



The Guardrisk Update

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Incorporating Aids Update

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THE biggest challenge facing short-term insurers is how to differentiate fairly between the premiums of policyholders (*Business Day, 5 Apr*). Discriminatory premiums are unfair if they do not achieve a legitimate purpose and are more restrictive than they need to be. However, with theft and motor-accident losses skyrocketing, insurers have to consider higher premiums for people who take less precautions.

THE rising number of motor vehicle accidents, coupled with the increasing cost of each accident, is putting insurers under pressure, and rates are rising (*Business Day, 5 Apr*).

THE temperature of the earth could rise between 1,4°C and 5°C by the end of the century (*Business Day, 23 Apr*). Some species will become extinct, others will migrate. Climatic ramifications will include rising sea levels, dryer conditions in certain areas and wetter conditions in others, scarce and changing water resources. Up to 200-million people will be displaced and many industries will disappear.

A "creeping conservatism" in tax matters is overtaking boards of directors around the world in reaction to requests from regulators, investors and pressure groups for more and better information on tax policy (*Business Day, 10 Apr*). There is increasing pressure on boards as they seek to balance their caution against the need to find ways to create value for shareholders.

A slew of litigation is expected before credit provision precedents are established under the National Credit Act (*Business Report, 28 Mar*). Litigation is likely to include court cases that would define exactly what constitutes reckless lending.

Whistle-blowers should be praised, not punished

In an ideal world whistle-blowers would be individuals who have the courage to speak out, regardless of the personal price they have to pay; and the companies that they speak about would be objective enough to listen, and professional enough to take swift, decisive action. But, in reality, whistle-blowers' motives aren't always noble – sometimes they are disgruntled employees with an axe to grind; and the companies they report on often view them as rabble-rousers who are bringing the company into disrepute.

Yet there is much evidence that whistle-blowers have a positive contribution to make to corporate governance. In PricewaterhouseCoopers' *Global Economic Crime Survey 2005* (published every two years) 20% of the respondents indicated that economic crime was detected as a result of whistle-blowing or internal tip-offs. That's nearly as much as the 26% who reported that internal audits had uncovered economic crime. The report also confirmed that companies that had introduced a whistle-blowing system were "significantly less dependent on external informers and/or external accountants".

Let's not forget that it was a whistle-blower that brought the Enron debacle to light; and the vice president of a tobacco company who told how the industry minimised tobacco's health and safety issues. But not all whistle-blowers have been immortalised by Hollywood (*The Insider* tells the tobacco executive's story and *Erin Brockovich* recounts the story of a legal clerk who took on a major corporation over the contamination of drinking water); many more have been vilified, lost their jobs and even their families in the stressful aftermath of their decision to tell the truth.

According to Alex Elliott, director of legal firm Knowles Husain Lindsay Inc, while whistle-blowers can play an important role in rooting out corruption, there is not much motivation for them to come forward.

The Protected Disclosures Act no. 26 of 2000 (PDA) protects employees from reprisals as a result of having made a protected disclosure (and employers from unfounded allegations). But, as Elliott points out, the PDA is not without its limitations: employees are required to adhere to the employer's whistle-blowing procedures to the letter and, if they don't, they are not protected. This means that the procedure itself can be used by employers to suppress information and intimidate staff. The act also contains a good faith provision which basically means that whistle-blowers have to have an "untainted motive". While this was presumably designed to protect the employer against untrue allegations, it also leaves the door open for employers to block disclosure or penalise staff by questioning their motives. Elliott does not believe that something as subjective as motive has a place in the act.



South Africans seem to be particularly dismissive of whistle-blowers: in 2006 a Markinor survey revealed that 30% of South Africans regard whistle-blowers as "troublemakers". So, while one of an employer's most important resources in combating corruption remains its staff, we need to change the culture of "shooting the messenger". Protecting whistle-blowers is not enough; only when they are praised for their bravery and acknowledged for their efforts, will the practice of whistle-blowing truly begin to bear fruit.

Risk Barometer

DESPITE 91% of customers considering insurance fraud a serious crime, 8% of people surveyed have no qualms about filing false claims (*Insurance Day, 10 Apr*). With UK insurers paying around £54m a day on claims, the surprise 8% figure is likely to be of concern to insurers.

ACTUARIES need to play a more prominent role in risk carriers' management if they are to successfully moderate the insurance cycle (*Insurance Day, 23 Mar*). While it is unrealistic to suggest actuaries could bring an end to the insurance cycle, their enhanced input could smooth the peaks and troughs.

AVERAGE UK motor insurance premiums have dropped slightly after reaching a record high in 2006, but the upward trend is expected to continue (*Insurance Day, 11 Apr*). While motoring premiums have fallen slightly, home buildings and contents insurance have remained steady.

A US ruling that greenhouse gases are air pollutants could trigger a legal and regulatory assault on American industry, which likely would have to battle insurers at the same time for defense costs (*Business Insurance, 9 Apr*). Legal experts predict the ruling will embolden plaintiffs' attorneys to launch more lawsuits claiming that industrial companies have stoked destructive climate changes.

THE financial cost of extreme weather events has been increasing by 2% each year since the 1970s and these costs are likely to continue to rise (*Insurance Day, 11 Apr*).

BOARDROOMS up and down the UK are bracing themselves for the introduction of the new shareholder derivative action provisions of the new Companies Act (*Insurance Day, 23 Mar*). The derivative claim is a new right for a shareholder to sue directors in the name of the company for negligence or breach of duty.

SOFTENING insurance rates have slowed growth in the global captive market during the last few years (*Insurance Day, 19 Mar*). But growth is still taking place with changes in terms of both the location of captive insurers and reinsurance-buying patterns of the entities. Traditionally seen as an alternative risk solution more suitable for an offshore location, captives are increasingly being located in onshore domiciles.

AidsGuard Update

Aids Barometer

SINCE April 1, insurance companies are paying out life insurance and funeral claims to relatives of people who die of Aids-related illness (*The Star, 29 Mar*). Insurance companies belonging to the LOA no longer apply the HIV/Aids exclusion clause to life and disability policies. The exclusion clause meant that no claims were paid out if a person with a life policy died of Aids, regardless of whether their premiums were up to date.

RESULTS from a new survey show that South African women are engaging in risky behaviour without worrying about the consequences (*The Star, 24 Mar*). Nearly half of all women polled said they never used a condom during sex and the majority of them believed they were unlikely to catch HIV/Aids as a result. White women were found to be the most likely never to use a condom (62%), compared with 21% of black women.

A local generic drug maker has sealed a deal to package, distribute and ultimately manufacture a new Aids drug called Darunavir to subSaharan Africa (*Business Day, 5 Apr*). Darunavir, which is expected to reach 30000-40000 people in Africa in 2011, is a promising new protease inhibitor used for HIV patients who have developed resistance to other drugs. About 3% of Africa's HIV patients receiving treatment are resistant to first-line and second-line regimens, and need these newer and more costly "salvage" medicines.

WHILE there has been some increase in the number of pension and provident fund members, this has been offset by the increasing number of deaths taking place because of HIV/Aids (*Business Day, 23 Apr*). This "harsh reality requires a different perspective" on the whole question of employee benefits. Instead of a focus on retirement savings, more funds should be devoted to disability and death risk cover.

SA has one of the highest percentages of people who are co-infected with TB and HIV - 19% (*The Star, 23 Mar*). In 2005, 33,645 South Africans died from this curable disease (TB), compared to 23,682 in 1990. According to the Medical Research Council "we need to lose the complacency around TB control and we really need to start co-managing HIV and TB, because the HI virus is driving our TB epidemic".

GERMAN scientists say they've spotted a natural ingredient in human blood that prevents the HIV-1 virus from infecting immune cells (*www.health24.com, 20 Apr*). The finding could lead to the development of a new class of drugs to fight HIV, the virus that causes Aids.



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