FINANCIAL RISKS

Directors' and Officers' Liability

After 3 years given over to the recovery of portfolio profitability and a review of coverage, large accounts were generally renewed on the basis of stable budgets in the second half of 2022. We have seen some increases of around 5% on large programs where there have been no claims and which have already been subject to remedial measures, due to the impact of competition generated by the arrival of new capacity (MGAs or new players in the segment) and the desire of the market leaders to increase their exposure in order to maintain or grow their portfolio.

For Q1 of 2023 we predict:

- Confirmation of the stabilization of pricing conditions (with case-by-case reductions of around 5% without the impact of inflation on this downward trend),
- the willingness of several major insurers to increase their capacity up to €25m in cross-sectional terms beyond an average attachment point of €50m,
- a potential increase in the capacity of lead insurers from €10m to €15m,
- the return of long-term agreements, the terms of which remain to be set and the interests of policyholders to be validated on a case-by-case basis in a bear market.

Lastly, we continue to pay close attention to so-called Side B deductibles which some insurers are sometimes attempting to integrate/apply more extensively than in the past.

Insurers remain highly vigilant regarding the need for and the terms of rolling out local policies in international programs. The leading players are therefore maintaining upward pressure on local premiums with restrictions related to the current conflict in Ukraine. The exclusions linked to this conflict have become widespread in Master programs (local policies no longer available in Russia, Belarus and Ukraine and the exclusion of Russia, Belarus and even Ukraine from the Master program). This situation will require an analysis of the need for local placements independent of the Master programs. The importance of compliance issues arising from the various sanctions programs complicates the renewal process, particularly in the absence of harmonized positions or processes across the markets.

Restrictions on coverage relating to the financial failure of companies could be inserted, which should only affect the subsidiaries or JVs of large groups.

Cyber

Over the last three years, lead insurers have been looking for ways to control claims and prepare for the developing impact of this risk on their portfolio. Over and above the premium increases that are essential for the most exposed players, and often systematic with no reduction in excess rates, insurers have imposed underwriting processes in terms of information and technical requirements that are sometimes difficult to meet. At the same time, insurers have repositioned their commitments, reduced to €10m, at attachment points often close to the maximum losses incurred in Europe, i.e. €30m or €50m depending on the size, activity and quality of the risk.

Analysis

- A supply crisis in a volatile market in search of stability that is facing an exceptional acceleration of the threat of systemic events and the ever-increasing frequency of ransomware attacks.
- Maximum capacity, which was around €150m in 2022, including the "competitive" contribution of the London market, could increase again by January 1, 2023.
- Capacity per insurer remains limited to between €5m and €10m in lead lines and seeking an alternative provider is difficult due to the lack of players.
- Difficulty placing lead excess lines, with very low-level reductions in premiums (90% to 100%).
- Some new players (MGAs) should gradually offer excess alternatives on good risks.
- Premium levels remain high, often forcing companies to reduce the amount of coverage taken out, due to lack of budget, if lead line premiums are significantly increased.
- The minimum deductible required has doubled on average for major risks, making it possible to maintain similar coverage with a premium increase that does not usually exceed 50%. For major risks, the average deductible is €10m. Deductibles for mid-caps are now €1m or €2m depending on the risk.
- The more frequent use of insurance captives to absorb deductibles has no impact on overall program budgets.

The decrease in capacity purchased due to a lack of budget for insurance, and which could be reallocated to cybersecurity, seems to be creating an unintended upward effect on premiums. Major risks now expect excess insurers with high attachment points to return to the lead line to share the risk with the long-standing European market leaders: AIG, Beazley, Chubb and AGCS. The decision of major risks to reduce their capacity should contribute to this development or at least to a decrease in premium rates above €30m attachment points, including deductibles.

There is perhaps a virtuous effect in this gloomy landscape in that applicants for insurance who do not meet the insurers' requirements have had to postpone their purchasing decision, preferring to review their investments in order to improve their cyber resilience. The service offering from cybersecurity providers, whether or not it is integrated with insurance, has become inconsistent and unclear. Initiatives integrating artificial intelligence and the use of benchmark data marketed by the major international cybersecurity players to quantify, analyze and manage exposure should be able to support insurers' offerings in the future. Above all, these tools should enable a degree of confidence to be established in the organization's understanding of its own risk, which would make it possible to reduce the burden of questioning by insurers and re-balance the discussion on the need for and purpose of insurance by simplifying the underwriting process.

Ransomware claims increased sharply in the second quarter of 2022 and the Russian-Ukrainian conflict led Lloyd's to introduce an exclusion for state-sponsored cyber attacks. ANSSI, the French cybersecurity agency, issued a warning as early as January 1, 2022 regarding this more worrying ransomware risk in terms of sovereignty and stability in an uncertain economic climate. We expect this exclusion to become more generalized and will therefore seek consensus on questions of burden of proof or the claims management process and the maintenance of coverage by insuring the cost of interventions by forensic experts, whether or not they remove the doubts over the origin of the attack.

Finally, there remains the question of the insurability of the ransom. Some insurers had expressly excluded the ransom from their coverage. On September 7, 2022, the French Treasury published a press release on the main conclusions of its report on the development of cyber insurance. Among the measures being considered, it stated that, subject to filing a complaint, cyber ransomware would be insurable.

Transactional Risk Insurance M&A

The insurance market for risks related to merger and acquisition transactions and Warranty & Indemnity (W&I) insurance has developed strongly in recent years on the continent, first in the Nordic countries, then in Germany and more recently in Spain and lately in Italy.

France is no exception, even though specific features still leave the option of preferring traditional escrow or even earn-out solutions.

The market has also become more structured in France, where new entrants have been able to prove themselves after many years during which the French market was limited to two or three insurers.

Market capacity

Until recently, the French market was concentrated on the few original, long-standing players, such as AIG or TM HCC. In recent years, we have seen many MGAs develop in Europe and create multidisciplinary teams of experts in several jurisdictions, including France. While new players have appeared this year, we have also seen some insurers withdraw from underwriting this type of risk, sometimes transferring their capacity to MGAs. In total, more than 12 insurers and MGAs are authorized to underwrite cross-border transactions involving a French seller or buyer, or even transactions involving only French parties. Underwriting teams have become more specialized and additional resources have been recruited by all insurers to meet the increased demand for policies in 2022. There is no doubt that this increase in supply and competition has prompted players to develop customized solutions, demonstrating an ability to adapt and innovate.

Theoretical capacity has exceeded a billion euros for traditional W&I coverage and could exceed this figure for basic warranties using specific solutions such as Title or Top-up insurance.

Most insurers remain willing to deploy capacity in excess of €20m per deal and it is possible to see placements in excess of €100m carried by only one or two insurers, particularly for pure real estate deals.

Developments in coverage

Covid-19 has had no real impact on the scope of coverage, but insurers have refocused their appetite on the least affected sectors or even those that have benefited from the pandemic (such as logistics). In contrast, the tourism and hotel sectors and the automotive and retail industries are being underwritten with greater caution and stringency.

We are seeing widespread cases of clean exits and, at the same time, the relative return of Sell Side transactions underwritten by certain insurers. On the other hand, there may be increased vigilance in terms of due diligence quality, and greater use of deductibles and de minimis clauses.

Pricing trends

At a record low at the end of 2021, with rates of 1% for the first €10 m for operational deals and 0.70% for real estate deals, premium amounts were readjusted slightly upwards during the year to reflect the increase in demand and actual risk taking on these accounts. It is possible that both the American and European claims experience will accentuate this trend in the future. The rates charged by certain leading insurers are on the rise. However, room for maneuver remains limited as competition and the arrival of new capacities do not appear to be slowing down.

DIOT-SIACI'S EXPERTISE

What is our operational technical expertise?

The diversity and the technical and legal plurality of our teams, combined with our experience mean the Diot-Siaci Financial Risks teams can assist and support all our clients whatever the business, size or risk profile.

How do we assist and support you?

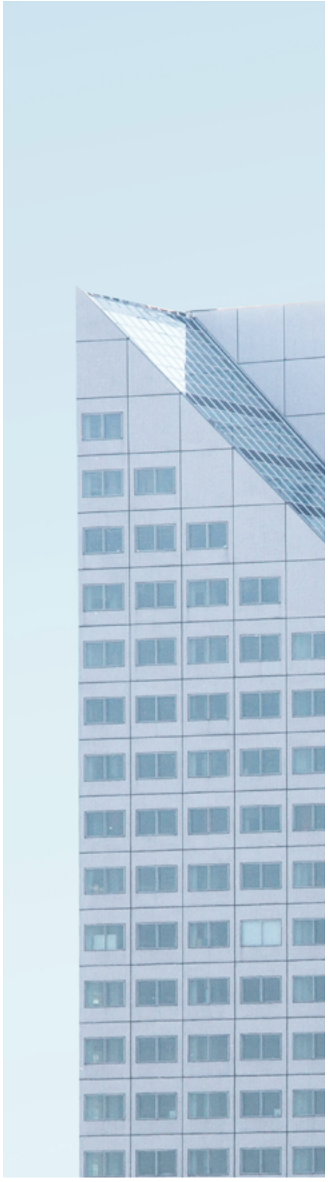
Our aim is client satisfaction. Faced with new risks and constant changes in regulations and techniques, our relationship with our clients is based on our rigor and mutual trust that makes it possible to establish long-term partnerships.

What can we offer you?

Dedicated technical teams. Proven negotiation and administration methods in both production and claims.

What makes us different?

- Robust experience and expertise
- Our capacity for innovation
- The synergy of the Production/Claims teams



4
business units

Cyber • Financial Institutions • M&A • Corporate (Key Accounts/ Upper Middle and mid-caps)

500 clients in the portfolio, including more than 100 large Cyber clients and 250 SMEs

€125m in premiums placed, including €40m in cyber

500+ claims handled per year

18 specialists

Alexandra Gavarone
Director of Financial Risks France

Mickaël Robart
International Practice Leader, Financial Risks