SIIA Endeavors

London Calling for SIIA Members


Lloyd's of London

SIIA held a timely Transcontinental Self-Insurance Symposium June 4-6th at the iconic offices of Lloyd's of London.

The event was organized to help self-insurance industry executives from the U.S., U.K. and EU better understand key industry trends and the implications for business opportunities for all entities involved with alternative risk transfer arrangements.

The event kicked off with the session *"American Politics and the Implications for the U.S. Self-Insurance/Captive Insurance Marketplace"* with Michael W. Ferguson, President & CEO of SIIA, giving a brief view of SIIA's perspective on the most current political developments, including Association Health Plans. Steve Kinion, Director of the Captive Bureau of the Delaware Department of Insurance, added further insights from the regulator's perspective on a variety of issues, including the NAIC's view on self-insured health plans and the growth of cyber insurance coverage in captive market.

Mr. Kinion also spoke about Covered Agreements, which is defined as "an agreement entered into between the United States and one or more foreign governments, authorities or regulatory entities which relates to prudential measures with respect to the business of insurance or reinsurance that achieves a level of protection for insurance or reinsurance consumers that is 'substantially equivalent' to the level of protection under state law."

He described how reinsurers from EU countries that are not Qualified Jurisdictions (for example France, Germany, Ireland, Switzerland, and the United Kingdom) do not have to post collateral if they satisfy the Covered Agreement's standards. This means that such reinsurers will have parity with Certified Reinsurers. Reinsurers from non-European Union jurisdictions will seek parity with EU domiciled reinsurers.

Mr. Kinion stated that collateral is not going away; the Covered Agreement does not prohibit any ceding company from demanding that its reinsurer establish a collateral account. Some ceding insurers want a collateral account, and a collateral account is negotiable.

For U.S. domiciled captive insurers, the Covered Agreement will create new reinsurance opportunities. "However, due to Solvency II's requirements, I do not anticipate that U.S. domiciled captive insurers will reinsure their parents' risks in the European Union." Mr. Kinion stated.

In *"Introduction & Update –The U.S. Self-Insurance Marketplace"* Larry Thompson, CEO of Inventavis discussed the current state of the market in the United States, explaining to the UK and EU-based attendees how the US healthcare system is expensive and inflating while self-insurance is growing and innovating. Smaller employers are self-insuring to fight rising premiums. Durg costs are also rising and are expected to be over 18% of spending next year.

Self-insured regulation is a continued battle, but stop loss is growing and profitable, and captives are continuing to gain popularity.

One of the program's highlights was the session *"European Insurance/Reinsurance Market Post BREXIT"* featuring Ben Speers, COO of Miller Insurance Services LLP, Kenneth Underhill, Director at Implement Compliance Solutions & Resources Ltd and Hayley Spink, Lloyd's Program Director for BREXIT.

Mr. Underhill started the session by reviewing the current state of affairs for the EU. The core principles governing the Single Market for services are the freedom to establish a company in another EU country (Article 49 TFEU*) and the freedom to provide or receive services

(trade) in an EU country other than the one where the company or consumer is established. This is achieved by using passporting.

Passporting is defined by the Bank of England as: "A firm authorized in an EEA (European Economic Area) state can carry on permitted activities in any other EEA state by either establishing a branch or agents in an EEA country or providing cross-border services."

He explained, *"The key for the UK means that you can setup a company here in the UK, you can regulate it here, and then you are able to provide insurance across the EU. You have open access to the 27 Member States instantly. You don't have to have a branch in those countries; you can issue policies here."* He went on to state that, *"The interesting thing is that passporting process applies for banks, wealth management firms, and insurance. However, off all of the passports that are issued almost 60% of those are in relation to the sales of insurance."*

So what exactly is BREXIT? Article 50(2) of the Treaty on European Union states: "Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements." On June 23, 2016 there was a referendum in the UK, and they voted to leave the European Union, serving the official letter on March 29, 2017, giving 2 years to negotiate its exit.

Several key issues have been agreed in principle, such as the amount to be paid by the UK to the EU in respect of already committed contributions and a 21-month transition period.

Many significant issues remain unresolved, including the detail of the transition, immigration arrangements, security, atomic energy, space and cross border trade arrangements.

If details are not reached by March 29, 2019, then they hit hard BREXIT, which could mean no more cross-boarded trading.

"Most people tend to think at this stage that it's not going to happen, although most businesses are preparing for the event that it does happen" Underhill stated.


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Ben Speers went on to explain that insurers are generally advanced in BREXIT planning, and intermediaries have taken a wait and see approach, but the clock is ticking.

"Imagine a wall goes up between the UK and the EU. Unless you have a license on both sides of that wall your ability to trade is limited and the ability for branches and London to provide combined services falls away as well…the solution to most people's problem on this front is to establish a properly regulated entity in the EU…By establishing a subsidiary it gives you a license on both sides of that wall and allows you relatively trade freely across both territories," said Speers.

When deciding where to establish an EU subsidiary, Speers recommended to focus on what works best for your clients. Some issues to consider include existing infrastructure, access from London, approach of local regulator, language, insurance environment, EU future of Member State, corporate tax & VAT rate, prohibitive employment laws, social security and access to key markets.

Attendees in sessions in the Old Library at Lloyd's of London

Insurers' most popular EU choices so far have been mostly Belgium (on the basis of an accommodating regulator and sound infrastructure), Luxembourg (based on accommodating regulator and tax position), and Ireland (familiarity of language and good tax position). Other jurisdictions utilized include France, Germany, Spain, the Netherlands and Malta.

Haley Spink discussed Lloyd's plans for dealing with BREXIT, explaining that the day after the UK triggered the Article 50 letter, Lloyd's announced its Brussels subsidiary, and on May 15, 2018 Lloyd's Brussels was granted authorization from Belgium regulator.

"BREXIT is not a huge threat to Lloyd's and Lloyd's market overall but is definitely an important part for that book of business, and that's why we are looking to make sure we maintain access into the EU market, and in particular, make sure our customers still maintain access through our brokers and coverholders to the underwriting expertise that sits here at Lloyds" Spink stated.

Lloyd's Brussels (opening January 1, 2019) will be a fully capitalized insurance company reporting to Belgian regulator and will be based and staffed in Brussels. It will have the same financial ratings and access to the central fund (subject to confirmation from rating agency). The current extensive branch network will remain with an additional branch in the UK, enabling EU risks to continue to be written from London. They will maintain underwriting expertise and distribution network relationships of the Lloyd's market.

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EEA risks will be placed using Lloyd's Brussels stamp and reinsured back to Lloyd's, and global risks will have split slips. The policies with EEA risks will be renewed into Lloyd's Brussels, and EEA coverholder binders will be set up with Lloyd's Brussels.

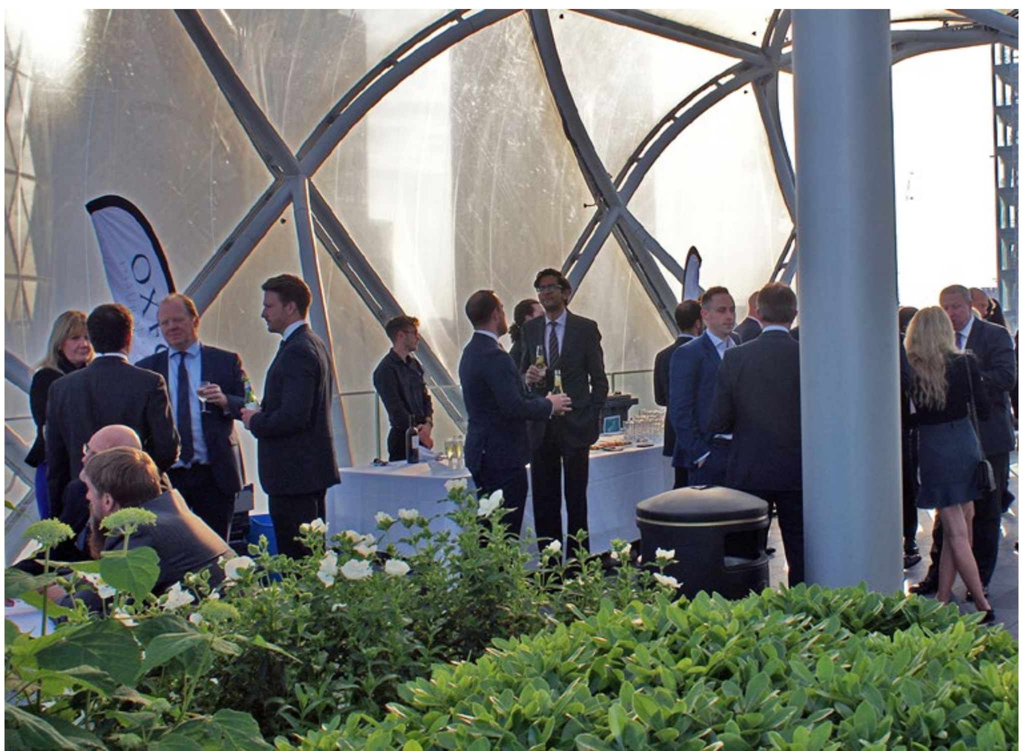
"At the moment all of our plans are geared toward regardless of what happens, if there's a hard BREXIT and no deal and the EU and the UK part company we will be able to still maintain that access into the EU at the end of March, moving forward" she said.

The program continued with *"London Market and Employer Stop-Loss – Then, Now & the Future"* with Neil Warren, Miller Insurance Services, LLP, Charlie Boyd, Senior Underwriter at Ark Syndicate Management Ltd., Stuart Liddell, Senior Vice President of Sirius America, and J. Brady Young, President & CEO of Strategic Risk Solutions, Inc.

The panel discussed a variety of topics including a stop loss market overview, touching on the growth of employee benefit captives. They also discussed how the Lloyd's market doesn't always prize volume and is results oriented.

In *"Solvency II & the Impact on EU-Based Captive Insurance Companies"* Stuart King, President and CEO of Strategic Risk Solutions (SRS Europe) and Malcolm Cachia, ACII, General Manager of Ark Insurance Management PCC Limited discussed how EU-based captives have been adapting to the Solvency II regulation, which was shaped from market failures, the increasingly dynamic and changing nature of global insurance markets, and a move to rules-based instead of principles-based approach to regulation. They gave an overview of the challenges and benefits and the policies and procedures involved. They believe captive owners are overcoming the onerous nature of requirements of Solvency II and getting benefit from the ORSA process which is driving interest in new product.

That evening Oxford Insurance Brokers Ltd and Strategic Underwriters hosted the group for a unique networking reception on the rooftop garden of their office building, providing attendees with stunning views of London. Duncan Hopegood, Divisional Director of Oxford said, "We are proud to support SIIA and their members and being able to host events like this is just one way we can demonstrate our commitment. It's fantastic to see so many people make the journey to London for the conference and we're delighted with how successful our own event proved to be."



Attendees enjoying the rooftop reception

The next morning the educational program continued with *"Workers' Comp Reinsurance – The U.S. –Lloyd's Connection,"* a panel that included Richard Bird, Chief Operating Officer of Midlands Management Corp., Charles C. Caldwell, Chief Executive Officer of Midlands Management Corp., William

Reception hosted by Oxford Insurance Brokers Ltd and Strategic Underwriters

"It is important and it is incumbent to adequately calibrate models for these unforeseen, multi-claimant assumption events, rather than just relying on standard industrial accident type exposure models. I think this is something we really need to thinking about now," he continued.

The program concluded with Les Boughner, Chairman of Advantage Insurance Management (USA) LLC presenting the session *"Captive Insurance Trends & the Lloyd's Market"*.

Green, Head of Specialist Lines Department at Faraday Underwriting Limited, Adrian Mortley, Divisional Director of Oxford Insurance Brokers, and Ryan Ward, Senior Class Underwriter at Chaucer Syndicates. During the debate the panel discussed the history of Workers Comp in the reinsurance market, updates from the market and the latest emerging trends.

One of the current issues that can have an impact on reinsurers in the form of a multi-claimant catastrophic event is workplace violence. Of all the mass shootings in the US in the last 50 years, 29% have occurred at the workplace, and the perpetrator is often a formal disgruntled employee who returns for some sort of revenge.

"In those cases, subsequent injuries from that event are more than likely to compensable under the workers compensation act. Its further estimated that 25% of all companies are unprepared for active shooters incidents, and this poses an even greater risk to the workers comp carrier," stated Ryan Ward.

After outlining the basics of captives, Mr. Boughner spoke about current trends and threats to the captive market, including the continued soft market, Solvency II, BEPS (Base Erosion and Profit Shifting), 831b's, and BREXIT.

While there is declining growth for non-US captives, US captives are continuing to grow. Other areas of continued growth in captives are employee benefits, particularly in medical stop-loss and multi-national pooling and difficult to place perils, such as cyber coverage.

The event was a great success, enjoyed by SIIA members from both sides of the pond.

SIIA President & CEO Mike Ferguson offered a closing observation, "We were very pleased to make this event possible for our members to help them better understand important transatlantic insurance developments and make important business contacts." ■

On speaking at the event, Adrian Mortley said, *"this event provided an excellent opportunity for us to discuss relevant industry themes with an audience that is engaged with the subject of self-insurance. The quality of presentations over the duration of the event has been exceptionally high and I am pleased to have been able to throw my own opinions into the ring."*