their workforce at home – nevertheless it brings its own perils.

“While they have now reduced, it was reported that at the height of the pandemic in mid-March cyber-attacks peaked at around a million a day,” says Williams. In particular, ransomware attacks, which targeted workers using private devices and networks as a potential entry point into companies’ systems, soared.

**PRECEDENT**

While the Covid-19 crisis has been viewed as a once in a lifetime, “black swan event” there is still some precedent for which companies and insurers alike can look back to help them navigate through current difficulties.

Imagine this scenario: Company A has a return-to-office after an outbreak and a number of employees die from contracting the virus in the workplace. The facility shuts down and there is a liquidity crisis leading to litigation. “It sounds far-fetched, but this is an actual shareholder action,” says Williams, adding that while the actual case is not Covid-19 related it is still an apt

comparison. The 2015 lawsuit involved US food manufacturer Blue Bell Creameries, where five employees contracted listeriosis in the workplace – and three consumers died.

“The allegation was made that managers and the board failed to implement an adequate reporting system and that there were food safety compliance issues that were not addressed,” says Williams. “It is a lesson to all now, more than ever, that US Food and Drug Administration compliance alone is not sufficient. You have to do a lot more than that and supply proof of a good faith effort to protect the safety of the workplace.”

In ongoing litigation against US-based cruise liner Carnival, some similarities to the Blue Bell Creameries case have been noted. Plaintiffs claim that, despite following government guidelines at the time, the company put them at risk by starting voyages in March after known outbreaks already occurred in February<sup>2</sup>.

With the widespread economic decline following global lockdown measures, many point to the 2008 global financial crisis as a touchpoint for the road ahead, something which Williams is keen to avoid: “The global financial crisis was an inside-out event, where there were wrongful actions taken by some bad actors; this pandemic, however, is outside-in, where the taps have just been turned off.”

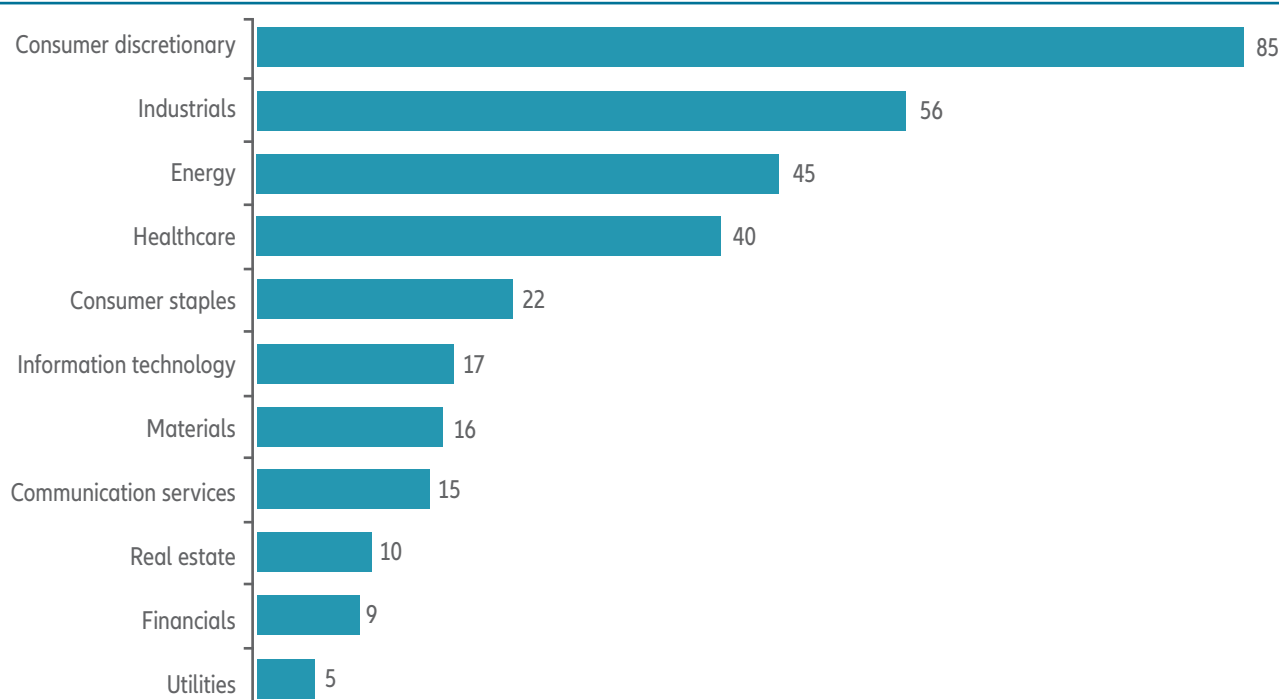
Inevitably, like any economic downturn, the number of bankruptcies are expected to rise.

According to Euler Hermes, Covid-19 is creating an **“insolvency time bomb”**. It says that the bulk of insolvencies is still to come “largely between the end of 2020 and H1 2021, as a result of uneven initial conditions, as well as differing reopening strategies and emergency policy measures, particularly regarding when insolvencies are filed”. It says its global insolvency index is likely to hit a record high of +35% by 2021, culminating over a two-year period, with half of the countries recording a new high since the financial crisis<sup>3</sup>. Standard & Poor’s (S&P), has already warned that 2020 will set a 10-year US bankruptcy

<sup>2</sup> Insurance Journal, Businesses fear lawsuits from sick employees, patrons after reopening, April 20, 2020  
<sup>3</sup> Euler Hermes, Calm Before The Storm – Covid-19 And The Business Insolvency Time Bomb



## 2020 BANKRUPTCIES BY PRIMARY SECTOR AMONG S&P 500 COMPANIES



Data compiled Aug. 10, 2020.  
Data as of Aug. 9, 2020.

Includes S&P Global Market Intelligence-covered US companies that announced a bankruptcy between Jan. 1, 2020, and Aug. 9, 2020. Companies that filed for bankruptcy are only counted once, regardless of how many bankruptcy filings were announced.

S&P Global Market Intelligence's bankruptcy coverage is limited to public companies or private companies or private companies with public debt where either assets or liabilities at the time of the bankruptcy filing are greater than or equal to \$2mn, or private companies where either assets or liabilities at the time of the bankruptcy filing are greater than or equal to \$10mn.

Primary sector not available for 104 bankruptcies filed in 2020.

Source: S&P Global Market Intelligence<sup>6</sup>

record, with the trend likely to continue into 2021<sup>4</sup>.

Edward Altman, founder of one of the best-known formulas for predicting corporate insolvency, **the Z-score**, further defined the nature of these bankruptcies, forecasting "mega bankruptcies" to become more commonplace than ever<sup>5</sup>.

"This year will easily set a record for mega bankruptcies of companies worth over \$1bn," agrees Ilardi, "while the number of normal bankruptcies over \$100mn will rival levels during the 2008 financial crisis."

For insurers, the best way to combat such an outlook is to get more thorough and granular in their analyses. "We are bringing back 'Underwriting 101,'" says Williams. "If you see an insolvency issue with an industry, then think about an insolvency exclusion, but right now, when it comes to exclusions, we can't take a broad-brush approach."

### RISK BY RISK

A more detailed underwriting analysis is the order of the day for insurers, featuring general questions about changes in board meeting frequency, continuity planning, changes to travel policy, downsizing plans or changes to dividends or cash flow in order to get a better understanding of the risk exposure.

"Given the uncertainty in markets and long-term impact, market volatility has not diminished from those directly impacted, so industries like airlines, hospitality, travel and retail will continue to be negatively impacted," says Williams. "Underwriters need to address these new exposures in their analyses to have a better understanding of what companies will look like coming out of the pandemic."

Regarding the impact and future of the pandemic, only a cautious and detailed approach from both D&Os and insurers will safeguard a safe passage through the crisis.

"We are going to continue these conversations, look at the risk return and see how it plays out, particularly as we get to the second or third Covid-19 wave," adds Williams. "The biggest mistake would be to assume we have seen the worst of the crisis. This is an ongoing, fast-changing issue and we have to be prepared for things to get worse before they get better."

Listen to the AGCS and Clyde & Co. webinar, **'Covid-19: D&O Impact and Opportunities'** [www.youtube.com/watch?v=lxbgEjGyRjk&feature=youtu.be](https://www.youtube.com/watch?v=lxbgEjGyRjk&feature=youtu.be)



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<sup>4</sup> S&P Global Market Intelligence, US bankruptcies on track to hit 10-year high as pandemic rages on, August 10, 2020

<sup>5</sup> Bloomberg Professional Services, Father of the Z-score predicts surge in 'mega' bankruptcies, August 4, 2020

<sup>6</sup> S&P Global Market Intelligence, US bankruptcies on track to hit 10-year high as pandemic rages on, August 10, 2020

# COVID-19: CHANGING CLAIMS PATTERNS

The coronavirus outbreak has posed a unique test for commercial insurance claims. What are the new trends that are materializing as a result of the virus? What are the prospects for future notification activity? And how are claims teams responding to this new environment?

# CHANGING CLAIMS

Photo: Wikimedia Commons

Photo: Wikimedia Commons



## THE 1 MINUTE DIALOGUE

- ▶ Historical claims patterns have been upended by Covid-19
- ▶ Surge in entertainment insurance notifications, while claims declined in sectors like aviation due to flight numbers plummeting
- ▶ Property and machinery breakdown claims likely to increase as businesses resume operations
- ▶ Growing reliance on technology, internet sales and home working will influence claims going forward, accelerating relevance of cyber and non-damage business interruption coverage and losses

A US public health worker in Pennsylvania tests for Covid-19, a disruptive game-changer for businesses and governments, alike



**\$110BN**  
 Estimated claims for  
 the insurance industry  
 in 2020

**OVERVIEW: COVID-19 CLAIMS NOTIFICATIONS OUTWEIGH REDUCED ACTIVITY DURING LOCKDOWN**

The coronavirus pandemic and resulting lockdowns have had a significant impact on commercial and specialty lines of insurance, both in terms of claims volumes and financial impact.

The rapid spread of Covid-19 in the first half of 2020 resulted in drastic lockdowns, forcing the closure of businesses, cancellation of events and a general curtailment of economic activity around the globe. In April, 3.9 billion people, almost half the world’s population, were largely confined to their homes. Many markets experienced deep contractions

during lockdowns – the UK economy shrank by almost a quarter while German exports shrank by 25%.

Estimates vary widely, but there have been reports that insurers could pay claims related to the coronavirus pandemic of around \$80bn in the US and the UK alone, comparable to the insured loss bill from hurricanes Harvey, Irma and Maria in the 2017 Atlantic hurricane season. Lloyd’s puts this figure at as high as \$110bn in 2020<sup>1</sup> (\$203bn when investment losses are factored in), on par with some of the biggest major claims years for the insurance industry.

“With the reduction in economic activity, traditional property and casualty claims have been subdued.

<sup>1</sup> Lloyd’s, Covid-19 will see historic losses across the global insurance industry, May 14, 2020



social distancing measures, there have been material reductions in claims for some lines of property and casualty insurance, most notably in the aviation sector, but also more generally with fewer accidents at work, on the roads and in public spaces.

Overall, there has been a slight reduction in traditional property and casualty claims in the mid-corporate sector compared with what would have been expected, with a more marked reduction in cargo and aviation claims. The cost of non-Covid-19 related BI claims has also fallen as many manufacturers and their supply chains went into hibernation, and are only gradually coming back on line.

With Covid-19, the risk landscape changed, explains Cremer.

“The pandemic has reduced risk in some areas, while at the same time changing it in others. We have seen claims in some lines of business surge with Covid-19, and others decline. Considerable uncertainty for the development of claims remains, however,” says Cremer.

Overall, positive trends in claims for insurers have been outweighed by Covid-19 notifications.

“We have received thousands of Covid-19 related claims from the entertainment sector (where AGCS is a major provider of insurance to the film, TV and events industry) and the mid-corporate market, and these are only partially offset by a reduction in aviation and property casualty claims,” says **Ray Hogendoorn, Global Head of Short-Tail Claims at AGCS**. “Although many commercial property casualty claims notifications will not be covered losses due to the terms of the agreed coverage, they still have to be handled.”

Claims notifications often lag following an occurrence, especially for standard third-party claims, such as slips and falls, where it can be measured in months, explains Cremer. Initially, claims continued to be notified as normal, but then claims patterns

began to change with lockdowns and government measures to combat the spread of coronavirus.

“Of course, not every sector went into hibernation,” says Cremer. “Many areas, such as food and online retail, for example, were largely unaffected.”

In addition to Covid-19 related claims, insurers have continued to face claims from risks that are not directly related to the pandemic. For example, this year has already seen large claims from riots in the US, storm damage in North America, as well as large fire and shipping incidents, contributing to an ongoing workload for claims teams.

There also is the potential for an uptick in fraudulent claims made by third-parties against policyholders.

“We might expect to see a spike in fraud. Third-parties are making claims against policyholders which on closer inspection are fraudulent – they claim to have suffered a loss that did not happen. In the current environment, we need to keep a watchful eye on third-party claims,” says **Joerg Ahrens, Global Head of Long-Tail Claims at AGCS**.

#### DEVELOPING SITUATIONS: NEAR- AND MID-TERM OUTLOOK

Claims trends in the near-term are difficult to predict, given uncertainty surrounding the pandemic and the lag in liability claims notifications. In the near term, claims frequency is likely to pick up with economic activity, while the resumption of business will bring its own risks, as plants and machinery are reactivated and with an expected rise in insolvencies and unemployment.

“There is a correlation between the health of the economy and claims trends, with fewer claims in some lines of business – such as fewer motor accidents, slip and falls, and workplace injuries – but relative increases in other areas, such as property, where production facilities are under stress and maintenance budgets under pressure. Overall, it is likely claims trends will continue to

However, this was outweighed by an increase in Covid-19 related claims notifications, especially in the entertainment industry with the cancellation of live events and the interruption of movie and other film productions. Meanwhile, there is still the potential for traditional property damage and business interruption claims to occur as factories and businesses restart, and given the longer development patterns of third-party claims,” says **Philipp Cremer, Global Head of Claims at AGCS**.

#### IMPACT ON CLAIMS FREQUENCY – THE CHANGING RISK LANDSCAPE

With sharp falls in economic activity during lockdowns, and with subsequent



Businesses large and small are shuttering doors in unprecedented numbers during the pandemic

evolve as a result of the pandemic,” says Ahrens.

As businesses begin to restart and adapt to life with coronavirus, risks are likely to change. Opening factories and restarting production lines heighten risks of machinery breakdown and fire if appropriate maintenance and due care has not been deployed during a shutdown, while any changes to the workplace could increase the risk of human error. Returning workers might not be up to speed, while others could be required to take on roles they are not suited for. Organizations may also need to change business models, adhere to new rules, regulations and processes, and adapt to new ways of working.

There is also the potential for claims arising in the mid-term from liability-related lines, such as D&O and professional liability, as well as workers’ compensation, if any failures to adequately protect against the coronavirus outbreak have been perceived, according to Ahrens.

**LONG-TERM CHANGES**

While the duration and extent of the pandemic is difficult to predict, claims trends in coming years could likely reflect wider changes in society and industry brought on or accelerated by the pandemic. A growing reliance on technology and shift to remote working, reduction in air travel, investments in green energy and infrastructure, and a rethinking of global supply chains, would all shape claims for insurers.

“Claims trends will mostly return to their pre-Covid-19 patterns in the near-term, although there will be changes. Coronavirus is accelerating many pre-existing trends, such as the growing reliance on technology, and has drawn attention to vulnerabilities in global supply chains,” says Cremer.

The growth in online retail and increased use of technology could have implications for liability claims, such as employers’ liability and cyber. “The typical office environment is likely to change with the move to home

working,” says Ahrens. “Companies could have lower property assets and fewer employees in the office, but there would be corresponding changes in cyber and workers’ compensation risks with a rise in home working.”

One positive trend could arise from a renewed focus on business continuity and business resilience, according to Cremer.

“Recent events could lead to a reduction in the complexity of global supply chains, which have had a huge impact on claims over the past decade and made businesses more vulnerable to local events, such as natural catastrophes or fire and explosion. Going forward, businesses will have the opportunity to review supply chains and build in more resilience.”

“Covid-19 has shown that pandemics are not just a theoretical scenario. The next time we face an infectious disease outbreak, the world should be better prepared,” says Cremer.

## SECTOR SPECIFICS

### ENTERTAINMENT:

#### UNPRECEDENTED SURGE IN COMPLEX CANCELLATION CLAIMS

The entertainment and events industry is one of the hardest hit by the pandemic, with lockdowns and subsequent measures to curb the spread of Covid-19 causing the cancellation of live events and sporting fixtures, as well as the closure of theaters, cinemas and theme parks. Film and TV production has ground to a halt, while the threat of further outbreaks and social distancing measures make for a challenging environment as the industry looks for ways to restart.

The cancellation or postponement of events and productions is one of the largest sources of Covid-19 related losses for the global insurance industry, bringing a surge in claims. Unlike traditional lines of insurance, it was not uncommon for entertainment policies to write-back cover for infectious diseases, and AGCS has been working with its clients to settle these claims.

Entertainment insurance is a highly specialized market where claims are complex, requiring expert claims adjusters and managers, explains Cremer. "This was one of our greatest challenges. We have a small but dedicated claims team and had not anticipated a situation like this. Strong relationships with clients and the market, together with good communication, have allowed for a collaborative approach to settling entertainment claims during the pandemic."

Insurers and policyholders have faced difficult decisions about whether to wait, cancel or postpone events, given the uncertainties around the duration of the pandemic and social distancing rules. Organizers will want to do everything to keep the show on the road, but delaying the decision to cancel can drive up costs. The ongoing threat of further outbreaks and social distancing rules also make decisions around postponement challenging.



Photo: Wikimedia Commons

Entertainment venues are having to make difficult decisions about holding events and screenings, in the wake of Covid-19

"We insure the financial losses from the cancellation or the additional costs caused by delay," says Cremer.

"Entertainment companies have faced difficult decisions, but we have worked closely with customers and always aim for an alignment of interests. The pandemic has demonstrated how close relationships and intimate knowledge of the entertainment industry enable us to understand and support right decisions."

### AVIATION:

#### CLAIMS FALL DURING LOCKDOWN, BUT HUMAN ERROR AND ACCUMULATION RISKS ARE HEIGHTENED

With most of the world's commercial passenger fleet grounded at the start of the pandemic – global air traffic fell a record 94% in April 2020 (99% in Europe and 98% in the US), according to the International Air Transport Association (IATA)<sup>2</sup>, and was still down by 86% in June, – aviation insurance claims have experienced a significant reduction in frequency.

At the time of writing, the aviation insurance market has seen few claims directly related to Covid-19. The pandemic has led to a small number of notifications where passengers have

looked to sue airlines for cancellation of or disruption to travel. In the US, a number of class actions have been filed against airlines by passengers seeking refunds or compensation for cancelled flights.

As airlines resume operations, they will need to adhere to stringent standards to protect passengers and crew from coronavirus infections. However, Covid-19 related claims against airlines are likely to be challenging for plaintiffs, with causation difficult to establish, explains Ahrens.

"To date, we have not seen a trend in Covid-19 liability claims in the aviation sector. There have been notifications under aviation liability policies for Covid-19 losses in the low double digit figures – mostly for flight cancellation related litigation. Liability cases are likely to face significant hurdles in terms of establishing causation. However, insurers still have a duty to defend such claims," says Ahrens.

While claims frequency initially declined, aviation is a volatile line of business and large or catastrophic claims can have a significant impact. A large proportion of the world's airline fleet remains in storage, with aircraft, including high value wide-bodied jets,

<sup>2</sup> IATA, After April passenger demand trough, first signals of uptick, June 3, 2020

Photo: Wikimedia Commons



Airlines may face changes in exposure as they emerge from hibernation and ramp-up operations

parked in airports, many of which might be exposed to hurricanes, hailstorms and tornadoes – more than 2,000 planes are thought to be idle in the US alone as of the start of September 2020, with an estimated value of around \$70bn, according to Swiss Re<sup>3</sup>. The risk of shunting or ground incidents also increases when large aircraft fleets are parked temporarily on a runway. Such incidents could result in costly claims.

“With most of the world’s fleet grounded during lockdown, there were fewer accidents, and we saw a significant reduction in the frequency of claims. However, the accumulation risks of aircraft have increased, while we have also experienced a pursuit of older, dormant claims,” says Ahrens.

With ongoing restrictions on international travel and the threat of further Covid-19 outbreaks, demand for air travel is expected to be subdued for the next 12 to 24 months. In fact, IATA has predicted that it will not return to pre-Covid-19 levels until 2024. However, airlines are likely to face changes in risk as they emerge from hibernation and ramp-up operations. Airlines are operating under exceptionally difficult conditions and are now making deep cuts to their workforce, including the loss of experienced pilots, while many that remain will not have flown for months.

Human error remains a significant factor in airline claims and will be an important consideration as operations resume. An initial investigation into the crash of a Pakistan International Airlines Airbus A320 in May indicated pilot error was the likely cause of the incident, in which 98 people were killed. In June, two aircraft collided on the ground at Aberdeen airport as one was being prepared for take-off.

“It is too early to tell how claims trends could develop in the new operating environment, but there are likely to be increased accumulation risks – such as hailstorms or tornadoes – as well as potential issues with human error,” says Ahrens.

#### PROPERTY:

#### RESTARTS BRING HEIGHTENED RISK

Property damage claims were largely unaffected by Covid-19, as many key loss drivers – namely weather and fire – are not directly correlated with the pandemic. However, Covid-19 could affect property claims trends going forward, as businesses restart and ramp up production, or where lockdowns affect emergency response and loss mitigation following a large or catastrophic event.

The closure of factories and mothballing of production facilities

can heighten risk, according to Hogendoorn. As production lines restart and activity increases, it brings the risk of failure and damage, as well as a higher risk of fire and explosion.

“Restarting a factory or power plant is a moment of heightened risk. Once up and running, it typically operates smoothly. But restarting represents a stress situation for operators. Experience has shown that holiday shutdown periods are typically followed by a spike in machinery breakdown and fire claims,” says Hogendoorn.

Factories in hibernation will not produce large BI claims but they do present a different risk profile, explains Cremer. With fewer people on site, inspections and maintenance might be delayed, while traditional loss incidents – such as a fire or escape of water – might go unnoticed at the beginning, increasing the severity of damage.

“We are far from the end of this. While BI claims following a fire or extreme weather initially decreased, this will have to be balanced against the risks of restarting equipment and production lines,” adds Cremer.

Covid-19 can have an influence on the severity of large claims if it has led to a



higher cost of labor or materials, or caused delays in loss prevention or mitigation. For example, a fire and explosion at a chemical plant in South Korea in April forced the closure of the facility, causing disruption to supplies of a number of chemicals. Restricted access due to the coronavirus lockdown in the country at the time caused delays to loss mitigation and prolonged the reinstatement period, increasing the overall cost of the BI.

In addition, lockdown measures in hurricane exposed US states could prevent businesses from securing property against wind or flood damage, restrict access for loss adjusters, or hamper repairs or reconstruction following an event.



US Vice-President, Mike Pence, tours a ventilator assembly line, retooled from a former General Motors plant in Indiana

**LIABILITY:**

**SLIPS AND FALLS DECLINE, BUT OTHER CLAIMS MAY YET MATERIALIZE**

With reduced economic activity during the pandemic, liability claims have experienced a number of positive trends. However, given the lag in reporting and uncertainty surrounding Covid-19, future claims cannot be ruled out.

With people staying at home, and with the temporary closure of many shops, airports and businesses, slip and fall claims notifications have slowed. There has also been a positive impact in the US from the suspension of courts and trials. Some claimants and plaintiff attorneys have been more open to negotiated settlements, some of which have been on more favorable terms.

Where AGCS has seen liability claims notifications for Covid-19 related losses under liability policies, these are typically from US mid-sized corporates against general liability policies, including those made under pollution wording for Covid-19 infections. However, most claims will not be covered due to infectious disease exclusions.

“Covid-19 related general liability and workers’ compensation claim notifications number in the several

hundred, mostly low value claims arising from the mid-corporate sector. For now, liability claims related to Covid-19 are relatively benign, but we do not know what might be around the corner,” says Ahrens.

A number of outbreaks of coronavirus have been linked to high-risk environments, such as gyms, farms, care homes and cruise ships. Food processing plants, for example, in the UK, Germany, Brazil and the US, have closed after workers tested positive for coronavirus.

“There have been outbreaks of Covid-19 in workplaces, including a number of food processing plants in Europe and the US. Potentially, employees could sue employers if they have failed to provide a safe work environment, and, potentially, a series of large local or sector outbreaks could cause a spike in workers’ compensation claims,” says Ahrens.

Liability claims are typically long-tail with a lag in reporting, so general liability and workers’ compensation claims related to Covid-19 may yet materialize. However, the experience of past infectious disease outbreaks suggests insurers will see few successful claims under general liability policies due to exclusions and the fact that causation is hard to prove. “Claims notifications are likely to be

filed, but when and how many is uncertain at this time. However, with the SARS outbreak, insurers did not experience a notable spike in claims, and liability insurance lines were largely unaffected. The situation with Covid-19 is not too dissimilar and we would anticipate a liability claims experience in line with previous outbreaks like SARS,” says Ahrens.

The coronavirus pandemic has not yet negatively impacted product liability and recall claims – for example, there was a 77% reduction in automotive recalls in Europe, Middle East and Africa during Q2 2020 compared to a year earlier<sup>4</sup> and it is clear most of that can be attributed to the pandemic and a drop in production levels – although changes to production facilities due to social distancing and the economic impact of Covid-19 could shape claims going forward.

“Product liability and recall claims tend to follow economic activity, so there will most likely be an impact on claims with the economic downturn. Coronavirus also could affect claims through changes to hygiene and working practices, while restarting production after periods of hibernation may give rise to human error,” says Ahrens.

“Production lines may have to change because of social distancing, which could mean they are less effective. This

<sup>4</sup> Stericycle Expert Solutions, Recall Index Insight Report - Edition 2, August 2020



Photo: iStock

Economists are predicting a wave of company insolvencies due to the coronavirus pandemic

could bring a higher margin of error, adding to existing pressures, which could result in quality control issues," adds Hogendoorn.

Covid-19 is likely to influence recall trends, with key sectors and supply chains under pressure, including automotive, food and beverage and pharmaceuticals, three of the most important sectors in terms of product recalls. Longer term, changes brought about in consumer behavior and supply chains by Covid-19 could also affect product recall claims.

There have already been a number of recalls in Europe for personal protective equipment (PPE) that has failed to meet standards or that was found to be defective. PPE – namely, face masks – are among the most recalled products in Europe in 2020, while a number of governments have rejected medical equipment and coronavirus testing kits deemed defective, according to Stericycle.

#### FINANCIAL LINES:

#### D&O, PROFESSIONAL LIABILITY AND CYBER ISSUES ON THE HORIZON?

Although it is still early in the process, the coronavirus outbreak could result in

claims against directors and officers (D&O), consultants and professionals, as investors and other stakeholders look to hold them accountable and seek to recoup losses.

Claims against D&O insurance related to Covid-19 have been a trickle, rather than a flood to date. A small number of securities class action lawsuits have been filed in the US – just 16 were filed as of July according to **D&O Diary**<sup>5</sup> – including suits against cruise ship lines that suffered Covid-19 outbreaks, as well as litigation regarding the business impact of the pandemic on companies' financial performance or operations. Investors have also filed claims against firms that have made misrepresentations about coronavirus-related therapies, testing, or equipment.

Event-driven litigation has become an established trend in recent years, with plaintiff law firms ready to seize almost any opportunity to bring class actions or force a settlement. Against this backdrop, Covid-19 related D&O claims remain a distinct possibility as the economic consequences of the pandemic play out, says Ahrens.

"The pandemic could trigger litigation against companies and their D&O, such as where boards

have failed in their duty to prepare for disruption or disclose risks. Event litigation has become a significant driver for D&O claims, and while there has been relatively few class actions related to Covid-19 to date, this will be an area to watch."

Insolvency is another potential source for Covid-19 related D&O claims – it is historically a key cause of claims as insolvency practitioners look to recoup losses from directors.

"Economists are predicting a wave of company insolvencies as a consequence of the pandemic. There are a plethora of ways that stakeholders could go after directors following insolvency, such as alleging that boards failed to prepare for a pandemic or prolonged periods of reduced income," says Ahrens.

Professional liability claims are also a possibility, in sectors such as insurance broking or healthcare. Previous economic downturns and catastrophic events have seen negligence claims against insurance brokers and financial advisors. The healthcare sector could also see negligence claims, for example, where a lack of personal protective equipment (PPE) or a failure to meet standards has led to Covid-19 deaths.



Photo: iStock

The cost of non-Covid-19 related business interruption property damage has reduced in many cases as facilities either closed or scaled back production

“The economic consequences of the pandemic will likely cause a wave of insolvencies and rising unemployment. We have seen with previous downturns that people are forced to change careers and sometimes move into jobs that they may not be suited for, which can lead to an increase in professional indemnity and new liability claims,” says Ahrens.

Cyber claims have yet to be significantly affected by Covid-19. However, with many businesses distracted by the crisis, and with a rapid increase in home-working and internet sales, companies are more vulnerable to cyber-attacks, including phishing, ransomware, scams and business email compromise attacks, as well as a rise in human error incidents from staff. The World Economic Forum, predicted that the pandemic was likely to increase the risk of cyber-attacks as hackers targeted society’s growing dependence on digital communications and tools and a number of different reports have already noted a significant rise in incidents during the major lockdowns around the world.

“Cyber risk will come in different shapes and forms as companies

increasingly digitalize, relying more on online sales and remote ways of working,” says Ahrens.

**BUSINESS INTERRUPTION:**

**LOCKDOWN REDUCES SEVERITY OF TRADITIONAL CLAIMS, BUT COVID-19 IS A DOUBLE-EDGED SWORD**

The coronavirus outbreak has had a significant impact on BI insurance. With many businesses shuttered or running at reduced capacity, traditional BI claims have seen a marked reduction. However, Covid-19 has also generated a wave of claims notifications for losses incurred due to government lockdowns.

AGCS has received thousands of claim notifications for BI losses related to Covid-19, mostly in the mid-sized corporate market. However, the vast majority of commercial property policies do not cover BI without physical damage.

“We have had notifications for BI caused by Covid-19, but typically the customer has notified the claim as a precaution and wants to establish if their property insurance will respond.

Nonetheless, property insurance is intended to cover physical damage, and non-damage business interruption (NDBI) caused by Covid-19 would not typically be insured. So we have had to work with brokers and customers to explain the situation and clarify the terms of insurance,” says Cremer.

“There are exceptions, such as entertainment insurance and a small number of property policies that include non-damage cover for infectious diseases. Many of these have already been settled,” adds Hogendoorn. “However, such cover is not widely purchased and is typically sub-limited.”

At the same time, the cost of non-Covid-19 BI property damage has reduced, as many factories have either closed or scaled back production. During the height of the pandemic, a tornado caused extensive damage at an auto-parts manufacturer. The interruption was significantly mitigated as its customers had already scaled back production, giving the company more time to restore its operations. This resulted in a lower BI loss, compared to “normal circumstances.



A deserted Manhattan in April 2020 highlights the impact of Covid-19 on business

## THE CLAIMS RESPONSE:

### GOOD COMMUNICATION IS CRITICAL TO AVOIDING DISPUTES

As with past major incidents, Covid-19 has given rise to complex policy interpretation issues, requiring a sympathetic and considered response to claims notifications.

AGCS has received several thousand claims under commercial property and casualty policies related to Covid-19, in particular for BI, but also liability. With the exception of entertainment policies and a small number of NDBI policies – where infectious disease cover was expressly included – the majority of policies do not, and are not intended to, cover pandemics.

“This presents a challenge for our claims handling teams, and how best to respond where there is no cover under the policy,” says Ahrens.

“As is the case with all claims, insurers have to think carefully how they respond and explain to customers how the policy works and what it is intended to cover. This is a reputational, as well as legal and regulatory issue, for insurers,” says Hogendoorn.

Covid-19 has seen a politicization of insurance claims. In the US, there have been legislative moves to make insurers retrospectively cover BI losses, although such attempts have so far made little headway. Policyholders in the US and Europe have turned to the courts to interpret policy wordings, while the UK’s Financial Conduct Authority intervened directly on behalf of small businesses, bringing a test case in the High Court.

“Insurers will follow the rule of law and pay claims according to policy wordings and, in applicable cases, according to individual court rulings,” says Hogendoorn.

### FUTURE PANDEMICS:

#### LEARNING FROM EXPERIENCE

With the outbreak of the coronavirus pandemic, insurers have sought to clarify wordings for infectious diseases, and inform policyholders of exclusions or the extent of cover, where it exists. This should help ensure that future pandemics or a resurgence of Covid-19 will lead to fewer notifications under traditional policies where cover does not exist.

“Over time, there may be a shift in policy wordings away from pandemic

clauses. Coverage will be much clearer in terms of what is included and excluded for infectious disease outbreaks. Dealing with claims in the next pandemic will hopefully be much more straightforward,” says Hogendoorn.

As a known risk, Covid-19 is generally not considered insurable, although affirmative cover has historically been available for infectious diseases under specialist NDBI or entertainment policies. However, due to the size and global nature of pandemics, the industry is unable to cover BI for large infectious disease outbreaks, at least without government support. However, a number of government backed insurance solutions to protect businesses against pandemics are being considered in Europe and the US. Allianz is among those actively contributing to various initiatives to create such solutions.

“Specific cover for pandemics and infectious disease outbreaks is available in the insurance market but not widely purchased. However, Covid-19 has raised awareness of this risk and there will no-doubt be growing interest for such cover going forward,” says Ahrens.

**CLAIMS SERVICE:**

**TECHNOLOGY AND WORKAROUNDS DELIVER UNINTERRUPTED SERVICE**

Throughout the pandemic, insurers such as AGCS have had to maintain high levels of claims service, in part, due to recent investments in claims technology and software, but also through the dedication and flexibility of claims professionals.

The coronavirus outbreak has tested AGCS claims teams and systems, according to Cremer. "The past few months have shown just how well we can adapt to a new situation and keep claims operations up and running. For large losses, we have managed to get people onsite using local loss adjusters supported remotely by specialists. People have just made it work," says Cremer.

"There will always be unexpected or large loss events that put claims service under pressure. The ability of an insurer to quickly understand the situation, their speed of response and communication is make-or-break for clients. Events like Covid-19 really test an insurer's claims response, but this is

equally true for a large industrial accident or natural catastrophe."

Technology has played a crucial role in delivering an uninterrupted claims service throughout the pandemic. Recent years have seen AGCS' claims function undergo a transformation, digitizing and automating claims processes and documentation. Remote claims inspections and assessments are now possible through satellite, drone and image capture technology. For example, the **MirrorMe** mobile app enables AGCS experts to review and assess premises remotely based on photo and video images captured by customers (see box).

Covid-19 has further reinforced the need for digitalization of the claims process, says Cremer.

"AGCS' cloud-based claims platform has passed the test of coronavirus. Our digital claims processes proved resilient throughout the lockdown, enabling our claims teams to deliver expert service without disruption. Just a few years ago, claims processes were mostly manual and paper-based and many people could not



**WHAT IS 'MIRROR ME'?**

**MirrorMe**, an app-free solution that simplifies photo and video capture to allow risk experts to remotely review and assess premises, can help them evaluate potential exposures around a property or in a warehouse. Businesses can share images of facilities and operations or browse a library of risk mitigation materials without having anyone visit their facility, especially convenient in the challenging coronavirus environment. The tool offers a secure, virtual and real-time loss control experience, allowing risk engineers to review exposures, gather information and offer real-time recommendations (see page 9).

Find out more [www.agcs.allianz.com/news-and-insights/expert-risk-articles/remote-insurance.html](http://www.agcs.allianz.com/news-and-insights/expert-risk-articles/remote-insurance.html)

have imagined handling claims remotely. While we haven't yet abolished paper, the trend towards using technology in claims will continue, and now will most likely accelerate. There is no way back."

**VIEWPOINT:**

Thomas Sepp, Chief Claims Officer and Board Member, AGCS

**The COVID-19 pandemic has had a huge impact on the commercial and specialty insurance industry. What has been the impact on AGCS?**

**Thomas Sepp:** The pandemic is certainly one of the worst loss events for the insurance industry in history – claims could be as high as \$110bn in 2020, according to Lloyd's estimates. AGCS alone has reserved about €488mn (US\$571mn) for expected COVID-19 related claims, especially for the cancellation of live events and the disruption of movie or film productions in the entertainment industry.

However, it's not only the magnitude of COVID-19 losses, which is unprecedented, we also see changes in loss patterns and causes and expect this to continue. The pandemic has reduced risk in some areas while, at the same time, changing and heightening it in others. Together with climate change and global warming, the pandemic may be the prologue to more far-reaching and disruptive risk changes in years to come."

Read the full interview at [www.agcs.allianz.com/news-and-insights/expert-risk-articles/covid19-claims-thomas-sepp.html](http://www.agcs.allianz.com/news-and-insights/expert-risk-articles/covid19-claims-thomas-sepp.html)

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# AN AUTONOMOUS DREDGER HEADS FOR PORT

Emden's autonomous dredger will enable more environmentally-friendly handling of aquatic sediments in high-traffic areas of the port

In Emden, on the River Ems near Germany's North Sea region, an innovative autonomous dredging operation takes advantage of natural processes to deepen the harbor and locks. AGCS is on board with risk control services.

Germany's far northern tide-affected ports on the North and Baltic Seas are challenged by the constant buildup of sand and silt in port and lock areas. To maintain sufficient port depth, excavation is currently the most common form of maintenance. However, this type of activity is not only very cost-intensive, it is also associated with a significant intervention in aquatic and terrestrial ecosystems.

Project developer, **Niedersachsen Ports**, came up with the idea of using an autonomous dredger and drew up the plans for its design, delivery and operation at Emden – Germany's third-largest port, especially for ro-ro ships for the automotive industry. It is situated on the northern banks of the River Ems and consists of two parts: the Outer Port, exposed to the tides, and the tide-independent Inland Port, accessible via two sea locks. Silt around both the tide-exposed port and the locks has made the dredge operation necessary.

The dredger is intended to enable more flexible and environmentally-friendly handling of aquatic sediments by continuously relieving navigable areas of solid silt – promising from

both an ecological and an economical perspective.

The "recirculation process," used for this special form of dredging, ensures that the fluid mud layer is made navigable through dredging by being pumped into the cargo hold of the dredger, enriched with atmospheric oxygen and returned to the harbor basin. By ensuring that the material is suspended in the water and does not settle on the floor, ships can pass through at any time. This method is cheaper and environmentally gentler, but requires that the recirculation by ship continuously takes place.

The technology's advantages are evident: it should reduce personnel, cut costs, increase efficiency through possible multi-shift operations, and is environmentally-friendly. Similar tide-dependent places like certain ports in the US and The Netherlands, which struggle with comparable sediment loads, could benefit from such a solution.

"An autonomous dredger is something new for AGCS," explains **Anastasios Leonburg, Risk Engineer at AGCS**. "This project is of public interest and also interesting for us as a commercial

insurer. In the near future, autonomous or, initially, semi-autonomous ships will be launched which will also need to be insured. In particular, as an insurer, we will benefit from participating in this project in that we will be able to better assess the risks associated with operating an autonomous ship."

## BENEFITS OF AUTONOMOUS DREDGING

- Automatic operation, day and night, 365 days per year
- Reduction of extensive safety equipment on the ship
- Optimization of usable area of the vessel (for example, no sleeping cabins)
- Improves accessibility of seaports and leisure harbors
- Marketable in similar port conditions globally

## OUR EXPERT

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# CONTENT SHOWCASE

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## PODCAST – LIABILITY RISK TRENDS: SOCIAL INFLATION

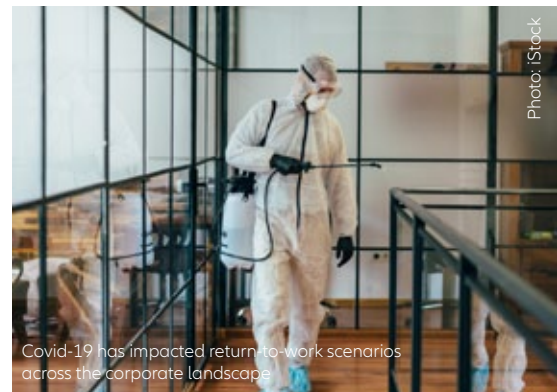
**Social inflation** is a phenomenon especially prevalent in the US, driven by the growing emergence of litigation funders, higher jury awards, more liberal workers' compensation claims, as well as new negligence concepts. This dynamic becomes apparent when reviewing the top 50 US verdicts from 2014 to 2018, during which the median settlement amount nearly doubled from \$28mn to \$54mn.

In a new AGCS podcast, **Larry Crotser, Regional Head of Key Case Management, North America at AGCS**, discusses the impact of social inflation on commercial insurance, including why this trend is increasing in the US and elsewhere around the world. He also addresses how it has become a major narrative in courtrooms and why American juries are more likely to award claimants by triggering the "reptilian brain."

Listen today at [www.agcs.allianz.com/news-and-insights/podcasts/social-inflation.html](http://www.agcs.allianz.com/news-and-insights/podcasts/social-inflation.html)



## VIDEO: COVID-19 AND CHANGES TO INSURANCE CLAIMS



The coronavirus pandemic and resulting lockdowns around the world have had a significant impact on commercial and specialty lines of insurance, both in terms of claims volumes and financial impact.

In a new video, **Philipp Cremer, Global Head of Claims at AGCS**, discusses the impact of the pandemic on claims trends in different lines of insurance, such as aviation, entertainment, financial lines, liability and property, and how they might evolve in future.

Cremer also highlights how Covid-19 has reinforced the need for greater digitalization of claims handling. Remote claims inspections and assessments for tornadoes, floods or major industry accidents are now possible through satellite, drone or image-capture technology. Such tools, together with cloud-based claims platforms, have enabled claims teams to handle a surge in notifications without disruption while working remotely.

Watch today at [www.agcs.allianz.com/news-and-insights/reports/claims-in-focus.html#video](http://www.agcs.allianz.com/news-and-insights/reports/claims-in-focus.html#video)



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