

SHA^o
risk specialists

a division of


Santam

2020 THE ANNUAL
SPECIALIST
RISK REVIEW



**THE ANNUAL SPECIALIST
RISK REVIEW 2020**

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Introduction

By Gareth Beaver



When I took over as CEO of SHA Risk Specialists back in 2017, I must admit that it was an eye opener. I'd been involved with traditional casualty business at various points in my career, but the SHA portfolio is actually quite diverse. Many people don't realise that it comprises not only the traditional long-tail coverages such as professional indemnity, liability and financial lines but also some short-tail business in the form of personal accident and motor fleet.

The company had grown exponentially since it was founded by Tony Stalker and Angus Hutchison back in 1985 and had generally produced some fairly healthy underwriting results. However, it was becoming evident that many of the underwriting and claims processes had not evolved at the same pace as the changing risk landscape in the world generally, but more particularly here at home in South Africa.

Each passing year brought with it changes in consumer awareness, litigation habits of the population, greater access to courts and regrettably in the last few years, an accelerated decline in the quality of risk management. This combination of factors invariably led to an increase in claims frequency and severity. The trick in building a sustainable business in our field is to make

sure that risk selection, pricing and claims management follow in the same trajectory as the changing landscape.

Quite contrary to the escalation of risk exposure, we noted that premiums had in fact been moving in the opposite direction. The graph (see Fig. 1) only demonstrates rating between 2015 and 2017, but over a longer period the picture was no different. Some product lines were in fact being priced 20% lower than two years prior. This was the case in the professional indemnity space, in spite of rising claims. Single Project PI rates had slipped by 33% and this is one of the most volatile lines of business in the specialist arena (see Fig.1).

Much of this can be attributed to competition in the market and I guess even in the absence of a crystal ball, one could tell that this was not a sustainable strategy. This was not unique to SHA and many of our contemporaries both locally and abroad had noticed similar patterns in their own portfolios. In addition to this pricing decline, insurance capacity being committed on individual risks had also risen to the highest levels ever.

As insurers competed voraciously for accounts, capacity was used as a drawcard the world over. It was a good time to be buying big limits for the lowest possible premiums. With these

elements in mind, a global underwriting correction was actually on its way long before our daily vocabularies featured words like COVID-19, pandemic or lockdown.

Any broker worth their salt would of course be expected to resist pricing increases, particularly on portfolios that are perceived to be running profitably or are possibly claims free. There are no business owners or executives that would be pleased to hear that they are going to be paying more for less coverage. We acknowledge that the current hard market has been extremely difficult for our intermediaries and almost every renewal has required more work and greater negotiation.

It is against this backdrop that - as we prepared to publish this year's Specialist Risk Review - we realised that it would be remiss of us if we did not spend some time unpacking our own claims experience across all our lines of business. This was done in effort to provide our hard-market, battered and bruised brokers with some insights around loss development in the long-tail environment that they can share with the respected and appreciated buyers of specialist insurance.

Loss development is really what we have to be most concerned about within our



portfolio. Broadform liability, professional indemnity, single projects PI/liability and financial lines insurance all experience significant changes in the loss ratio, long after the financial year closes.

Investopedia defines Loss Development as:

- The difference between the final losses recorded by an insurer and what the insurer originally recorded. Loss development seeks to account for the fact that some insurance claims take a long time to settle, and that estimates of the total loss that an insurer will experience will adjust as claims are finalized.
- Loss development is the difference between what an insurer initially records for liabilities versus the final level of claims.
- A loss development factor allows insurers to adjust claims to their projected final levels.
- One of the most important factors for insurers when determining potential losses is the amount of time that it will take to process a claim.

Back in 2008, at the end of the financial year, the loss ratio in our professional indemnity portfolio was just under 10% (see Fig.2).

By the end of 2013, the 2008 underwriting year had deteriorated somewhat to a loss ratio just below 80%. SHA must achieve a loss ratio of 60% to breakeven.

Fig.1

ESTIMATED YEARLY CHANGE IN THE AVERAGE RATE ON LINE PER LINE OF BUSINESS

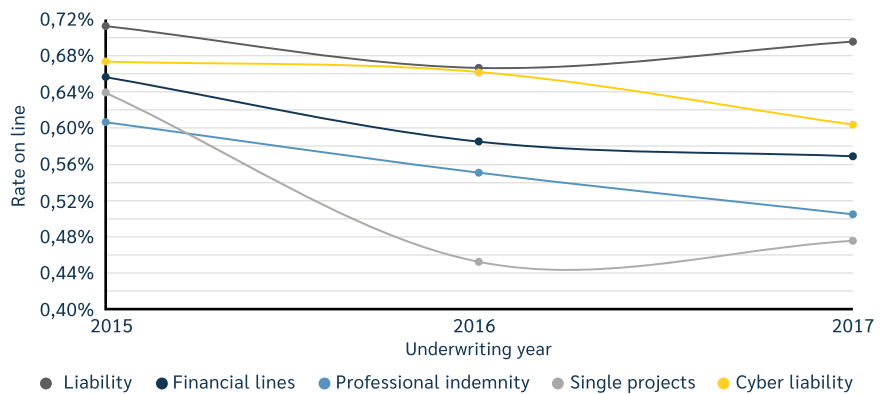


Fig.2

LOSS RATIO DEVELOPMENT PER UW YEAR (PROFESSIONAL INDEMNITY)

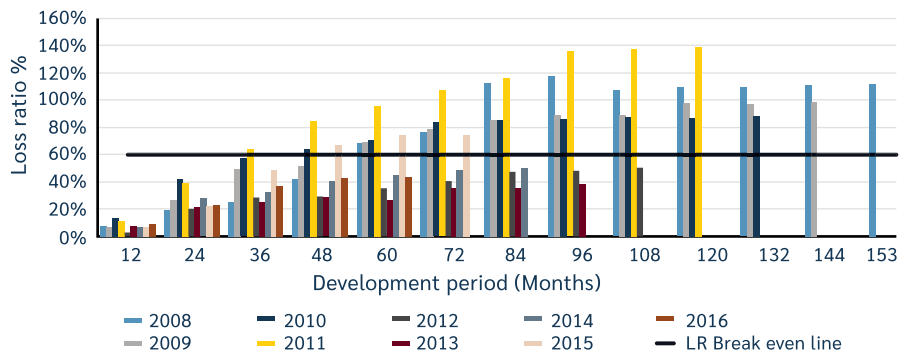
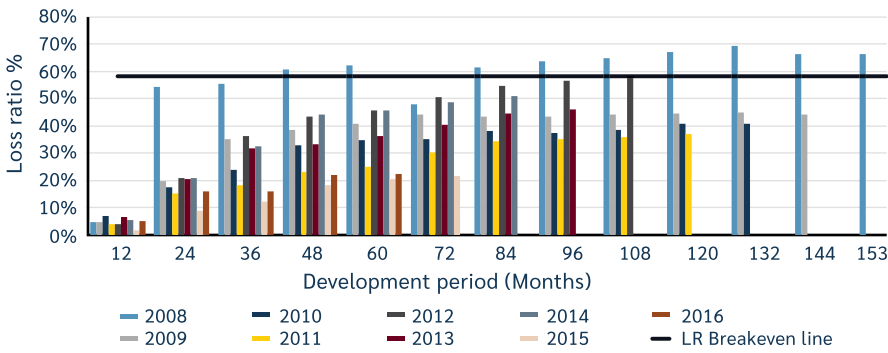


Fig.3 LOSS RATIO DEVELOPMENT PER UW YEAR (LIABILITY)

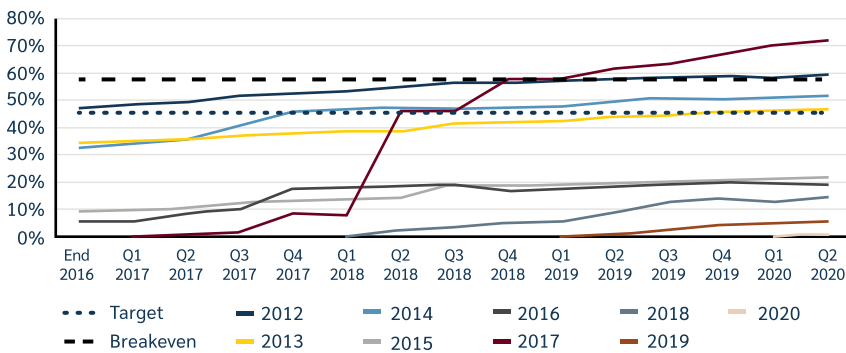


Broker commission, reinsurance and administrative costs make operating above this level unprofitable. Our target loss ratio is closer to 45% as this means the business is generating shareholder value – no one wants to invest in a business that targets a breakeven situation. Regrettably the 2008 tale did not end there, with the loss ratio only eventually stabilizing eight years after the financial year closed at just under 110%.

In our liability portfolio the numbers tell a slightly different tale (see Fig.3).

As can be seen the 2008 year also proved to be quite challenging and has now revealed itself to have also burnt through the 60% level. The other underwriting years have fared slightly better with only 2012 and 2014 flirting with the breakeven threshold. Note that out of the past 8 years, only four are below the target, profitable loss ratio of 45%.

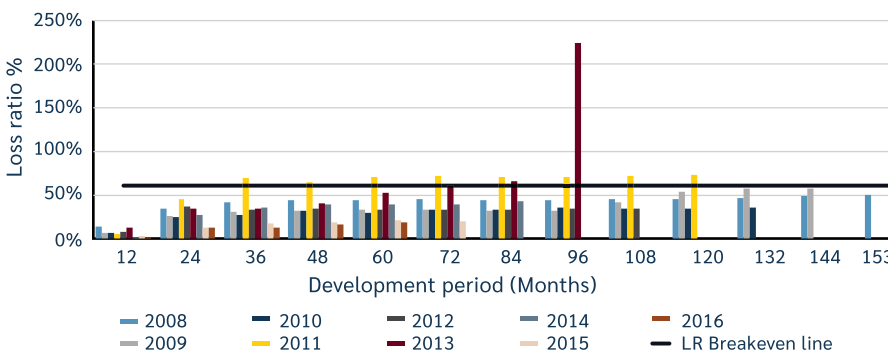
Fig.4 LIABILITY VOLATILITY



However, if one focuses only on the breakeven point, one would be forgiven for thinking that the portfolio has generated a stable underwriting result. Liability business, much like our financial lines and single projects portfolios have another dynamic that does not necessarily exist in the PI portfolio. This line of business tends to have more predictable frequency losses but is subject to greater volatility via severity claims (see Fig.4).

In 2017, large losses in the food and beverage sector caused the loss ratio to spike, way above the breakeven threshold to above 70%. As the tail develops this ratio is expected to deteriorate further. This volatility has to be factored into the pricing of all liability business.

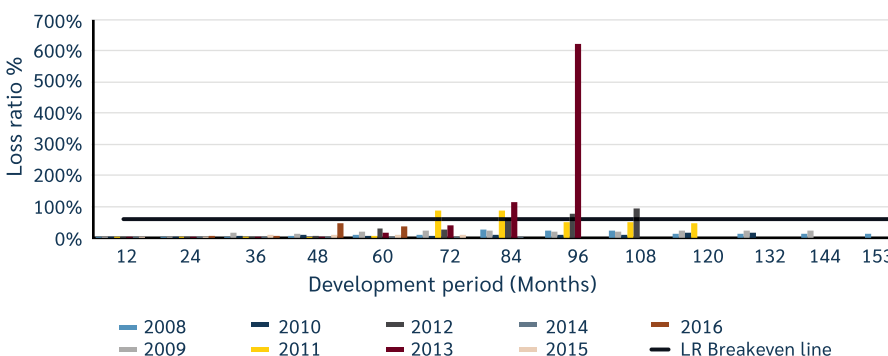
Fig.5 LOSS RATIO DEVELOPMENT PER UW YEAR (FINANCIAL LINES)



SHA has been a leading market in financial lines, almost since the company opened its doors in the 1980's. A combination of large capacity commitments on most large financial institutions and many JSE listed entities, mean that the portfolio also experiences less frequency loss exposure but has a very significant severity risk. Once again this has to be factored into the pricing across the portfolio (see Fig.5).

The financial lines area experienced the largest loss in its history in the 2013 underwriting year, topping R500 million, although the claim really only developed to its conclusion at the

Fig.6 LOSS RATIO DEVELOPMENT PER UW YEAR (SINGLE PROJECTS)



Long-term risk partnerships, sharing of critical risk information and collaboration between insurers, brokers and clients guarantees the availability of capacity and sustainability of the niche insurance space.



start of 2020 when the matter was finally settled. Two other loss-making years were 2009 and 2011. The challenge with financial lines underwriting is a blend of rapidly evolving caselaw in the corporate governance space and greater accumulation risk brought about by cyber-attacks.

SHA remains one of the few markets to offer single projects PI and liability coverage. This line of business has produced the most significant challenges from a volatility perspective. A combination of contract periods that extend beyond 5 years and a struggling construction sector have brought about a series of large losses.

As can be seen the 2011, 2012 and 2013 periods have all blown through the breakeven threshold, with the 2013 year alone breaching 600% loss ratio (see Fig.6).

In 2018 we began our journey of correcting our underwriting processes to ensure that our rating methodology aligned with the changes in the risk landscape and priced for the inevitable loss development across all our long-tail lines of business. Our underwriting process also took into account the volatility that came with the less predictable spikes and black swan events in the portfolio. This has driven increases in premiums and a reduction in overall capacity commitment across all lines of business.

We believe that these corrections have created a more sustainable portfolio and ensure that SHA will continue to be a preferred source of expertise and capacity in the years to come.

What these revitalized underwriting procedures have not done, is undermined our willingness and ability to pay valid claims.

Claims Paid:

| | |
|------|------------------------|
| 2016 | R796,480,426.77 |
| 2017 | R725,551,848.16 |
| 2018 | R839,670,739.16 |
| 2019 | R573,028,403.26 |
| 2020 | +R1,000,000,000 |

In 2018 we paid out in excess of R800 million, making it a record year. A new record will be set in 2020, as we close out the year in excess of R1 billion for the very first time.

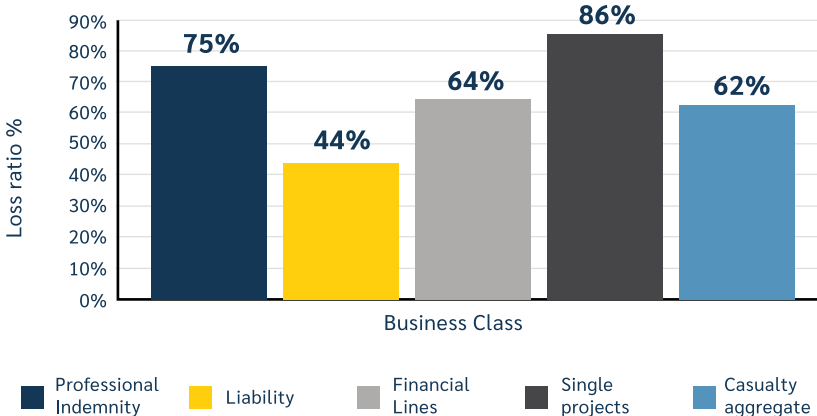
Of course, adapting underwriting and claims methodologies only takes us halfway in the sustainability equation as an industry. The other half simply must be in driving risk management and mitigation strategies in the businesses that we insure. Companies, regardless of whether they operate in the SME or mega corporate sectors should be precluded from transferring risk without conducting themselves ethically and responsibly.

Specialist insurance is a safety net that responds when the unexpected occurs and there may have been an incidental failure of protocols. It is not a bullet-proof shield that operates in place of sound risk management, quality control or governance.

Long-term risk partnerships, sharing of critical risk information and collaboration between insurers, brokers and clients guarantees the availability of capacity and sustainability of the niche insurance space. We trust that you'll enjoy this year's Specialist Risk Review and that this will set the tone for a successful partnership in 2021. ○

Fig.7

AGGREGATE LOSS RATIOS (UW YEARS 2008 - 2016)

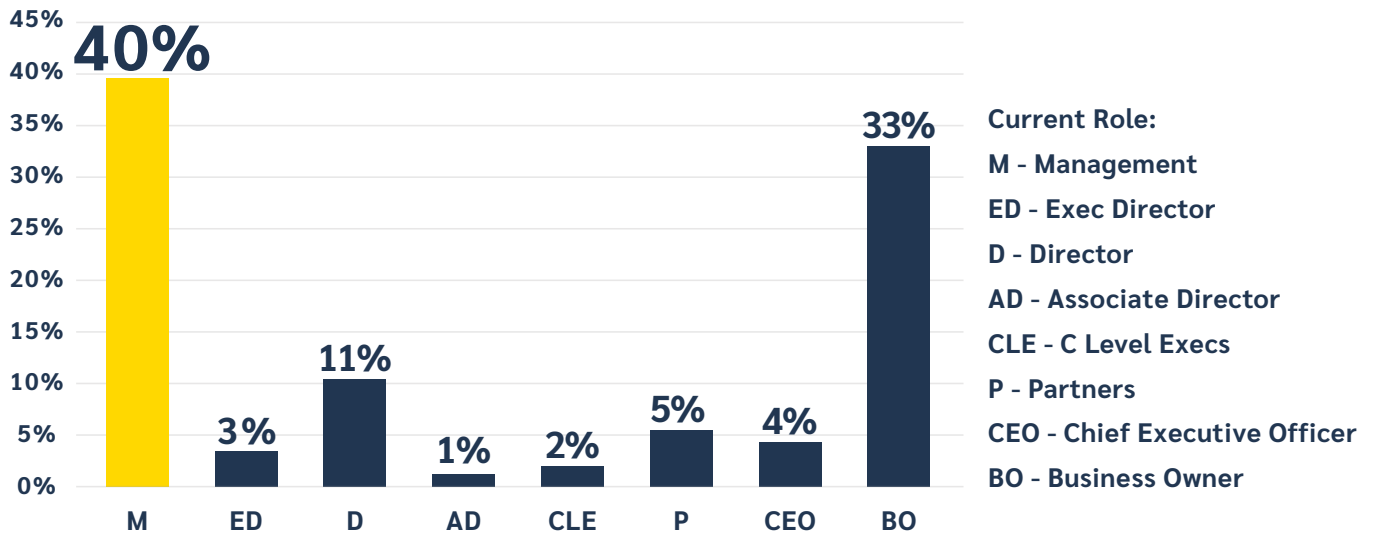


Participants' Statistics

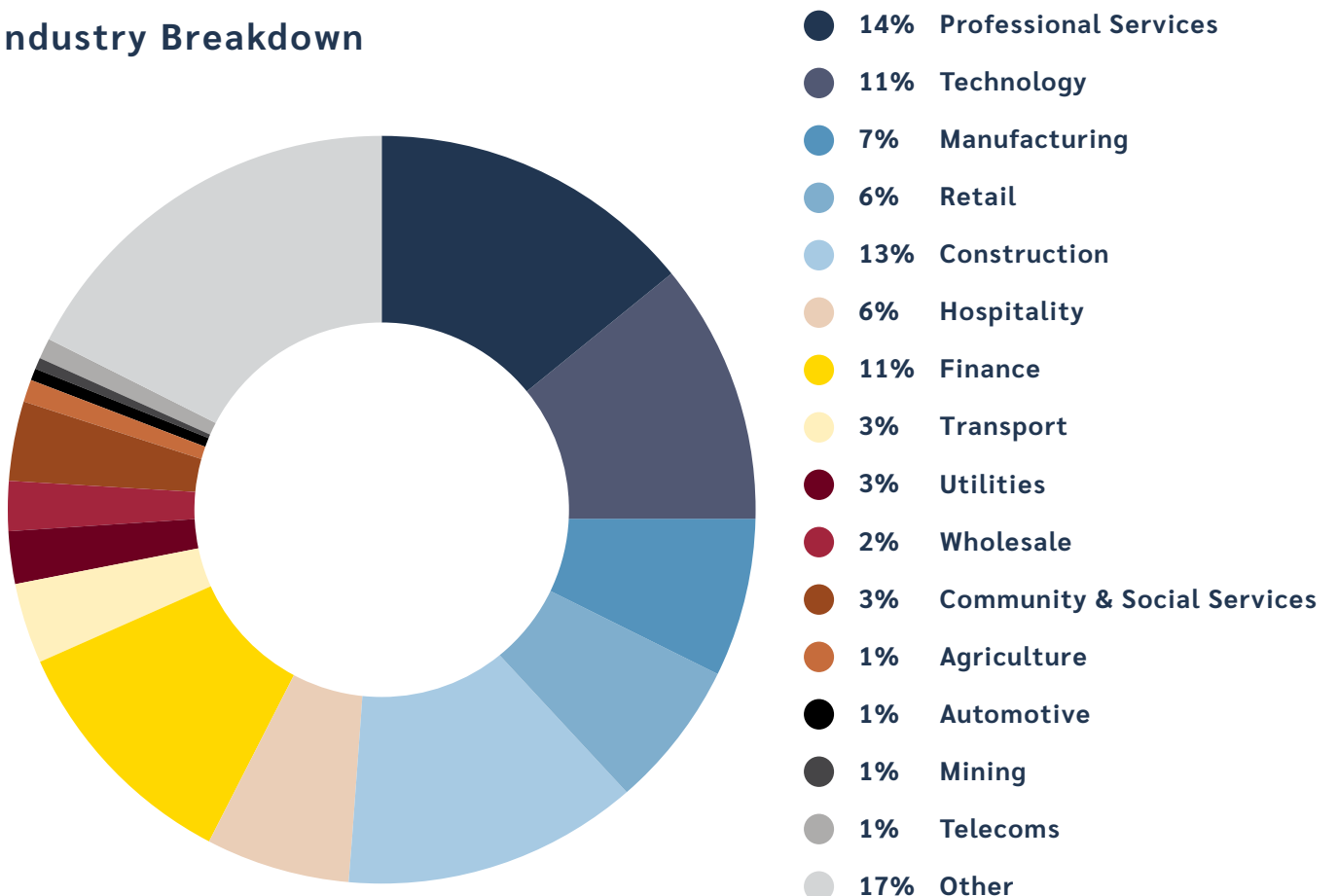
944

Total participants

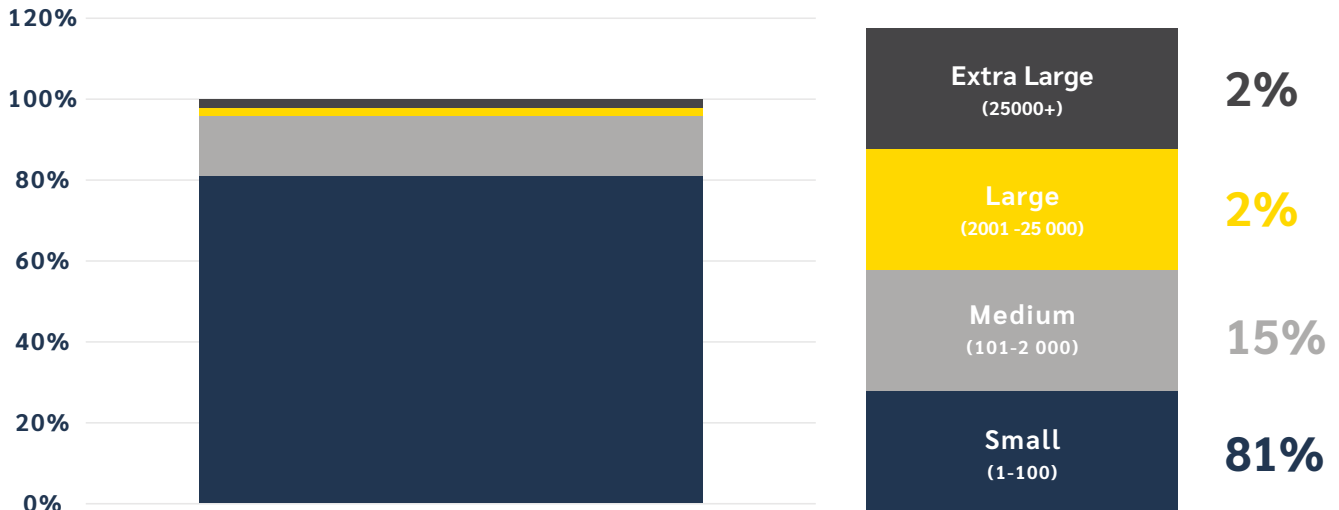
Respondent Breakdown



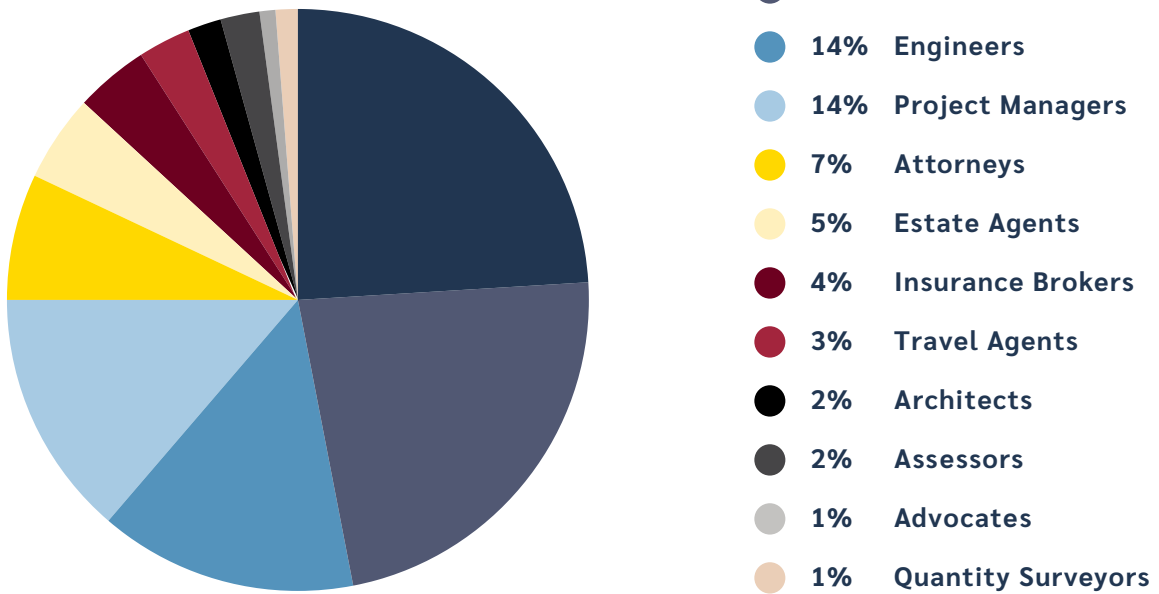
Industry Breakdown



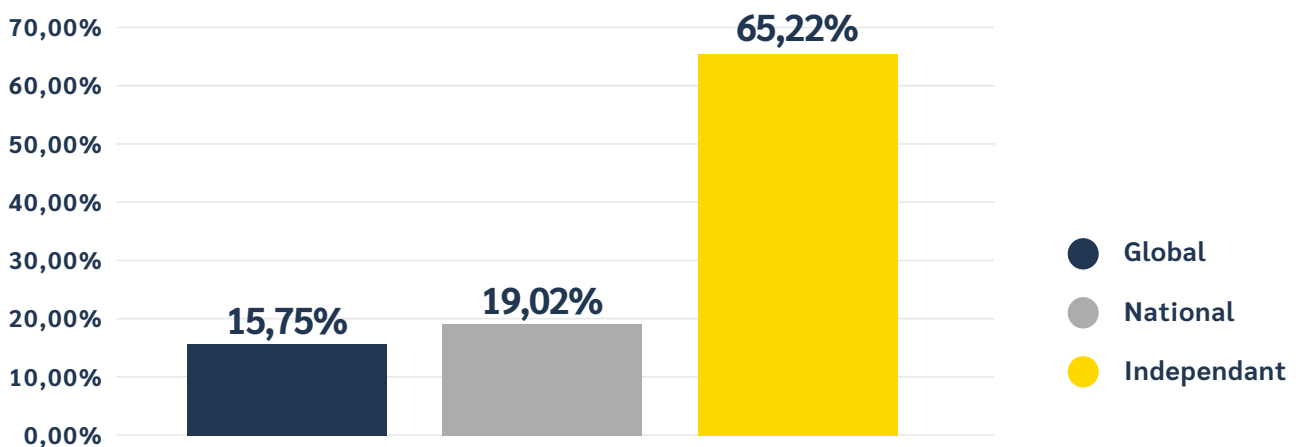
Size of business



Professional Activities (PI Survey)



Broker Survey



COVID-19

COVID-19 – the great undoing

By Simon Colman



The advent of COVID-19 was the single biggest defining event of 2020, and in fact, the century. The devastating human impact on both the lives and livelihoods of people all over the world is a tragedy that will not be forgotten. Its true impact on the world economy probably won't be known for some time to come. From an insurance industry perspective, the fall-out from the pandemic has been one of the most complex to navigate in recent history.

Virtually every industry was affected by the pandemic and the nationwide lockdown, and businesses across the board have been forced to make many tough decisions, including around their spend on specialist insurance.

While this is just a general observation, this year's survey gave us some fairly in-depth insight into how businesses coped during the pandemic, as well as some indication of what the road to recovery is going to look like for many.

It was surprising, yet encouraging, to see that the majority of businesses showed a relatively high level of risk management awareness in relation to the pandemic. By the time this survey was circulated, we were already a few months into the pandemic, and many businesses used the time to work on mitigating both existing and emerging risks.

Around 86% of company directors said they ensured that their shareholders were aware of the financial impact of COVID-19 on the business. Another 76% continued to have regular virtual meetings with fellow board members to discuss the impact of the pandemic, and 73% now have a contingency plan for dealing with pandemics and future lockdowns. Unfortunately, this still means that nearly a quarter of businesses do not have contingency measures in place.

This could have serious consequences, particularly when taking into account the potential effect on the personal liability of directors and officers. Whilst

it is extremely unlikely that anyone could blame the board of a company for being unprepared for the initial lockdown, the leaders of the business may not be so lucky if a similar event occurs in the future. Investors and other stakeholders will be looking to the company directors to recover financial losses that could have been mitigated through proper planning.

Businesses have adapted and have largely done whatever they reasonably could to keep their operations going. However, only 58% of companies we surveyed said they had a properly appointed COVID compliance officer - meaning that nearly half of respondents were not compliant with regulatory requirements as outlined in the Government Gazette. Of the businesses that have appointed a COVID compliance officer, some may be fooled into thinking that these measures may no longer be necessary once some semblance of normalcy returns. This reasoning would be incorrect and companies could well find themselves

A quarter of businesses do not have any contingency measures in place. This could have serious consequences, particularly when taking into account the potential effect on the personal liability of directors and officers

Impact of COVID-19 on boards



86%

of company directors said they ensured that their shareholders were aware of the financial impact of COVID-19 on the business



76%

continued to have regular virtual meetings with fellow board members to discuss the impact of the pandemic



73%

now have a contingency plan for dealing with pandemics and future lockdowns

facing significant repercussions for not complying with regulations down the line. It goes without saying that compliance with the law is fundamental to the operation of any insurance coverage.

In terms of the risk landscape, one of the major exposures that was catapulted to the fore during the height of the pandemic, was cybercrime. Many companies experienced challenges getting their business ready to accommodate a workforce operating almost entirely from home during the first few weeks of lockdown. This was reflected in our survey with around 60% of businesses indicating that they had to deploy more digital technology as a result of the pandemic. Around 28% of businesses indicated that they'd experienced online connectivity or security problems in the new work-from-home environment.

In the midst of all this, the PoPI Act was finally brought into effect in July 2020, further elevating the seriousness of the risks tied to company and consumer data. Companies now have less than 12 months to become fully compliant with the regulations.

Many business owners saw the opportunity to digitally transform their companies during lockdown. Several business owners commented that they had built up the courage to make changes that they'd been thinking about for several years. The pandemic brought so much change in the way things were being done, it was seen as a "safe" time to try new things without fear of customer rejection or competitors capitalising on changes.

Looking at the impact that the events of this year have had on revenues and

employment, the survey shows that 40% of business respondents experienced a reduction of more than 25% in annual revenue. A staggering 19% of businesses stated that revenues and net profit had dropped by over 50%. Sadly these losses translated in job losses as well, with 41% of companies reporting that they had to make some staff redundant. Almost a third of the companies who let staff go, said that they had to reduce their workforce size by more than 50%.

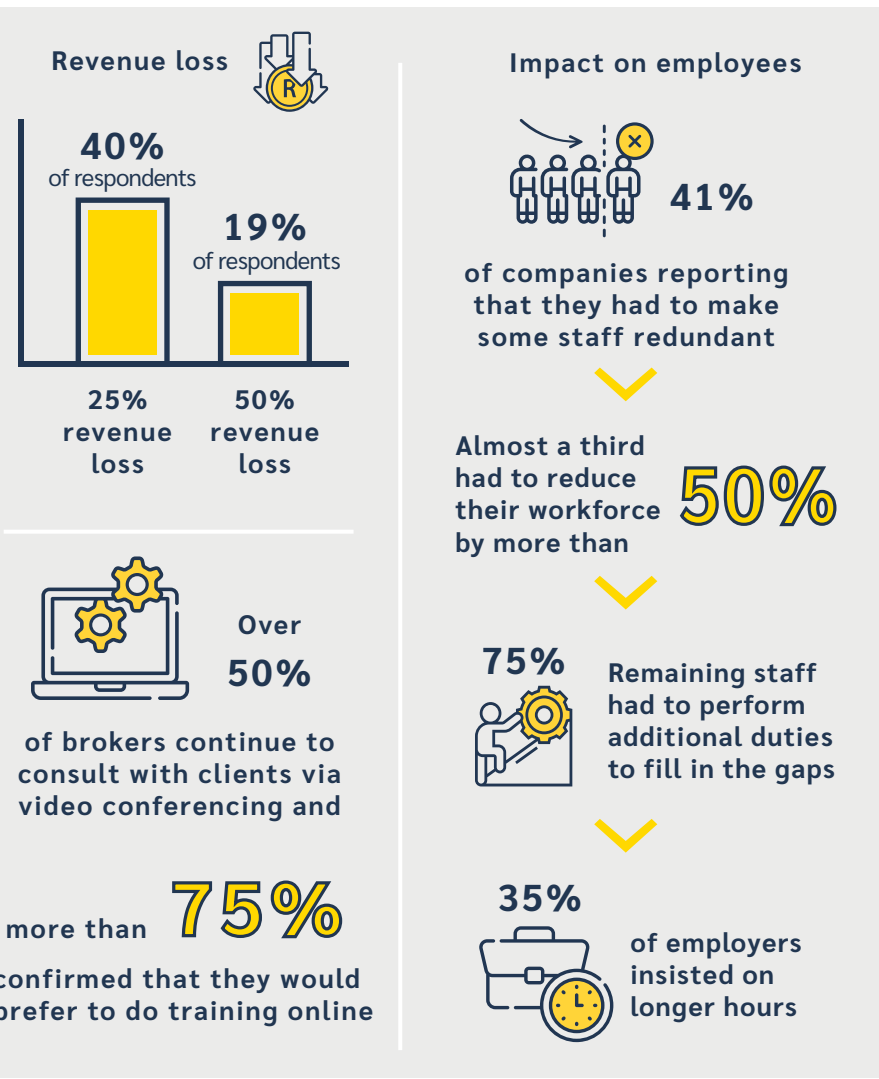
Almost half of the companies surveyed, said they had insured a number of functions such as cleaning and security in an attempt to cut expenses. Close to 75% of business owners also confirmed that because of the cutbacks in staff numbers, remaining staff had to perform additional duties to fill in the gaps. A further 35% of employers also insisted on longer hours. This creates a melting pot of sorts where fatigue, low morale and a lack of training can cause a myriad of problems (not least of which are injuries to employees and customers).

The pandemic also put strain on supply chains with almost 40% of business owners seeking out new sources for products and raw materials – 2021 may very well prove to be an interesting time for product liability as a result of this.

Of course, all these factors have a severe knock-on effect in terms of these businesses' insurance cover and subsequent risk preparedness. It is a well-known fact that insurance is a grudge purchase, and it will certainly be tempting for companies experiencing financial difficulties to become more selective in the risk exposures they choose to cover.

However, aside from the obvious risks, there are many complications that arise when a business decides to cancel their cover, even for a brief period. Particularly in terms of liability, because cancelling or not renewing a claims-made liability policy also removes all of the historic cover that comes with unbroken insurance periods. Given the long-tailed nature of liability claims, this could be a catastrophic mistake for a company, particularly an SME.

Of course, insurance intermediaries have not escaped the impact of COVID-19 either. Around 11% of brokers downsized their staff complement and experienced an 18% average drop in revenue according to the broker survey. On a positive note, brokers appear to have





embraced the technological dynamics brought about during the lockdown, with just over 50% confirming that they would continue to consult with clients via video conferencing. Overwhelmingly, more than 75% of respondents in insurance confirmed that they would prefer to do training online, rather than in face-to-face engagements.

Brokers will find that their role in advising clients on liability insurance has become far more important. They will have to conduct a thorough needs analysis on all their clients to ensure their existing cover is still sufficient as their insurer would have based their risk profile, and premium, on variables that may no longer apply. Most importantly, they will have to guide their clients in reviewing their policies and making the right decisions when they start to look for ways to cut costs.

It is also worth noting that the lockdown may indeed contribute to some positive risk management trends for businesses. For one, because businesses have now been forced to implement stricter access control methods and reduce the number of staff members that are allowed on site at any given time, some staff-related risks



Around 60% of businesses had to deploy more digital technology as a result of the pandemic. Around 28% of businesses experienced online connectivity or security problems in the new work-from-home environment

are in fact lower. Many companies may record a decrease in pilferage of stock over the coming months, for instance.

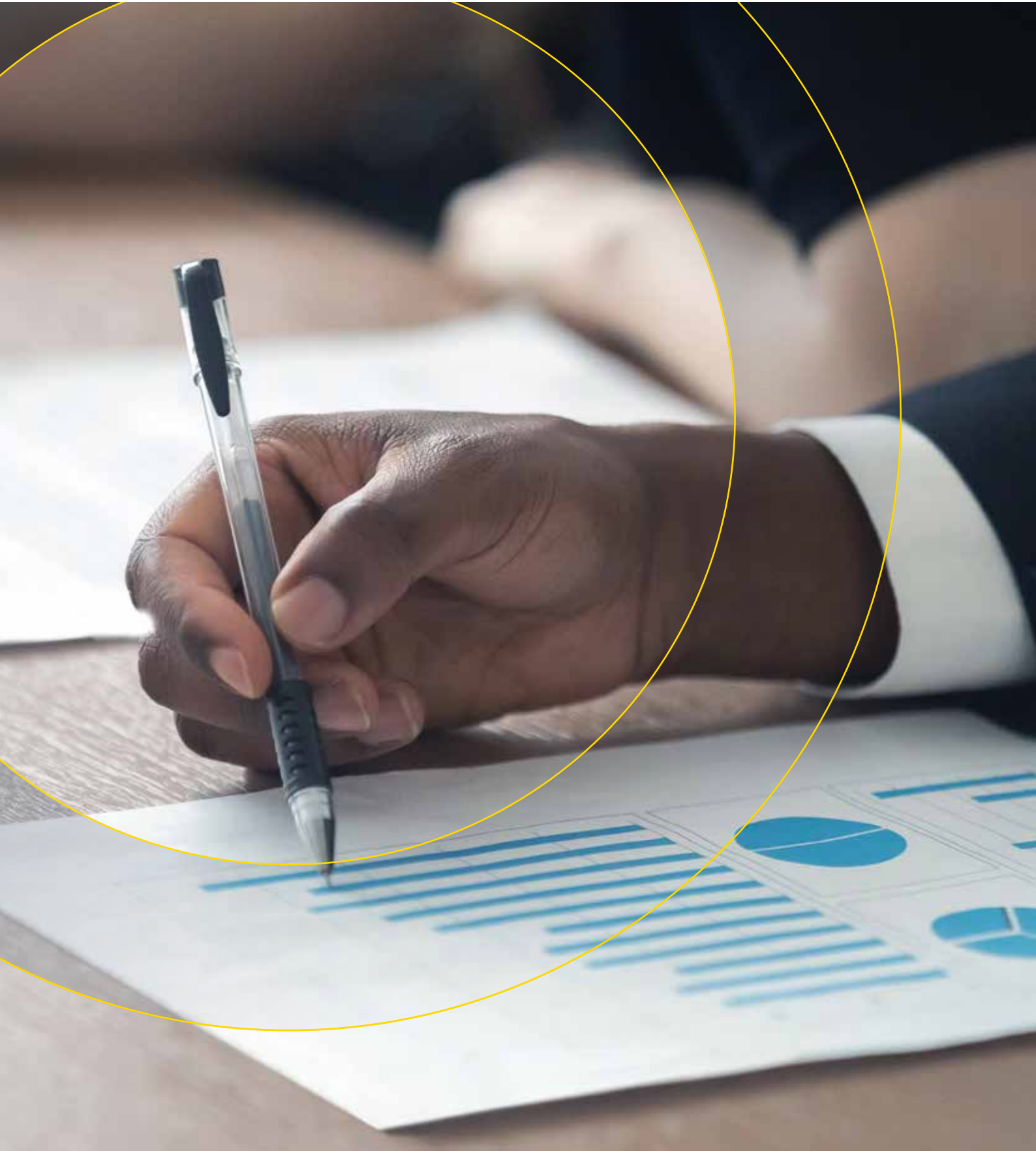
Without downplaying the enormous global tragedy at play, there were some positives flowing from the seismic shift in the business landscape. From an insurance standpoint, underwriters are still working to better understand this new risk landscape, and the additional information they are receiving from businesses regarding their risk management and observations, is helping. It could potentially make more room for negotiation between clients,

underwriters and brokers, and may lead to more favourable insurance arrangements in the long-run.

It seems that many of the businesses that have been able to adapt to the circumstances surrounding the pandemic, have been able to achieve greater efficiency – whether through savings due to having less overheads, or through more streamlined processes as a result of compliance measures. We therefore do believe that at least on some level, the way that companies operate might change for the better over the coming years. ◯

Unprecedented times but a familiar pattern

By Anton Meyer



One can argue that working with long tail claims is not for the faint of heart. Underwriters and claims specialists in the liability, professional indemnity and financial lines arena in particular, understand that claims in any given year will develop as more claims information comes to light, and as the inevitable prescription date arrives.

For those that are unfamiliar with the term, prescription does not refer to the medical document provided by a doctor although many insurers would argue, its just as bitter a pill to swallow if not carefully considered. In the insurance context “The Prescription Act of 1969” sets out the maximum period of time available to a claimant (in our case, a third party) to bring an action against an insured party. The clock generally starts ticking from the date that the cause of action arose, and the third party becomes aware of it, up until the end of a three-year period. Claims falling outside of this period are more than likely going to be dismissed by the court.

What this means in the liability claims context is that a party who sustains an injury or loss caused by the insured has three years from the date the injury or loss manifested to take legal action against the insured. This is the reason why insurers report on a financial year basis as well as on an underwriting year basis.

In addition to the above, even where summonses are issued against our insured, the claim is still far from over. In certain cases these will be defended on behalf of the insured and could potentially take many years to reach a conclusion, with costs being incurred in multiple underwriting and financial years.

The financial year closes at the end of a particular 12-month period whereas the underwriting year lives in perpetuity. This means that often when the insurer’s financial year closes, the loss ratio for that particular underwriting year will continue to develop in subsequent years as new claims are notified (just before prescribing), and reported losses are adjusted and settled.

This will be evident when one looks at the loss development data shared in the introductory segment of this year’s Annual Risk Review.

Most casualty insurers reserve for predictable losses across an entire portfolio that they

expect in a given year, even before they are notified. Losses that have already been notified, but have not been settled would go through a rigorous exercise, relying heavily on the experience of the claims specialists to predict the possible outcome and the subsequent financial implications.

What does all of this mean in the specialist underwriting environment you may ask? Well, it means that insurers must carefully track claims trends to ensure that pricing today is adequate for the losses that will continue to develop in the years to come.

With that said, note that in this year’s report, we took a slightly different approach to how we looked at the data.

While last year’s report drew significantly from the paid claims data, we found that focusing on this number did not actually give the full picture of the risk landscape and how the specialist insurance portfolios have performed over the previous year. In the case of liability, the data in the last Risk Review excluded claims that were notified in the year, but that would only be settled in subsequent years.

For this reason we have decided to focus primarily on incurred claims in this year’s report. This takes into account the funds set aside for reported claims that have yet to be settled, providing a more accurate view of the financial position of the insurer and the reasoning behind pricing adjustments.

Another reason why incurred claims give us the best view of the year’s performance and what to expect up ahead, is linked to the rising cost of litigation. In instances where we expect liability cases to drag out over multiple years, the projected additional cost of legal defence is calculated and built into the reserved claims amounts. As attorney firms begin to work towards recovering from the financial impact of the lockdown, we expect fees to increase even more sharply. Of course, as always, instances of litigation are also expected to increase as a result of the harsh economic environment and changes in the litigation habits of the population.

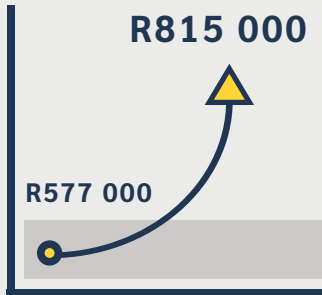
One interesting trend that began to emerge during the lockdown period, was the increase in activity related to historic claims. A

Across the entire SHA non-motor claims portfolio, 2019 demonstrated a drop in the number of new claims notifications of 5.3% over the 2018 numbers. The only line of business to buck this trend was in the liability environment where we saw an increase of just over 10%.

possible explanation for this is that as more legal professionals began working from home, they were afforded more time to follow up and give attention to older liability cases on their books. This resulted in an even bigger escalation in defence costs for many of our older claims.

The volatility in claims incurred is evident with a dip in 2019 from the 2018 numbers (which was a record breaking year for SHA) and then what appears to be a return to the upward trajectory in 2020 – although at the time of writing this report, we had not yet closed off the 2020 year. In 2018, gross incurred claims for SHA totalled around R 939 million –that could in part be explained by the liability claims around the Listeriosis outbreak. Whilst its too early to factor in all the 2020 numbers we can of course get a clear picture of what is happening in the liability space if we track the claims from 2016 to 2019.

Across the entire SHA non-motor claims portfolio, 2019 demonstrated a drop in the number of new claims notifications of 5.3% over the 2018 numbers. The only line of business to buck this trend was in the liability environment where we saw an increase of just



41% increase in the average value of liability claims between 2016 and 2019



The average value of intimated Slip&trip claims shot up from R172 600 in 2016 to R536 705 in 2019

2020 slip and trip claims volumes will outstrip 2019 by

50%

in spite of three months of lockdown



Claims mostly occur at retail stores, grocery stores, pharmacies and shopping centres

over 10%. The highest claims frequency still resides in the liability and personal accident environments. Well over 70% of total non-motor claims fall into these categories. One expects a relatively high volume of personal accident claims as the number of employees insured in each policy can be an exponent of the number of policies.

In reviewing the claims data for the various insurance lines, broadform liability certainly stood out as it presented one of the larger shifts in claims value. We saw a significant increase of 41% in the average value of claims between 2016 (R577,000) and 2019 (R 815 000).

Zooming in, this statistic was largely driven by personal injury (slip&trip) claims. The

average intimated claim just in this class stood at R 172,600 in 2016, and shot up to R 536,705 in 2019. These claims mostly occur at retail stores, grocery stores, pharmacies and shopping centres. Of course retailers and shopping centres faced the highest risk in this category and from the available information, it is safe to say that the claims occurred in many instances where there had been a failure of management processes, combined with employees failing to follow the correct protocols and procedures.

Looking ahead, we are able to project that broadform liability, in particular slip&trip, will present some of the biggest challenges for insurers by the end of the 2020 financial year. At the time of writing we already had over 234 reported slip&trip claims on our

records, meaning that as a best case scenario, 2020's results will reflect an increase in notifications of over 50%. This is interesting of course if one considers that for at least three months of the year, foot traffic in malls and supermarkets was at an all time low due to lockdown. This means a higher rate of claims per capita of consumer. The increased economic stress placed upon the country as a result of the COVID-19 pandemic and the nationwide lockdown are undoubtedly playing a pivotal role here.

Product liability claims have increased on average from R1.65 million in 2016 to R2.7 million in 2019. This is an increase of 63%, well above the inflation rate over the same period. We also expect these numbers to rise in 2020/21 as it has become clear that supply chain issues and quality control cutbacks due to the pandemic are expected to play a much bigger role.

With this in mind, we would say that it is absolutely vital that policyholders take initiative and responsibility for minimizing their risks beyond the mere purchase of insurance. As is dealt with elsewhere in this report, the risk management strategy of a business should include an element of risk transfer to an insurer, but should not be the only element. Proper training, quality control, risk assessment and mitigation is critical.

The other insurance lines that stood out in terms of claims numbers and volumes were in the professional indemnity and single projects areas. In 2019, the combined incurred claims for these two classes totalled around R186 million. This is a 35,5% decline compared to the results of 2018. Although it should be noted that this was due to the economic downturn (that had already started in South Africa long before COVID-19), which largely reduced the number of construction and infrastructure projects – also reducing the number of risks insured.

PI claims against engineers in 2019 were still the most frequent out of all the professions we insure. The data shows 127 claims against engineers on SHA's books. This is lower than in the previous three years, with the average amount claimed being just under R2.4million. In 2018 the average claimed amount was over R10million.

Conversely, claims against architects went in a completely different direction. In total, 84 claims were reported to SHA in 2019, which is on a par with 2018. Yet, the average intimated claim shot up from just over R1 million to R9.2 million – making architects one of the most exposed professions in our portfolio in 2019.

The risk management strategy of a business should include an element of risk transfer to an insurer, but should not be the only element. Proper training, quality control, risk assessment and mitigation is critical.

To explain the data, it is important to note that whilst we have seen a significant drop in PI claims, this can be attributed to underwriting corrections which led to SHA shedding two relatively large portfolios in the legal and built environment. Both these schemes were producing a combination of frequency and severity losses. This is not to say that these professions are uninsurable, but rather that we felt the terms presented in the market were not sustainable when matched against loss history. The exclusion of these schemes had a noticeable impact on the underwriting result for 2019. In addition, SHA continued to practice active claims management in 2019, procuring favourable settlements and defending illegitimate third party claims, which also contributed to an improved overall result for 2019.

The only constant in the PI space at the present time, is its dynamism. From what we have seen so far in 2020, it would appear that the trends to watch out for in 2021 are are:

- Principal Agents increasingly being held liable in the contracting environment.
- An increase in defamation lawsuits between professionals, most notably attorneys;
- A failure to properly apply due diligence during investigations by attorneys.
- Undertaking professional work outside of the specific field of expertise. This particular issue arose in our last survey where 50% of professionals stated that they had taken on work that they weren't necessarily qualified for. In this year's survey the number had grown slightly to 53%.
- Errors in foundations designed by engineers;
- Impractical and unclear contracts that don't reflect the intentions of the parties

Two other classes of professionals are also demonstrating early signs of elevated risk. These are brokers (who are held liable for failing to carry out clients' instructions) and accountants (most commonly as a result of mistakes related to tax filing).

We foresee a possible spike in claims notifications for the year ahead and incurred amounts that will easily surpass the figures that we saw in 2018 and 2019. If one considers that the average inflation rate per year over the period 2016 to 2019 was a mere 5.5% and liability claims are spiking by 41% in the same period it becomes evident that there are many other factors driving up the quantum of claims. Litigation funding, contingency fee billing by attorneys and an increase in consumer awareness are all playing a part. Elevated claims frequency can often be attributed generally to failings in risk

management and quality control processes across nearly all lines of specialist business.

As in prior years, we keep an eye on our claims rejections and continue to be committed to the fair treatment of all our clients and brokers. In this years report we measure the number of rejections against new claims registered rather than against older claims. This is more accurate as the rejection of any claim would ordinarily happen within a relatively short space of time after registration. In 2018 we received 5,011 non motor claims and 2.63% were rejected (132 claims), 2019 was very similar; we received 4747 non-motor claims and 2.65% were rejected (126 claims).

Across all non-motor claims rejections in 2019, approximately 26 claims related specifically to late notification. Whilst this is an improvement on prior years it is still an indication that there is a disconnect between the insureds and their brokers/insurers. In our broker survey, only 1% of brokers had faced a PI claim over late notification, which means it is highly likely the insured is not following

the guidance or advice of their intermediary. Incidentally, 90% of brokers also advised that they did not believe their clients actually read policy documents. This is an area requiring urgent attention via training and open communication. A lack of awareness of policy conditions can only lead to disputes at claims stage.

SHA paid R573 million in claims during 2019 and whilst this number is significantly down from 2018 (R839 million) due to the absence of any black swan events, we have recognised that 2020 is likely to finish higher than any other year, due to significant claims in the financial lines and single projects sectors.

South Africa has over the last few years become a far more litigious nation. This, coupled with the economic impact of lockdown, means that we can expect to see this trend continue over the the next year or two. This has major implications for liability insurance lines and we expect a rocky road ahead in the short-to-medium term and this will require greater collaboration between insurers, brokers and their clients. ○



The average inflation rate per year over the period 2016 to 2019 was a mere 5.5% but liability claims are spiking by 41%



Non-motor claims received:

2018



5 011 received



2.63% rejected

2019



4 747 received



2.65% rejected

90%

of brokers did not believe their clients actually read policy documents

SHA paid out




R573 million

in claims during 2019

Adapting to a complex risk landscape

By Manisha Chiman



One of the most widely used forms of liability insurance, Broadform cover is suited to the vast majority of commercial entities. It provides a wide range of specialised extensions that can be tailored to a company's specific requirements.

The Liability market and the associated exposures have evolved greatly over the last two years. In the 2019 Annual Risk Review we predicted that the market was going to harden, and that long-tailed claims were materialising. This year is very much a continuation of that, with the risk landscape becoming increasingly complex. Over the course of the past year and the events around the COVID-19 pandemic, businesses have been forced to adapt and expand their activities – introducing new risks to their operations. We believe that a prudent client will acknowledge the importance of being agile and constantly aware of their risk exposure. We are of the view this will translate into an improved overall level of risk management in the liability market over the coming years.

Interestingly, the hospitality industry which was particularly hard hit by the COVID-19 pandemic responded by decreasing their cover limits as opposed to cancelling policies outright. This is a positive sign for both the hospitality and insurance industries. It indicates that the market now largely acknowledges the importance of maintaining uninterrupted cover – albeit at a lower cost. With lockdown restrictions lifting, we are starting to see limits being increased again in this industry. We believe the businesses who followed this approach will see significant benefits when long-tailed claims arise.

In terms of trends in the risk landscape, a trend that has emerged over the last two years is the increased incidence of fire and spread of fire. These events have become a recurring theme in our claims book, both in our South African and African portfolios. The Beirut explosion was a significant event for the global insurance industry, and we are likely to see its effects reverberate throughout the market for some time to come. We expect to see increased requests from insurers surrounding risk management practices in this space and a rise in deductibles. Insurers will also require much more information about potentially combustible items and substances located on business premises and related safety procedures. This ties in to the information that insured parties are obligated to disclose to their assets insurer, so should not require more work at underwriting stage.

Furthermore, following the 2019 event at Vale's mine in Brumadinho where over 250 people were killed when a tailings dam collapsed, insurers are also reviewing their mining clients. While mining insurance has

The hospitality industry which was particularly hard hit by the COVID-19 pandemic responded by decreasing their cover limits as opposed to cancelling policies outright.

always been very softly rated, the Vale incident highlighted the importance of revisiting risk management in this industry, resulting in SHA undertaking a review of its mining book.

Turning to the results of this year's general business survey, around 19% of companies reported that they have appeared in CCMA disputes, while another 4% have been taken to Labour Court in the past year. This means that one in four businesses have faced employment practices liabilities (EPL), which is a significant portion of any insurance pool. This statistic points to the high risk nature of EPL policies at the moment and ties in with our own claims experience.

Perhaps not surprisingly, businesses ranked insolvency due to the economic crisis as their biggest threat. Their next biggest perceived risk was reputational damage,

while litigation from a customer or supplier only ranked fifth.

It is a well-understood fact that liability lawsuits become significantly more prevalent during troubled economic times. With the COVID-19 pandemic having pushed South Africa into one of the most difficult economic periods in recent history, it is an inevitable consequence that we will see an increase in legal action against businesses.

It is perhaps no surprise then that personal injury (slip & trip) claims continue to escalate in severity. The average intimated claim in 2016 was R 172,600. In 2019, this number climbed exponentially to an average of R 536, 705.

In light of this, we feel that the risk of litigation should rank much higher on the list of threats. It is important to note

General business survey



19%

of companies reported that they have appeared in CCMA disputes

4%

have been taken to Labour Court in the past year



1/4

businesses have faced employment practices liabilities (EPL)



31% of businesses surveyed use standard contract templates

19% do not use contracts at all

Frequency of quality control reviews

22%

did their quality control at least once per quarter



55%

of businesses said they conducted monthly quality control checks

23%

of businesses do quality checks biannually, annually or never



34%

of businesses have noted a deterioration in the product or workmanship quality from key suppliers over the last two years



87% businesses surveyed keep a risk register

and 69% of them share that register with their insurers

that litigation cover can only respond within the terms and conditions set out in the insured's policy. This means there might be uninsurable risks that the business has contracted themselves into and need to be taken into account in terms of their risk management practices.

Usually during a tough economic climate we see an increase in policy cancellations as businesses attempt to cut down on operational costs – and this will certainly be tempting for a company in business rescue. However, what they should rather do is reduce their limits in order to maintain uninterrupted cover. Particularly where broadform liability cover is concerned, if a client had any interruption in cover they run the risk of losing their retroactive date, resulting in the claim being considered as uninsured.

Even for clients that have been able to meet their premium obligations despite being in business rescue, we have found that when it comes to paying the deductibles (the first amount payable) at claims stage, they are not able to meet those obligations. The problem is that clients often opt for substantial deductibles in order to secure lower premiums. This ultimately impacts the third party, which may have far reaching implications from a relationship and reputational perspective.

Claims frequency continues to climb and long-tailed claims from previous years are maturing. From a sustainability point of view, we are experiencing a continued hardening of the liability market rates in the local and global markets.

Contracts form an important part of limiting a business's risk exposure, and it was therefore alarming to see that 31% of businesses surveyed use standard contract templates, with an additional 19% saying they do not use contracts at all. We cannot emphasise enough how critical contracts are to mitigating risks. Companies must move away from thinking that a standard contract template can be applied to all of their customer or supplier agreements. Each contract should be bespoke and tailored to the unique circumstances of the new transaction.

Product liability is another major factor to consider, and the enactment of the Consumer Protection Act continues to drive public awareness of consumer rights with regard to receiving products and services. The Consumer

Goods and Services Ombud reported an increase of 70% in complaint volumes against businesses over the period 2017-2019. These complaints don't always result in litigation but one can expect the caseload in the courts to follow the trend.

To that end, we asked businesses in this year's survey, how often they conduct quality control reviews of their products and services in order to reduce their risk of product recalls. Around 55% of businesses said they conducted monthly quality control checks, and another 23% did their quality control at least once per quarter. The remaining 22% of businesses do quality checks biannually, annually or never – this is quite disturbing considering the cost involved in product recalls.

The importance of quality control as a risk management tool cannot be overstated and we are seeing a clear rise in risks pertaining to product liability from this survey. Businesses in the food and beverage industry face some of the biggest risks in this regard and major retailers are all tightening up their contracts with contractors that provide any food items. As such, it is vital that they have product recall insurance in place.

Companies must move away from thinking that a standard contract template can be applied to all of their customer or supplier agreements.

In addition, companies in manufacturing that have contracted with international entities are increasingly being expected to have product recall insurance in place. In the survey, 34% of businesses have noted a deterioration in the product or workmanship quality from key suppliers over the last two years.

The flip side of the coin may also be cause for concern. Two thirds of respondents said they have not seen a deterioration in supplier quality – which begs the question of how they are doing their quality checks. Without in-depth audits of their supply chains, most product quality issues only come to light at claims stage. This has certainly been our experience, which is why we include specific questions regarding supply chain

management to clients at underwriting stage for recall and product liability covers.

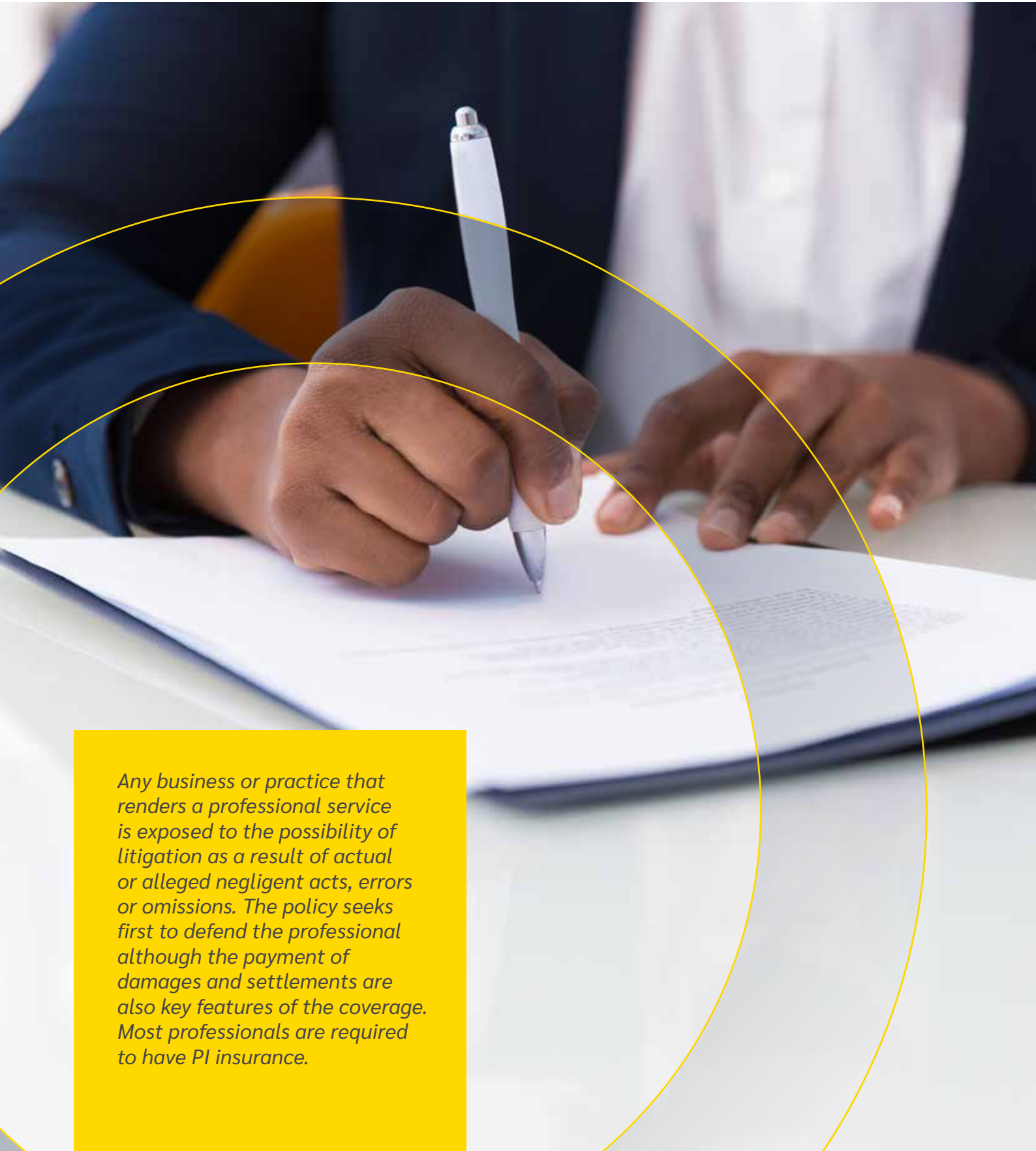
On a positive note, 87% of businesses surveyed keep a risk register and 69% of them share that register with their insurers. Although the high percentage of risk registers is encouraging, it is concerning that this critical risk information is not always shared with insurers. This provides insurers with more insight into how the Insured views and manages their risks.

We foresee the liability insurance space continuing to evolve as the risk landscape increases in complexity and the sustainability of this market is constantly going to be challenged as the world works towards recovering from the events of 2020. ○



Lack of risk awareness raises concern among insurers

By Malcolm Padayachee



Any business or practice that renders a professional service is exposed to the possibility of litigation as a result of actual or alleged negligent acts, errors or omissions. The policy seeks first to defend the professional although the payment of damages and settlements are also key features of the coverage. Most professionals are required to have PI insurance.

Professional indemnity (PI) cover is an insurance product that most professionals are very familiar with and it is encouraging to see that 80% of the professionals we surveyed do indeed have PI cover. However, we see how the tough economic climate has impacted this line of insurance as an increasing number of critical decisions are being based on factors other than actual risk exposure. The economic state of our country and the effects of the COVID-19 pandemic was a recurrent theme across the survey.

What was surprising to see was that of the 20% of respondents that do not have a PI policy, over 50% stated that they did not need this type of cover. This is in spite of the fact that all of the professions in the sample profile were in industries that, as a rule, require PI insurance.

Also interesting to note, is that 34% of professionals surveyed stated that they had PI cover because insurance is important, with another 17% stating that their primary reason for having a PI policy was due to the high cost of legal defense. This seems to indicate that these professionals understand the importance of having the cover, which is encouraging. In many cases, most of the cover on a PI policy will go towards legal defense fees, even if it is just to establish that there was no negligence.

However, more than a quarter of respondents (27%) said that they had PI cover because it was a regulatory requirement. These professionals also usually opt for products solely based on price and select the minimum limit of indemnity - which still leaves them exposed to underinsurance. This is a concern because it points to not being aware of the actual risks they face.

Other findings in this survey also point to a concerning lack of awareness of the risk landscape. Together with the tough economic climate, these were key influences for professionals who switched their policies to new insurers over the last year. It was encouraging to see that a relatively low percentage of professionals (15%) switched insurers. This underlines the need for building a relationship with underwriters. As expected just over half of those that switched, did so because of pricing – this could be as a consequence of the tough economic climate but could also be a red flag as many clients who switch purely for premium savings may not have been through a proper comparison of coverage.

This behavior seems to be more common among smaller businesses (the majority of respondents to this survey where SMEs) who tend to be driven



Building a long-lasting relationship with one insurer over time is beneficial to both parties. The insurer develops a much better understanding of the client's risk exposure, and the client benefits from preferential rates due to the insurer being able to underwrite more accurately.



18%

of respondents indicated that they do not enter into formal contracts with their clients

Biggest Perceived Threats:



Reputational damage

49%

Insolvency due to economic crisis

49%

Cyber-attack

47%

by the general economic landscape. In our own experience, we see that most large corporates are more likely to stay with their insurer irrespective of premium fluctuations (within reason). We believe this is because larger firms are significantly more risk-aware than their small and medium counterparts. Additionally, building a long-lasting relationship with one insurer over time is beneficial to both parties. The insurer develops a much better understanding of the client’s risk exposure, and the client benefits from preferential rates due to the insurer being able to underwrite more accurately.

Not understanding when or how to report potential liability incidents, or possible future claims to one’s insurer may result in the policy either not responding, or the client’s case being severely prejudiced.

SHA experienced a significantly higher level of PI related claims notifications than the claims volumes referenced by respondents. An overall lack of awareness could therefore be inferred from the respondents’ observations around claims notifications. Around 9% of professionals indicated that they have had a professional negligence claim lodged against them in the last 24 months. While this is in line with the survey results from last year, it should be noted that there is often a misconception among clients as to what constitutes a claim. In SHA’s own database just over 16% (3 year average) of PI policies have new claims lodged against them each year. The number of notifications that don’t necessarily manifest into claims are a multiple of that.

PI policies require clients to notify their insurer of any incident or occurrence that may result in a claim by a third party. However, most clients seem to be under the impression that they should notify their insurer only when a letter of demand or summons is received, when in actual fact a notification that may or may not evolve into a full-blown claim over time, is nonetheless a claim in terms of the policy.

It’s vital that professionals educate themselves on their policy requirements in order to avoid uninsured risks. Not understanding when or how to report potential liability incidents, or possible future claims to one’s insurer may result in the policy either not responding, or the client’s case being severely prejudiced.

Going back to the topic of litigation, when asked their preference for dealing with possible PI claims, most respondents (71%) said they would prefer their insurer to resolve the issue amicably through an alternative

dispute resolution mechanism. The courts have also encouraged alternative dispute resolutions, and in some jurisdictions, parties involved in civil litigation are now required to show proof that they sought to resolve the matter via mediation or arbitration before taking their case to court.

With that said, it should also be noted that mediation outside of the courts is a voluntary exercise, and both parties need to contractually agree to the form of dispute resolution being taken. In matters such as these, one should also understand that the PI policy’s response to a claim is governed by the contract between the policyholder and the claimant.

If the policyholder would prefer to settle their disputes via alternative means, they should include an arbitration or mediation clause in their client contracts. This establishes that the client agrees to arbitration as a first resort in a dispute. It also enables the insurer to defend against the claim accordingly. However, keep in mind that alternative dispute resolution such as mediation and arbitration – though often perceived to be cheaper than litigation – are not necessarily more cost-effective.

Another troubling finding which may speak to the overall approach to risk in the PI space, is the fact that 18% of respondents indicated that they do not enter into formal contracts with their clients. Again, this can in part be explained by some level of misunderstanding. In our own experience, we have seen that while some professionals do not draw up lengthy individual contracts for each client, the terms and conditions of their services are outlined in purchase order forms and invoices.

For all intents and purposes, these are formal contracts with legal standing. However, the fact that they do not view these documents



as contracts, could increase their risks seeing as they might not take the time to structure the terms and conditions as airtight contracts. The client that receives terms and conditions in the form of something like a purchase order, also does not need to sign anything in order to accept those terms. The court looks at whether the services were rendered or payment had been made after receiving said contract, as well as the subsequent conduct of all parties involved. If steps were taken and work commenced without any objection, the client is presumed to have tacitly accepted the terms.



On the other hand, we believe that a significant portion of the 18% referenced above, do indeed still conduct their business based on a handshake – which is concerning to say the least. The risk to reward ratio for any professional service, is never in the professional's favour because the price that they charge their client can never be equal to the amount of liability that they face if something goes wrong. This is why it is vital for professionals to limit their own liability as much as possible in their service contracts, and find ways of transferring risk either through adequate insurance or transferring certain liabilities to other parties in the contract.

Another indicator of the state of the economy and the increasingly competitive market, is the perception of respondents' biggest business risks. When asked about the most significant threats to their companies, 49% of professionals ranked reputational damage as their number one risk, while litigation ranked lowest on the list, yet it is the whole purpose of a PI policy. Of course it should be noted that often reputational damage flows from a poorly handled dispute. On a positive note, nearly half of all respondents correctly recognised cyber-attacks as a significant risk to their business. Caution should be exercised here however as the actual purchase of cyber insurance by professionals still remains dangerously low.

From SHA's own perspective, we see the biggest risks being in the built environment. Engineers, architects, consulting engineers and contractors all face major liabilities. For consulting engineers and contractors, it is primarily due to the fact that they can be held responsible for defects in construction projects, many years after completion. Architects are also commonly held liable for project delays, cost overruns and their associated penalties.

In addition, this profession saw a massive rise in intimated claims values. In 2019, the average intimated claim against architects shot up from R1,075 million in the previous year, to R9,2 million. By comparison, average intimated claims against attorneys in 2019 were around 4,2 million (down from R11,6 million) and against engineers it reached R2,3 million (down from 10,7 million).

As in previous years, the highest volume of claims, both by number and quantum, arise from errors made during the critical planning phases, and professionals taking on additional work outside the scope of their qualifications for extra income. The massive skills gap is still a significant issue in

this industry, as well as the legal profession, and we suspect that it will only get worse if professions do not adopt stricter risk management and quality assurance protocols.

All of the above factors have been present in the PI environment for some time now, and have influenced the pricing of PI premiums in recent years. Many insurers have engaged in aggressive re-underwriting processes resulting in premium and deductible increases, reductions in capacity and more restricted covers. These changes have been imposed to counter the increased influx of claims against inexperienced professionals, which is an expected consequence in depressed economic times. COVID-19 has dealt a significant blow to the local economy and we expect claims experience to deteriorate even further unless professionals apply much greater focus to risk management and quality control in the forthcoming year.

Particularly for smaller firms, the perceived, high cost of PI cover has become a stumbling block, but the fact remains that the economic downturn is placing professionals across all business sectors at greater risk than ever before. Litigation is becoming more prevalent as third parties become more pressed to recover their own costs and perhaps even bank some additional funds from successful lawsuits. Even in cases where the courts find that the professional was not liable, the defense costs alone have the potential to financially ruin small and medium-sized business. It is therefore critical that professionals in every sector take a harder look at their actual risks, and ensure their PI policy covers them sufficiently. ○



Whilst just over two thirds of professionals said they prefer mediation, this is not always a more cost effective solution.



THE SHA POCKET UNDERWRITER

all you need at the click of a button

By Alicia Narainsamy



Knowledge is possibly the single most valuable commodity for brokers operating in the specialist insurance arena. Possessing the knowledge to speak to clients as an authority on all manner of casualty cover is no easy feat. Being a one-stop-shop for all of your clients' insurance needs requires a great deal of experience and self-education.

Additionally, technology as a tool can be a powerful enabler of growth. This is why SHA Risk Specialists has worked tirelessly since 2015 to develop the Pocket Underwriter. It is a digital solution aimed at empowering brokers by helping them better understand and sell our most complex products to their clients in the SME sector.

This innovative online walk-through sales tool and interactive guide to litigation risk, identifies liability exposures in real time and assists brokers during client consultations. The Pocket Underwriter is packed with real-life claims case studies and informative videos which unpack specialised cover in granular detail, and highlight the exposures of certain industries.

The Pocket Underwriter was designed solely with brokers in mind and extends far beyond a traditional broker tool. Not only does it generate quotes and policy documents within minutes, it also creates opportunities for brokers to up-sell critically important cover extensions such as cyber liability, GPA and much more without the hassle of complex application forms.

In addition, it enables brokers to continue earning Continuing Professional Development (CPD) points, even during these rather unusual times when face-to-face networking and training opportunities are few and far between.

A few clicks is all it takes to do anything from creating customised insurance solutions to earning CPD with certificates generated instantly following a short test. The Pocket Underwriter is easy to navigate with simple search functionalities and round-the-clock access to top-notch sales, marketing and training material split by industry sector. With all of these features housed in one streamlined platform, it is easy to see why so many brokers are already using it.

The Pocket Underwriter is an invaluable knowledge-based tool for brokers that offers a first-class easy-to-use digital experience and is a one-of-a-kind in the insurance industry. Key features and benefits include:

- ✓ 24/7 access to specialist sales and marketing material
- ✓ Plain language educational material and videos
- ✓ Earn up to 12 CPD hours
- ✓ Accreditation to sell SHA insurance products
- ✓ Online quoting and policy issuing to the SME sector
- ✓ Real time online record of advice functionality
- ✓ Broadform, Professional Indemnity, Cyber and GPA

All new users are on-boarded with a quick step-by-step guide with the option of a visual tour making it simple for everyone to use. For more information or to register on the Pocket Underwriter, visit:

www.pocketunderwriter.co.za

A GROWING AFRICAN FOOTPRINT

By Wayne Griffiths

The African insurance market – currently worth between US\$60 Billion and US\$70 Billion – is expanding at a rate of around 3% per annum thanks to rapid urbanization, an emerging middle class and a growing working population. Coupled with advancing technologies and constantly improving internet connectivity, these are some of the factors that are driving the African insurance sector forward.

These advancements together with the previously under-developed state of the economy and its huge wealth of untapped natural deposits and resources have encouraged expansion from western countries. Investment from developed nations often requires compliance with contractual conditions and this therefore necessitates insurance.

Santam has been at the forefront of developing this growing market. Initially, the expansion into Africa was as a result of following South African companies insured within the group as they increased their own operations. It wasn't until the founding of Sanlam Emerging Markets (SEM) in 2011, that the Sanlam Group was able to focus on pursuing investment opportunities predominantly in Southern and East Africa to broaden its footprint. In 2018 the group further expanded its footprint with the acquisition of a 100% shareholding of SAHAM, extending its focus to North and

West Africa. The group's footprint currently spans more than 28 African countries.

Doing business in the rest of Africa is not without its challenges. Each market has a unique set of complications, whether it be legislation, economic trends, over-traded conditions, or simply cultural variables. We found that embracing these unique traits, actually creates opportunities for business development and allows the group to implement solutions. No group understands this better than Santam as we have developed a solid understanding of these nuances whilst steadily expanding our reach on the continent over the past two decades.

There is no one formula for expanding into Africa, each country is unique. The foundation of Santam's Africa strategy is based on forming partnerships with companies that have extensive knowledge of the local environment and understand the nuances of doing business in each market.

SHA, as a division of Santam is an integral part of this strategy. We provide capacity and offer our expertise to identify and create local solutions for the most important risks affecting our African partners. SHA's full suite of products is available across the continent. This capacity and niche insurance expertise not only helps to strengthen the Sanlam and Santam brands on the African continent, but also helps to diversify the group's risk portfolio.




African footprint

- | | |
|----------------------|------------------|
| 1. Algeria | 15. Mali |
| 2. Angola | 16. Morocco |
| 3. Botswana | 17. Mozambique |
| 4. Burkina Faso | 18. Namibia |
| 5. Burundi | 19. Niger |
| 6. Cameroon | 20. Nigeria |
| 7. Congo Brazzaville | 21. Rwanda |
| 8. Côte d'Ivoire | 22. Senegal |
| 9. Gabon | 23. South Africa |
| 10. Ghana | 24. Tanzania |
| 11. Guinea | 25. Tunisia |
| 12. Kenya | 26. Uganda |
| 13. Madagascar | 27. Zambia |
| 14. Malawi | 28. Zimbabwe |

The growing opportunities to protect employees

By Dave Honeyman



Personal accident policies are often taken out by employers to protect their employees from financial losses following accidental bodily injury or death. The impact of permanent or even temporary disability can be devastating for the employees and their families. Personal accident insurance is a key part of looking after one's staff. Generally, these policies are worldwide and extend beyond workplace injuries to provide 24 hour cover.

There has been a notable surge in the uptake of accident and health (A&H) cover at SHA over the past 18 months – for us this is a very positive sign. It's encouraging because the upswing began even before the COVID-19 pandemic caused major disruptions at the beginning of this year. It seems to indicate that businesses have become more concerned with the health and safety of their employees.

We would speculate that this is due to an increased awareness of the value that A&H cover offers employers. SMEs, in particular, that may be unable to afford traditional employee benefits, seem to be looking for more cost-effective cover through the short-term insurance market.

We believe that, particularly in light of the effect of the coronavirus pandemic on so many people's livelihoods, we will continue to see a rising trajectory in the uptake of income protection policies over the coming months and years.

This year's study shows that 40% of businesses surveyed had to reduce their workforce by up to 50% on average. This is a devastating contribution to the unemployment stats but perhaps equally concerning was the fact that almost three quarters of companies commented that staff were now performing additional functions to pick up the slack created by those redundancies. Just over 35% said that the remaining staff were also being asked to work longer hours.

Taking COVID-19 workplace protocols into account, as well as the requirement that only a small percentage of staff may be on site at any given time, this may indeed lead to an increase in occupational health and safety risks. It becomes significantly more difficult to maintain the same standard of safety as the number of shifts increase. On-site injuries tend to increase if the same safety protocols are not equally enforced by the same people across multiple shifts. The same is true for employees that now need to perform additional functions. We cannot emphasise enough how critical it is for employers to ensure that these individuals are sufficiently trained before performing any new tasks.

Longer work hours is another major red flag, as employee fatigue levels increase, so does the risk of serious accidents and

injuries. Indeed, many of the clients that we spoke with in the weeks leading up to this report have all confirmed that their teams are working, on average, an additional two to three hours per day.

There is of course also the psychological impact on the employees who remain in the workforce. The lack of job security coupled with the sudden departure of colleagues can impact staff morale. The American Psychological Association published a paper in 2017 which linked 60% to 80% of injuries on duty to stress and poor employee morale.

With increased pressure to reduce operational costs, businesses need to be circumspect as to which expenses they choose to cut. It goes without saying that they should guard against cutting costs (and by implication, corners) where the potentially lethal combination of poor safety, heavy machinery and vehicle maintenance is involved.

This is especially problematic for businesses in manufacturing, and those that employ drivers for transport and delivery. We expect the above-mentioned trend to continue for the next 12 to 18 months, meaning that employers will need to ensure their occupational health and safety protocols and associated insurance covers are well in order to mitigate against growing risks.

This brings us to the issue of claiming from the Compensation for Occupational Injuries and Diseases (COID) fund. The survey shows that 86% of businesses have not submitted a COID claim in the past year. This number

SMEs that are unable to afford traditional employee benefits seem to be looking for more cost-effective cover through the short-term insurance market.

is not surprising, however, we do not think it marks a decrease in work-related injuries (barring of course the impact of lockdown). Last year's survey actually showed that around 40% of businesses are not even registered with COID.

Sadly, it is quite likely that a large number of companies (even those that are registered), have stopped submitting COID claims altogether because of administrative frustrations. Many see the cost of funding emergency treatment for an employee's injury as an acceptable cost when compared to the time and effort expended on completing forms and following up on the progress of COID claims.



60 - 80%

of injuries on duty are linked to stress and poor employee morale



86%

of businesses have not submitted a COID claim in the past year



Compounding this, the regulatory risks for businesses that do not comply are also becoming much harsher. An amendment to the Compensation for Occupational Injuries and Diseases Act was put forward earlier this year. It proposes that the criminal sanctions currently imposed on employers who do not register with COID, be replaced with stiff penalties. The amendments also outline the creation of a specialised inspectorate to enforce the fund's laws and regulations, which means that non-compliant businesses are more likely to get caught.

Furthermore, many hospitals will no longer accept injury on duty patients due to issues with COID payments. Employers often have to fork out deposits to secure treatment. The onus therefore falls onto companies to ensure there is a safety net in place for their employees – this is a requirement in terms of occupational health and safety. Therefore, similar to the upward trend in income protection policies, we also expect a spike in the purchase of personal accident policies. If one considers that of South Africa's 57 million population, less than 10 million have medical aid and then add to that the disconnect between the type of treatments that people generally need and what is generally available through government hospitals- it becomes clear that having a personal accident policy is now more important than ever before.

It is also important for brokers to recognise that the scope of coverage available in the market extends beyond the premises and indeed, outside of working hours. The latest crime statistics seem to indicate that murder and assault is transitioning from predominantly blue collar sectors to white collar industries. Xenophobia-related crimes, particularly in the hospitality and transport industries, are increasing. Any employer should be aware of this and recognise that being able to assist the workforce with hospital bills after an incident (regardless of where it happened) is beneficial for everyone involved.

One could also look at the impact that personal accident coverage can have in the household. Fortunately GPA policies have broadened their scope considerably over the past few years and we're particularly proud at SHA of our coverage that extends to provide disability benefits for children, helping families survive the financially devastating impact of looking after a child who has sustained a life changing injury



Longer work hours is another major red flag, as employee fatigue levels increase, so does the risk of serious accidents and injuries.



99%

of COID delays are due to clients not following the correct procedures, or filling in forms properly.



Murder and assault is transitioning from predominantly blue collar sectors to white collar industries. Xenophobia-related crimes, particularly in the hospitality and transport industries, are increasing.

Interestingly, the spike in policy uptake in 2019 which topped 19% seems to coincide with the growing number of companies that ranked reputational risk among the biggest threats to their business. In this year's survey, reputational damage ranked second on the list of most significant business threats. People do business with people and it is far more commonplace now to select business partners and suppliers based on reputation and how they treat others. A business that treats its employees badly or doesn't take care of them when they are injured, is sure to start bleeding customers. A well-structured A&H policy can certainly mitigate this.

Returning to COID, we noted an increase in waiting times for pay-outs, which, though unfortunate is understandable, given the challenges that the pandemic and lockdown have also posed for the fund in terms of admin and work-flow. In fact, 99% of COID delays are due to clients not following the correct procedures, or filling in forms properly. As far as we are concerned, this highlights a real need for brokers to advise their clients on the necessary COID procedures.

However, as COID is a statutory product, not an insurance product, brokers normally do not discuss COID procedures with their clients. In light of the COID regulations as well as the associated challenges with the process, we strongly believe that COID should form part of

The rise in the uptake of Income Protection, Personal Accident- and Group Personal Accident Cover is steady and gives us reason to believe that the market penetration of these products will continue to grow.

the needs-analysis that brokers conduct with their clients. A&H policies can then be written around COID so that the two complement each other. This year, when brokers were asked if their clients have had to submit claims to COID in the past 12 months, 72% said that they had no idea.

Finally, we've noticed an uptick in requests for Kidnap and Ransom insurance. This is possibly driven by the crime stats published earlier this year by SAPS. The report showed that the incidence of "reported" kidnapping within the borders of South Africa has increased by 133% in the past 10 years. In a tough economic climate, this is one of the exposures where we are sure to see an escalation.

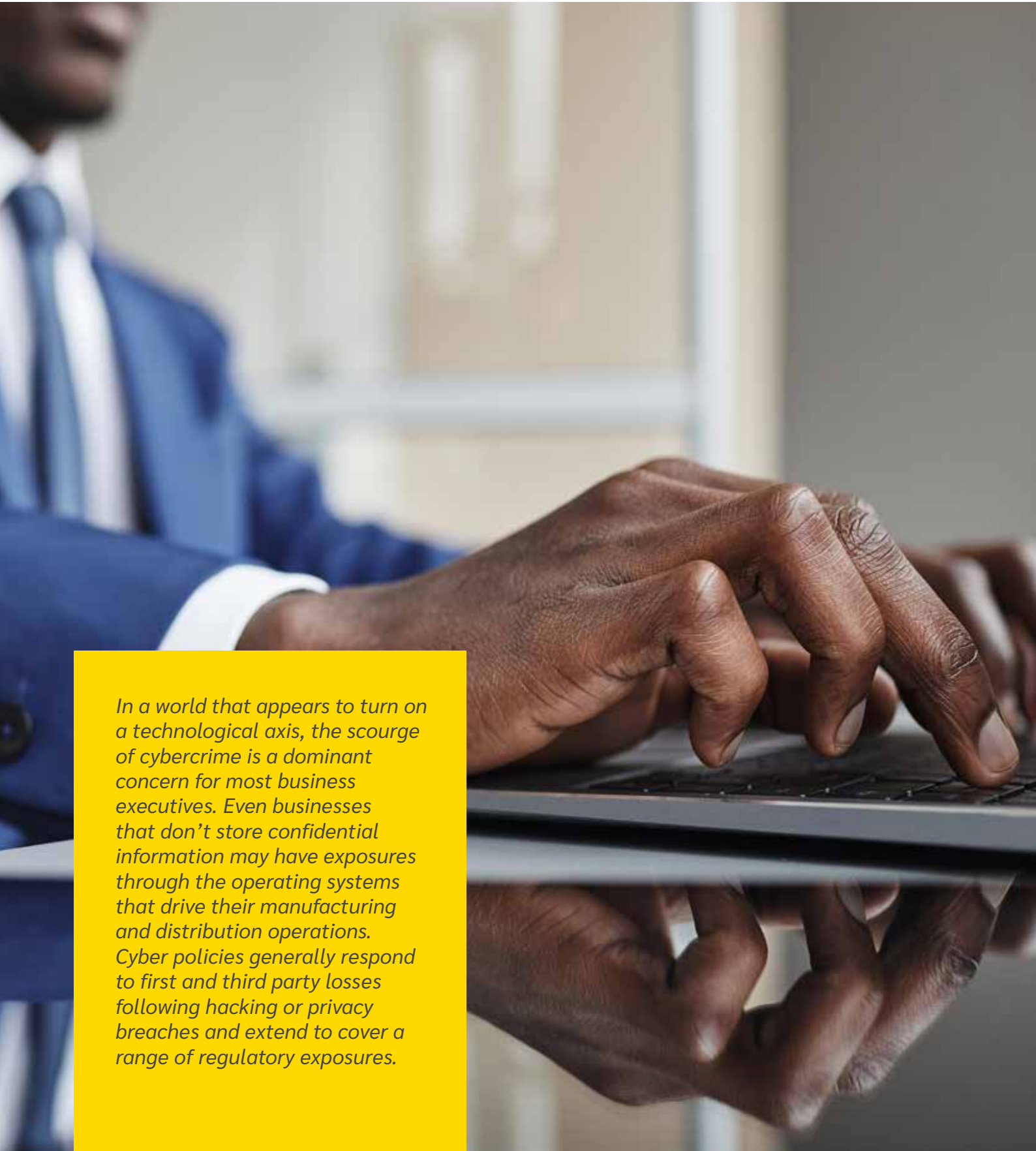
In closing, we are encouraged to see that in spite of the risk landscape becoming harsher,

virtually by the day, this trend is being met by a growing number of businesses that are taking the health and safety of their employees more seriously. The rise in the uptake of Income Protection, Personal Accident- and Group Personal Accident Cover is steady and gives us reason to believe that the market penetration of these products will continue to grow.

At the same time, we believe that the requirement for businesses and brokers to be educated on COID still exists. Regardless of the level of risk management and additional insurance that companies build into their health and safety protocols, their biggest business threats will not be addressed before they improve their own administration systems and ability to claim from COID in the most efficient manner possible. ◦

Risk awareness still not high enough

By Mwenda De Jenga



In a world that appears to turn on a technological axis, the scourge of cybercrime is a dominant concern for most business executives. Even businesses that don't store confidential information may have exposures through the operating systems that drive their manufacturing and distribution operations. Cyber policies generally respond to first and third party losses following hacking or privacy breaches and extend to cover a range of regulatory exposures.

If there is one risk environment that has experienced colossal shifts over the past year, it has to be cyber. Even before the COVID-19 pandemic completely disrupted the way that companies everywhere conduct business, cyber-attacks were growing by leaps and bounds. Cyber events have, however, accelerated at a rapid rate since the start of the pandemic.

According to global research company Comparitech, South Africa ranks 31st out of 75 countries in terms of cyber security exposure. The study scores countries across a number of metrics, the most important of which is cyber-attack preparedness. Whilst RSA had improved by three positions since 2019, the exposure remains dangerously high.

At first glance, the numbers reflected in this year's Specialist Risk Review seem quite positive, and it appears as though businesses are becoming more aware of their cyber risks. Of the companies surveyed, 84% are now relying on antivirus software (an increase of more than double reported in 2019), 70% have firewalls in place and more than half do regular data backups to protect company information. It seems that more focus was placed on keeping company data secure as businesses were forced to adapt to the national lockdown with many employees working remotely.

It is unfortunate that this heightened awareness has not translated to a proportional increase in the uptake of cyber cover. Particularly since nearly a third of survey respondents said they had encountered cyber security problems as a result of employees using their own devices during lockdown, and over 30% of the insurance brokers we surveyed noticed a marked increase in cyber related incidents.

Yet, only 18% of businesses indicated that they had some form of cyber cover in place. It should be noted that the purchase of coverage remains higher in the larger, corporate sector where governance and risk management tend to be business imperatives. Unfortunately, it seems as though directors and business owners in the SME sector still lack an understanding of their duties related to information security, under the King IV regulations.

Mirroring the 2019 report, half of all respondents without cyber insurance still

Nearly a third of survey respondents said they had encountered cyber security problems as a result of employees using their own devices during lockdown, and over 30% of the brokers we surveyed noticed a marked increase in cyber related incidents.

maintain that they do not know about cyber insurance. This is perhaps not surprising given that our broker survey revealed that brokers' confidence in discussing this line of cover with their clients is still quite low. When asked to gauge their proficiency at explaining the various specialist covers to their clients, cyber ranked second lowest on the list.

Although 18% penetration of cyber insurance is a slight improvement on last year's results, it's still problematic given the growing threat that cyber risk poses to businesses. There seems to be a disconnect between brokers and their clients. Even with the broker market having increased their understanding of this cover (albeit marginally), the percentage of businesses that still do not fully comprehend the necessity for this product is staggering.

Of the the 50% of uninsured businesses that have been exposed to cyber cover previously, 23% stated that they did not need it, this can only point to a lack of understanding as to how the majority of cyber crime actually manifests. Many businesses, particularly in the small to medium sector are victims of random, ransomware attacks. A lack of perception of risk only increases the potential of a successful attack.

Furthermore, around 34% of businesses do not provide any kind of cyber awareness training for their employees, leaving them highly exposed to potential cyber-attacks. It is vital to acknowledge that targeted hacking from outside the business is not the only way that an organisation could have a claim. Human error will always present a significant risk. Employees are vulnerable to phishing and social engineering attacks. Many engage in high-risk online behaviour, most commonly by clicking on unsecured,

Cyber protection in place:



84%

**Rely on antivirus software
(more than double
reported in 2019)**



70%

have firewalls in place

>50%

**do regular
data backups**



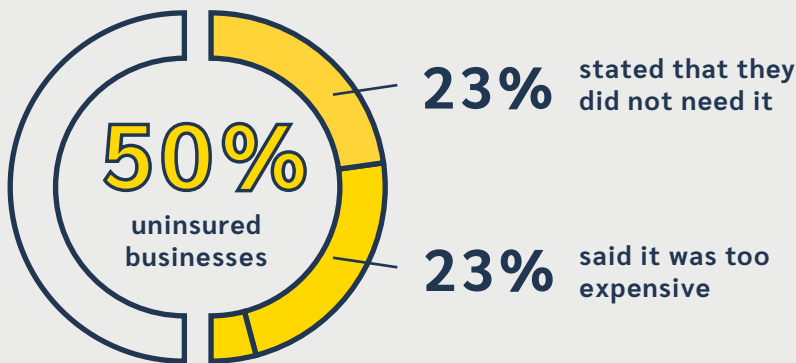
18%

of businesses indicated that they had some form of cyber cover in place

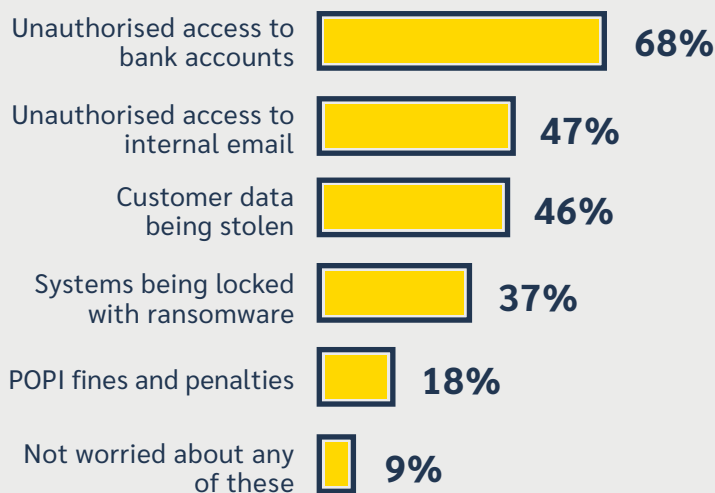


37%

of businesses reported suffering a breach in the past 12 months



Biggest Perceived Threats to Business



malicious links. Creating a culture of cyber awareness and providing persistent training is critical and possibly the most important line of defence against cyber criminals.

With COVID-19 forcing employees to work from home often using their own devices, businesses should be placing more emphasis on this than ever before, even in a post lockdown environment. Incidentally, during lockdown 28% of businesses said they'd had cyber security problems due to employees using their own devices at home.

37% of businesses reported suffering a breach in the past 12 months and one fifth of those were reportedly as a result of a breach accidentally initiated by an employee. An accidental breach could be as simple as sending an email to the incorrect recipient, thereby exposing sensitive information or could involve unwittingly handing over sensitive information to a third party. As underwriters we feel it is worth dwelling on the subject of these accidental breaches. Often brokers only mention the criminal elements of cyber when discussing the coverage with potential clients even though most policies do also respond to accidental privacy breaches.

Businesses must guard against complacency after spending money on cyber security measures as this is not a guarantee that they won't suffer an attack. In our research this past year, almost two thirds of small businesses said they spend less than R50 000 per annum on cyber security. This is of course, a significant amount for an SME but one can infer that the vast majority spend well below R20,000. Whilst it is encouraging to see such investments in smaller businesses, one often finds a level of complacency creeping into the organisation after the deployment of security technology. This is of course when a bigger investment in training should be made. The weakest security link in every organisation is almost always human. Even in large financial institutions where billions are spent on security systems, cyber breaches still happen, often at the hands of an unsuspecting staff member.

A big part of our research involves looking at the risks that businesses perceive as their most prevalent threats. This year 68% of respondents identified "unauthorised access to bank accounts" as their biggest exposure. This is interesting because banking transactions tend to be more secure than other digital processes in a business

Hacking is not the only way that a business could have a claim. Human error will always be a significant risk, employees are vulnerable to phishing and other social engineering attacks and often engage in high-risk behaviour, most commonly by clicking on unsecured links

(generally because financial institutions have extremely robust systems in place for their clients). This focus on the financial systems in a business rather than on general cyber security could signify a gap between real exposure and risk management – particularly in the SME space.

With that said, phishing is a notable emerging risk in banking arena that businesses should be aware of. With the rise of deepfake technology, there have been instances of cyber criminals imitating the voice of account holders and changing contact details via the bank's call centre. Companies should therefore include regular communication and other security checks with financial institutions to ensure that confidential records and banking details are not changed surreptitiously.

By contrast, the risk of administration or manufacturing systems being locked by ransomware only ranked fourth on the list with 37% of respondents citing the exposure as a point of concern. This is actually a far greater threat than the aforementioned unauthorised banking fears, particularly if one contemplates the far reaching ramifications for plants and factories, that can be shut down by hackers for days at a time.

Even further down the perceived threats list, at number five, is the risk of PoPI fines and penalties. This should definitely feature higher up in the ranking since the PoPI act became effective in July 2020 – meaning that future instances of data breaches which may be accompanied by non-compliance issues, are almost certain to be followed by severe regulatory fines once the grace period for compliance passes on 1 July 2021.

There is a growing responsibility on both brokers and underwriters to educate their clients on how best to procure and utilise cyber insurance policies. Particularly, clients need to know which events they are covered for and when they should notify insurers. Unlike other specialist insurance policies, the time period that lapses between a cyber incident and the required notification to insurers is much shorter. The business interruption losses following a breach start stacking up extremely quickly. This year's report demonstrated worrying levels of uncertainty.


What is interesting to note is that the process of applying for cyber insurance does seem to contribute to reducing a company's overall cyber risk, particularly in the SME sector. In SHA's experience, the checklist and application forms for cyber cover or renewals, help to make companies more aware of their exposure, and we have seen an increase in risk-mitigating behaviours in businesses that purchase cyber policies.

Of course, the cost of cyber cover has to feature in the decision to obtain this product, and it is interesting to see that 23% of uninsured businesses cite the high cost of premiums as their reason for not having cyber insurance in place. This number appears to be reducing year-on-year as more businesses begin to see the value of this product. At the same time we believe that growing market penetration of cyber insurance and greater focus on risk management will help to drive more favourable pricing for companies in future. There can be no doubt that as the years march on, cyber risk will continue to rise up the threat list ranking in all industries. ◦



Threat awareness on the rise, but so are the risks

By Tebogo Leshilo



Every time a director steps into the boardroom they are effectively placing their own personal wealth at risk. The Companies Act makes it possible for third parties to seek recourse from the directors of a company in their personal capacity where the members of management or the board may have failed or been negligent in carrying out their fiduciary duties. Directors and Officers (D&O) coverage is taken out by the company on behalf of the directors and officers of the business to cover the legal defence costs, damages and awards when such an allegation is made by a third party.

The COVID-19 pandemic and nationwide lockdown may have had a role to play in refocusing priorities. Given the overwhelming number of companies that were forced to make difficult decisions as a result of the lockdown-induced economic crisis (such as large-scale retrenchments and corporate restructuring), we believe there is a heightened awareness among companies and their directors of the potential ramifications of mistakes.

It's early days yet, but media reports coming out of the USA and Australian markets suggest that as soon as relief packages dry up, one can expect an uptick in actions against boards who may not have planned or acted accordingly to mitigate the economic fallout.

The pandemic also brought a new risk for directors to the fore. As per the State of Disaster Regulations, businesses are now required to appoint a COVID-19 compliance officer to oversee the implementation of the employer's workplace plan as well as adherence to the relevant standards of hygiene and health protocols.

The compliance officer could of course also be held personally liable for any failings in their duties. Given that this is a role that the vast majority of new compliance officers have no experience with, one would think that they would insist on being insured, and that the market penetration of D&O cover would in fact increase. Our broker survey suggested that only around 20% of businesses currently have the cover. There is much room for growth here, particularly in the SME space.

Further exploring the topic of companies' protocols, we found that only 47% of companies require directors to complete conflict of interest disclosure forms every year, 54% performed criminal background checks, and only 19% conducted ongoing lifestyle audits.

Insurance does not offer enough risk protection on its own – a holistic risk management strategy should include insurance, but should not rely solely on risk transfer. Lifestyle audits, background and qualification checks should be done as critical risk management measures imposed on all board members. In a country where one could argue that corruption is endemic, not subjecting senior members of the board or management to basic risk mitigation really does leave the business exposed.

These measures not only improve the quality of the risk, but also make good business sense, which is why they should be implemented as a matter of principle – not purely because they have been imposed by the insurer.

Brokers in the Financial Lines space will have become acutely aware that the market has hardened over the past 18 months. Whilst much of the focus has been on pricing and deductible corrections it has also become apparent that often the information provided by brokers when arranging D&O cover is inadequate. The financials of the business are no longer a sufficient indicator of how the business will perform in the following year, particularly



Only 20% of businesses have D&O cover

in an economy that has been decimated by lockdown.

Brokers can expect underwriters to ask for more detailed information about the structure and operations of companies in 2021, and there is sure to be the introduction of data analytics and machine learning tools to assist in the underwriting process. In a market where insurers are reducing capacity, applying higher retentions, increasing rates on excess layer programmes and applying more restrictive underwriting, businesses are urged to explore risk management and assessment tools in their own environments to improve their risk profile and the subsequent insurance terms and conditions.



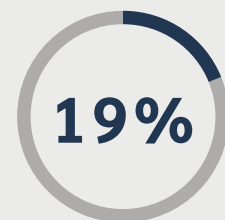
47%

of companies require directors to complete conflict of interest disclosure forms every year



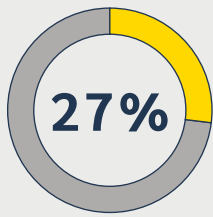
54%

performed criminal background checks



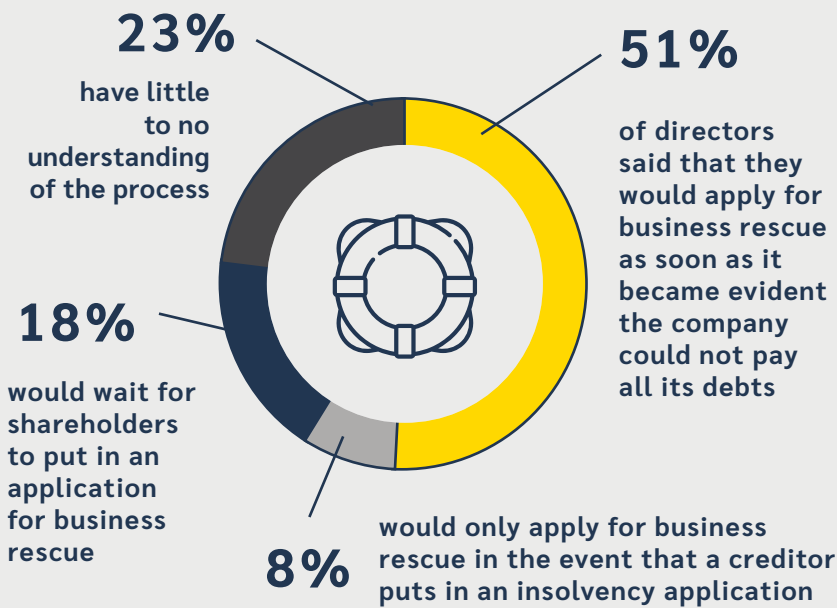
19%

conducted ongoing lifestyle audits



The high number of directors and business owners that did not believe it was necessary to share key information with underwriters (such as audit and risk committee minutes) is concerning

Business rescue



D&O policy cannot be ignored, particularly in the face of rising costs and litigation activity. Considerations in our local D&O market regarding the recent SCA judgments will certainly prove to be interesting as insurers and brokers alike look to unpack the implications of these findings.

Prior to the SCA judgement we had already noted an increase in claims brought by companies against directors, even in the medium sized enterprises category. Definitely something to keep a watchful eye on in 2021.

When evaluating the risk landscape, a major contributor to D&O exposure is cyber risk. It is widely reported that cyber risks have grown exponentially in recent years and particularly during the COVID-19 pandemic, it is a threat that businesses of all sizes face. Directors have the ultimate responsibility to be aware of, and oversee their companies' cybercrime risk management, which is why this exposure also has a major impact on D&O cover.

Furthermore, brokers are well advised to engage in renewal discussions with clients early on to manage expectations regarding material premium changes and the revision of existing programme structures.

The risks that directors and officers face are escalating. The current environment demands a lot more accountability and transparency on corporate governance, with stakeholders seeking recourse for any suspected wrongdoing. We have noted an overall increase in the number of misconduct allegations levelled against directors. The survey shows that 8% of directors at participating companies, have been accused of wrongdoing in carrying out their fiduciary duties at one point during their careers. A further 14% of respondents in the broker survey noticed an increase in D&O notifications – this is in line with SHA's own experience.

Of concern in this year's report was the high number of directors and business owners that did not believe it was necessary to share key information

with underwriters such as audit and risk committee minutes. This would go a long way in presenting underwriters with a clearer picture of the governance environment and would also assist in motivating for better terms at renewal.

Whilst the frequency of incidents is still relatively low, the costs involved in investigating and defending these matters have increased exponentially. Even in cases that do not result in the director being held liable, the legal fees run into the millions. An example of this can be seen in the recent Supreme Court of Appeal (SCA) judgement, where shareholders were claiming damages relating to a deterioration in the value of their shares in Steinhoff. The courts dismissed the shareholders' claims for damages against the directors.

Given the advancement of multiple claims against directors and officers ranging from a breach of their fiduciary duties to allegations of acting in bad faith and without the requisite degree of care, skill and diligence, the value derived from a

Something that we found particularly worrying, is the perception that many business leaders had around the use of Business Rescue as an intervention when the business is in distress. Business Rescue is a formal process detailed in Chapter 6 of the Companies Act of 2008, which should be invoked to facilitate the rehabilitation of a company in financial distress. When asked about their understanding of when the application for Business Rescue should be brought, only 51% of directors said that they would apply for business rescue as soon as it became evident the company could not pay all its debts. This would be the most prudent time to initiate the process.

Regrettably, 8% of respondents said that they would only apply for business rescue in the event that a creditor puts in an insolvency application, while 18% said they would wait for shareholders to put in an application for business rescue. The remaining 23% had little to no understanding of the process. Whilst one could argue that the directors might only learn more about the process when the

need arises, embarking on the business rescue journey too late can severely impede any hope of a sound turnaround.

This shows us that an astonishing number of directors are still unaware of how to correctly utilise tools and processes available to them to salvage a company, and who may only view it as a means of delaying an inevitable liquidation. This is particularly alarming considering that a director's responsibility is to maintain and enhance value for their company and its shareholders, or at the very least, protect it from eroding.

This, once again is something that directors and officers can be held accountable for, and which should not only be mitigated with adequate D&O cover, but also through improved director education and internal policies.

The risk of reputational damage is a concern that came through at a number of points in the survey, with business owners and executives ranking it as their second highest threat, after insolvency due to the economic crisis. In the D&O space, reputational damage is another notable issue – especially for listed companies. There are a growing number of well-publicised cases lodged against directors and officers following “bad news” events.

Smaller businesses (which made up the bulk of the respondents in this year's survey) also cited reputational damage as one of their top threats. It should be said here that small businesses interpret reputational risks quite differently from their corporate counterparts. The potential losses are not as high as in the corporate space, and one would have thought that SME's would not rank reputational damage quite as high on the list. Their bottom line would, however, still be impacted by the potential loss of business.

We've seen examples of corporate reputational risks quickly escalating in the retail space over the past 24 months. Such events can have a major impact on share price and the public perception of the retailer's products. The director's duty is primarily to protect the financial interests of the company



A director's responsibility is to maintain and enhance value for their company and its shareholders, or at the very least, protect it from eroding.

(and those of the shareholders). Combine this with the company's social interest and its duty towards the various stakeholders involved, and you could potentially see litigation arising from the perceived poor decisions made by directors and executives.

This also applies to misstatements or poorly thought out reactions on the part of the director following an event that damages a company's reputation. Again, as soon as a company's share price or bottom line is impacted, D&O claims can be quick to follow. Regardless of size, or the reputation management resources that a company has at its disposal, no business or board is immune to such events.

With social media having become as pervasive as it is right now, the risk that a single incident could snowball into a major reputational crisis, has never been greater. In addition to ensuring that companies protect their directors and officers with cover against litigation, it is imperative that businesses have a reputation and crisis management strategy in place.

As we look towards 2021, the long-term impact of the pandemic and subsequent economic downturn will begin to reveal itself as we see an increase in the allegations of wrongdoings brought against directors and officers. Given the fiduciary responsibilities that directors carry, they are expected to respond to all risks in a reasonable manner as expected of a business leader. One could never expect directors to be infallible and the business landscape is unpredictable at the best of times, but stakeholders will look at the steps that were taken to reach the best possible outcome to protect the interests of the company.

Did the management and board apply sound judgement to bring in experts who knew how best to deal with a particular issue? Did the directors act in the interests of the business without conflicting interests of their own? If boards don't ask these and many other critical questions of themselves whenever they make decisions, they may ultimately find themselves providing the answers in a courtroom. ◦





In conclusion

By Simon Colman

The past year in specialist insurance has been fraught with challenges, some of which arose as a result of the pandemic, but many related to simply operating in a much tougher market – a cycle that began more than two years ago in the UK and many other territories. It is important to note that market conditions and adverse claims experience in particular that had nothing to do with COVID-19, were already driving the changes that many brokers and clients only experienced for the first time during 2020.

The distinction could be a critically important one because it also suggests that the knock-on impact of the pandemic on the global insurance market has not actually been felt yet. Business owners could therefore still be in for further tightening of the market in 2021.

There is often a misconception that insurers are the beneficiaries of hardening terms and generally have little to complain about. However, the reality is that most of the players in the specialist insurance sector are as dependent on the global reinsurance market as brokers are on the local insurance market. The cost of doing business rises across the board and underwriters have to be circumspect about how they deploy their capacity and at what cost.

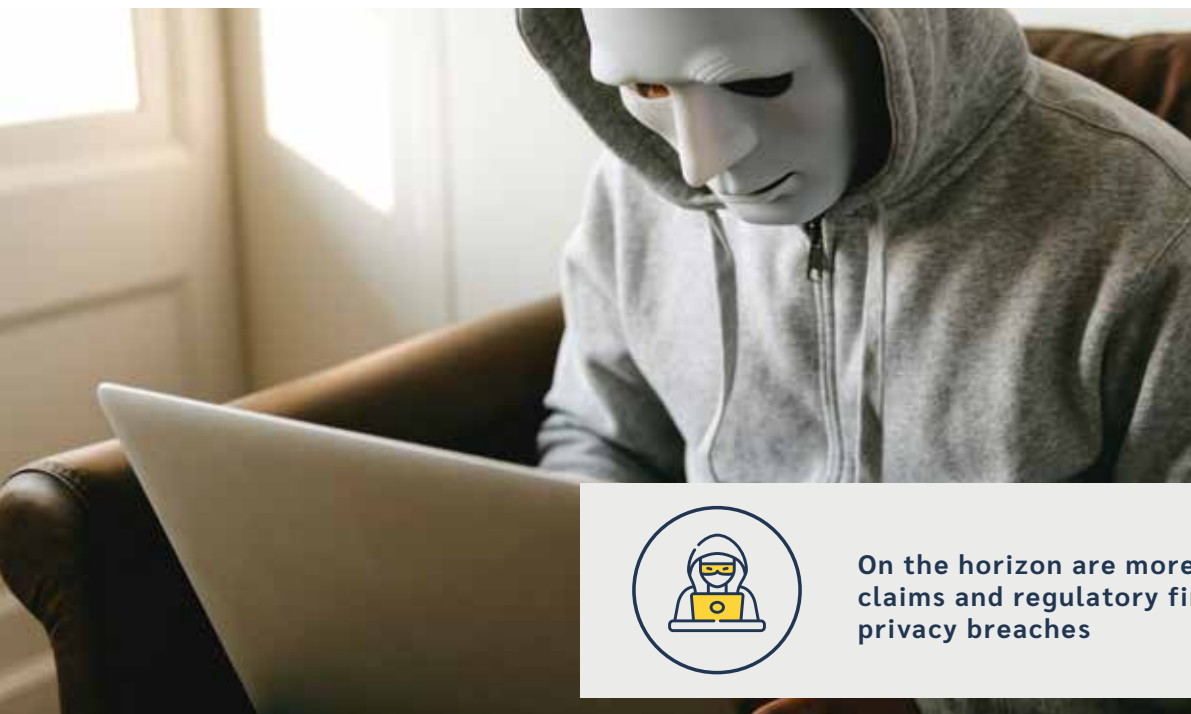
This year's report highlights the rising cost of claims across all lines of business and also shows more volatility with large losses occurring with greater frequency. Spend on legal defence costs is on the rise across all lines of business, reflecting a 56% increase between 2016 and 2019, well-outstripping inflation.

In order to manage premium increases and more restrictive policy conditions, business executives will need to place greater focus on risk management and risk participation by way of more meaningful deductibles. What has also become crystal clear, although we have known this for some time already, is how critically important collaboration between insurers, brokers and clients is in order to achieve greater stability in the market.

Interestingly, whilst many businesses were forced to slip into survival mode in 2020, particularly in the SME sector, the research in this year's report indicates that this actually led to an increase in risk awareness. This could be attributed to the way in which business owners had to look for ways to create efficiencies in their operations. What is concerning is the impact on the human beings that make up the most valuable asset in any organisation. Less employed people, working longer hours



Spend on legal defence costs is on the rise across all lines of business, reflecting a 56% increase between 2016 and 2019



On the horizon are more cyber related claims and regulatory fines following privacy breaches

and engaging in activities that fall outside of their normal skill set will eventually lead to costly mistakes, injuries and potentially even death.

Also on the horizon are more cyber related claims and regulatory fines following privacy breaches. Many businesses found themselves hurtling through cyber space in 2020, digitally transforming operations at breakneck pace in an attempt to keep employees and customers online during the lockdown. This has widened the pool of potential victims for cyber criminals who thrive in the gaps left in untested security systems. Once again, the people in the business may find themselves operating outside their comfort zones.

As employees appear to be a potential source of claims across the board, it is possible that greater investment in training and education in 2021 could make the world of difference in this rapidly evolving risk landscape.

We must also guard against only focusing on the risks that are already on our radar. If the pandemic has taught us anything,

it's that systemic, catastrophic events can come from left field. How many businesses were prepared for lockdown before it actually happened?

Some of the more disturbing findings in this year's survey indicated that 31% of businesses that keep risk registers do not share the information with their insurers. Similarly, around 27% of businesses don't share their risk committee meeting notes. Half of these companies argued that the information contained in the risk register is too sensitive to share with their insurer.

It goes without saying that company directors and owners are most knowledgeable about their business's risk exposures. Giving their insurer access to this information can only aid in providing the most appropriate cover. Withholding this information ultimately leads to insurers making conservative assumptions, meaning that clients end up bearing the brunt. That is the best-case scenario when assessing risk without the proper information. The worst-case scenario is a plethora of problems when

there is a claim, due to the insurer not fully understanding the exposure.

What is concerning for us here is that, although insurance has always been a grudge purchase, we would definitely want to avoid any trend toward an adversarial relationship between insurers and their clients. We must not allow a trust-deficit to develop in the specialist insurance environment, where the policy often only functions effectively when the insurer is able to participate fully in the legal defence process.

Trust is a vital component of any healthy relationship, certainly one where close collaboration is a prerequisite for a sustainable economic future – for clients and for our industry. We believe that brokers have a critically important role to play in this, however they cannot do it alone. The engagement between insurer, broker and client is tripartite and requires constant cultivation of trust and collaboration for it to work – one cannot survive without the other, and the broker is at the centre. Any developing trust deficit between insurer and client must be remedied, and brokers are well-placed to bridge the gap – with a little help from insurers. We are committed to greater transparency in our underwriting and claims processes and we trust that the detail in this report assists all our intermediaries.

As we wrap up this year's Annual Risk Review, we are also concluding our 35th year in business. We are grateful to all our stakeholders for your support over the years and we look forward to working with all of you in 2021. May the year ahead be a little less surprising than 2020. ◊

If the pandemic has taught us anything, it's that systemic, catastrophic events can come from left field. How many businesses were prepared for lockdown before it actually happened?



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