Annual Insurance Review 2015

ADVISORY | DISPUTES | TRANSACTIONS

Contents

Introduction	2
Accountants	3
Art and Specie	4
Brokers' Professional Indemnity	5
Construction	6
Corporate Insurance and Regulatory	7
Directors & Officers	8
Energy	9
Financial Institutions	10
Financial Professionals	11
General Liability	12
Health & Safety	13
International Arbitration	14
International Property	15
Legal Practices	16
Life Sciences	17
Marine/Shipping	18
Media	19
Medical Malpractice	20
Miscellaneous Professional Indemnity	21
Pensions and Actuaries	22
Political Risk and Trade Credit	23
Power	24
Procedure, Damages and Costs	25
Products	26
Property and Business Interruption	27
Reinsurance	28
Restructuring and Insolvency	29
Surveyors	30
Technology and Cyber Risks	31

This annual overview is an informal document, which does not pretend to be exhaustive, and is intended to provide commentary, overviews, summaries, and general opinions relating to recent and potential developments. It is not to be regarded and/or relied upon as a substitute for advice on how to act on any particular matter. RPC Partners will be pleased to provide further information and advice on specific facts.

RPC

Introduction

Landmark insurance law reform and market consolidation

James Miller
Partner
+44 20 3060 6517
james.miller@rpc.co.uk

Richard Breavington
Partner
+44 20 3060 6341
richard.breavington@rpc.co.uk

There are no prizes for guessing the likely main insurance law event of 2016. The Insurance Act 2015 will come into force on 12 August 2016. Policies entered into after that time will be subject to the new regime set out in the Act. This will lead to potentially significant changes for insurers, brokers and insureds alike. An important development for the insurance market in 2015 has been ensuring that the provisions of the Act are understood and that preparations are made for it coming into force.

Another development has been the potential addition to the Act of provisions allowing an insured to claim damages for late payment of claims. Those additional provisions are currently before Parliament as part of the Enterprise Bill. Some in the market will see the changes as inevitable, particularly given the House of Lords' indication that they intended to enact the Law Commission's proposals on this area of law at the next available opportunity. Others will have misgivings as to the potential for a range of claims by insureds for amounts that are difficult to predict based around whether response times for payment of claims are "reasonable". All would probably agree that, as for the rest of the Act, there is likely to be some initial uncertainty as to how the provisions will apply in practice.

In the introduction to last year's Annual Insurance Review, we referred to the potential consolidation of insurers. That prediction has come to pass with news stories of a number of high profile mergers and acquisitions. It remains to be seen to what extent this will continue into 2016. It will also be interesting to see what effect potential legal and regulatory changes to allow ILS structures in the UK might have on this period of transformation. In any event, we would expect a continued drive for internal and external efficiency (including from service providers) across the insurance market.

For RPC, 2015 has been a year of growth and expansion. Early in the year we brought on board Rory O'Brien, former Global Head of Risk Consulting and Software at Towers Watson, to launch RPC Consulting, an actuarial and management consultancy offering to the insurance community. We later built on Rory's practice by acquiring software and consulting business Marriott Sinclair, which had developed tyche, a state of the art financial modelling tool that explores the many uncertainties affecting the financial outcome of projects, strategies and business opportunities.

We've also continued our hard work in London, Bristol, Singapore and Hong Kong, and had a number of successes in the courts, including the recent *Titan v Colliers* case which saw new ground paved for valuers facing claims. And just as we had finished basking in the glow of being named Law Firm of the Year twice in 2014, we were handed the prestigious award again by the British Legal Awards. We also came first in Legal Week's Best Legal Adviser Report in 2015 as decided by clients and placing us ahead of 383 firms.

Looking ahead to 2016, we anticipate a year of legal change to match the change to the landscape of the insurance market. Underpinning all of that, we anticipate a continued drive for efficiency and value.

Most of all, we hope that 2016 will be a happy and productive year for all of you.

Accountants

Key developments in 2015

Following the major accounting scandals of 2014 (including Tesco and Co-op bank), many of the key developments in the accountancy sector this year have centred on auditing and regulatory investigations.

With the Competition and Markets Authority ruling that FTSE 350 companies must tender their audit contract every 10 years having come into force on 1 January 2015, and further EU regulation on the horizon for 2016, it is unsurprising that the audit market has continued to be in a state of flux this year. In the first six months of 2015 alone there were as many live FTSE 100 audit tenders as in the whole of 2014.

Meanwhile, in the forum of regulatory investigations, Deloitte successfully reduced its £14m fine imposed in relation to its involvement in the MG Rover phoenix arrangements to £3m on appeal. Elsewhere, however, Baker Tilly's judicial review of a Financial Reporting Control (FRC) investigation that took nearly five years to investigate failed and the FRC has continued to up the ante with referrals and levels of fines still on the increase, meaning the threat of regulatory intervention, especially for larger firms, remains a significant risk.

Finally, this year has seen HMRC starting to use accelerated payment notices, requiring those participating in tax mitigation schemes to pay tax up-front pending formal determination of the effectiveness of the scheme. Despite this, claims relating to tax schemes appear to be on the decline, probably because many claims have already been made and those remaining face serious time-bar difficulties.

What to look out for in 2016

The Prudential Regulation Authority (PRA) consultation on engagement between external auditors and supervisors (and commencing its disciplinary powers over external auditors and actuaries (CP8/15) having closed in May 2015), the outcome and any recommendations will be published in 2016.

Essentially, the consultation:

- suggested that external auditors of the largest UK-headquartered deposit-taking institutions should provide written reports directly to the PRA as part of the statutory audit cycle
- set out how the PRA's disciplinary powers will apply to actuaries and auditors, and the interrelationship this will have with the other regulators.

This could lead to significant additional regulatory imposition for the largest UK accounting practices. As a firm that acts for the majority of the top 20 accountancy firms, RPC submitted a response to the consultation and pointed out concerns that many of our clients have with regard to the cost implications of the proposals as currently drafted (most particularly with regard to the provision of written reports).

This growth in regulatory intervention is also mirrored over in Hong Kong, where it is proposed that the local FRC should assume regulation of auditors of listed companies in addition to their current investigative powers in relation to reporting and auditing irregularities. The extension of their powers is also planned to extend to disciplinary matters thereby removing this aspect of self-regulation from the Hong Kong Institute of Certified Public Accountants.

Jeremy Barnes
Partner
+44 20 3060 6902
jeremy.barnes@rpc.co.uk

Robert Morris
Partner
+44 20 3060 6921
robert.morris@rpc.co.uk

David Smyth
Partner
+852 2216 7100
david.smyth@rpc.com.hk

Art and Specie

Rupert Boswall
Partner
+44 20 3060 6487
rupert.boswall@rpc.co.uk

Davina Given
Partner
+44 20 3060 6534
davina.given@rpc.co.uk

Key developments in 2015

As anticipated in last year's review, judgment has been given in the case of *Thwaytes v Sotheby's*. In 2006, Mr Thwaytes sought advice from Sotheby's as to whether an inherited painting depicting *The Cardsharps* by Caravaggio might be an original work. Sotheby's advised that it was a 17th century copy and Mr Thwaytes sold the painting at Sotheby's for £42k on that basis. In December 2007, the Daily Telegraph reported under the headline "*Caravaggio worth £50m discovered*" that the painting had been bought by Sir Denis Mahon and authenticated by him as the predecessor of *The Cardsharps* in the Kimbell Museum in Texas. Mr Thwaytes claimed against Sotheby's alleging that it had failed in its duty to research and advise upon the painting.

The court held that Sotheby's had a duty to assess paintings by highly qualified people who had access to leading art historians, but that Sotheby's was entitled to rely on its in-house expertise and connoisseurship. There had been no breach of duty by the in-house experts, but even if there had been a breach and they should have sought external opinions, doing so would have led to no more than an additional note in the catalogue. The court was not prepared to speculate on how that would have affected the price. The outcome was a resounding victory in favour of Sotheby's, and will be of benefit to auctioneers defending negligence claims.

What to look out for in 2016

Freeports were in the news this Autumn, with multiple civil and criminal proceedings against Yves Bouvier, the owner and operator of a number of freeports, in connection with his relationship with Russian billionaire Dmitry Rybolovlev. This has drawn attention to the growth of freeports for art storage, particularly in the Far East, with freeports opening in Singapore and Beijing in recent years, and another expected in Shanghai.

Anecdotally, they have been extremely successful, with the Singapore freeport said to be almost full in late 2013. While it is yet to be seen how Eastern interest in the art market may be affected by the slowdown in the Chinese economy, the success of the freeports to date poses serious aggregation risks for insurers. While privacy is usually the watchword at freeports, insurers should be looking to monitor what art may be in storage at what freeport and the security measures being taken by the freeports.

Brokers' Professional Indemnity

Joe Bryant
Partner
+44 20 3060 6905
joe.bryant@rpc.co.uk

Ben Goodier
Partner
+44 20 3060 6911
ben.goodier@rpc.co.uk

Key developments in 2015

The Insurance Bill 2015 was granted Royal Assent earlier this year and there has been much activity since then, to ensure that the broking community is ready by August 2016 when the Act takes effect. Some insurers and brokers have made good headway already; many, however, still have a long way to go.

The Act requires more extensive pre-contract disclosure than ever before, with the onus firmly on the broker to ensure that "full disclosure" is made. Too much information and the broker will be accused of "data dumping"; too little and E&Os beckon. It will be a tricky balance, and the resulting information must be provided to the insurer in a very clear and accessible manner.

Perhaps in an attempt to streamline the new processes that the Insurance Act will require (and to deal with the ongoing Financial Conduct Authority review into broker remuneration), broker consolidation has been rife again in 2015. This has had the effect of diversifying offerings to clients, extending geographical reach and allowing global brokers to tap into the UK SME market, which they have previously struggled to service. However, the benefits of M&A activity also bring risks; different cultures take time to gel, new management teams take time to bed in and the claims risk will always be highest in organisations where the underlying structure is unsettled.

What to look out for in 2016

Whilst the Insurance Act undoubtedly puts the broker into the spotlight, the aim of the legislation is really to make it harder for insurers to avoid paying claims, which should be good news for brokers and their E&O insurers. Although brokers' duties remain stringent, we predict a marked reduction in claims over the coming period given that E&Os frequently arise out of declinatures.

That said, there remain two areas of potential risk that we see as being dominant in 2016. These are "emerging risks" and cyber/tech.

Regarding emerging risks, clients who have never bought insurance before have been targeted over recent years, but such clients often struggle to understand the cover they now have, and their obligations under it. Brokers need to be alive to this possible lack of understanding and adapt their practices accordingly. They will also need to maintain good files so as to support them if the client's breach of the policy terms is ever blamed on a lack of explanation from the broker.

As for cyber, this increasingly concerning exposure is starting to be felt at SME level as well as at major corporate level. Selling a cyber extension bolted onto another policy may provide SME policyholders with some comfort, but the level of cover is unlikely to be sufficient if a major data breach occurs. Many brokers do not yet fully understand what they are selling relative to the size of the risk, and significant claims await those who get it wrong.

Construction

Alan Stone
Partner
+44 20 3060 6380
alan.stone@rpc.co.uk

Peter Mansfield
Partner
+44 20 3060 6918
peter.mansfield@rpc.co.uk

Antony Sassi
Partner
+852 2216 7101
antony.sassi@rpc.com.hk

Key developments in 2015

On 6 April 2015, the new Construction (Design and Management) Regulations 2015 came into force. The aim of the Regulations is to put health and safety at the centre of construction projects.

The key change is that in projects where there is more than one contractor, the client must appoint a "principal designer". The Regulations state that the principal designer must be a "designer", must have "control over the pre-construction phase" and must have the "skills, knowledge and experience" to fulfil that role. Each of these requirements is relatively wide in scope, thereby opening the role to a range of professionals (although crucially the intention is that it is not available to a former CDM coordinator). The architect is the obvious candidate.

The impact of the new role on the number of professional indemnity claims remains to be seen. At this early stage, it is important for insurers to consider whether the proposal form asks questions about the new role, the insured's experience and training in carrying out the role and whether the insured has the appropriate skill set to fulfil it. The scope of professional services covered by the policy may also need to be considered.

What to look out for in 2016

From 2016 all publicly funded construction projects will have to use Level 2 Building Information Modelling (BIM).

BIM is a process for creating and managing all the information on a project – before, during and after construction electronically in a digital model. Level 2 BIM requires the individual design team members to prepare their own 3D information models; typically there is no centrally-held single model of the entire project.

The project design information is managed and integrated by a BIM coordinator or model manager who deals with design clashes when they occur. The idea is to identify design clashes/errors earlier in the project, and for those clashes to be rectified at a significantly reduced cost, both in time and money. Level 2 BIM should not pose any serious difficulties to the insurance market in terms of policy response. Providing the insured uses a recognised industry process (see document PAS 1192-2:2013) for BIM management when adopting Level 2 BIM and further, the insured has notified their broker/insurer that they have become engaged in a BIM project, no serious issues should arise.

Further guidance on BIM can be obtained in the "BIM Protocol; the "Best Practice Guide for Professional Indemnity Insurance When Using Building Information Models"; and an "Outline Scope of Services for the Role of Information Management" creates a specific non-design role of Information Manager (separate from the role of BIM coordinator); which can be all found on the BIM Task Group website (click here).

Corporate Insurance and Regulatory

Key developments in 2015

The last year has seen the Financial Conduct Authority (FCA) continue to use thematic reviews as part of its overall supervisory approach with a particular focus on insurance distribution.

Of the FCA's findings published to date, the FCA's view of delegated authority arrangements in the general insurance market has been the most critical. The FCA found that insurers did not give sufficient consideration to operational and conduct issues when selecting third party providers, the contractual arrangements did not reflect the arrangements in place, controls over outsourced functions were not sufficient and appropriate management information was not being collected. The FCA is concerned that customers are not being treated fairly where functions are outsourced and multiple firms are involved.

This year also saw the FCA publish its policy statement on general insurance add-ons. The FCA has published rules and Handbook guidance on the banning of opt-out sales and the provision of information to customers buying add-ons to general insurance products; the rules come into force from 1 April 2016. The FCA has also issued non-Handbook guidance on the provision of information which is now in force and the FCA expects firms to have made the necessary changes to their sales journeys by 30 September 2016. The FCA intends to consult on introducing a value measure for general insurance products later in 2016.

What to look out for in 2016

On 7 March 2016, the Prudential Regulation Authority's (PRA's) Senior Insurance Managers Regime (SIMR) will come into force. This regime for personal accountability builds on the concept of key function holders which is being introduced as part of Solvency II. Whilst Solvency II only applies to the largest firms, the SIMR will apply to all insurers in some form. Under the SIMR insurers are required to allocate certain responsibilities to identified senior managers. This allocation of responsibilities will need to be set out in a "Governance Map" which will correspond to the descriptions given of each individual's responsibilities in their "Scope of Responsibilities" document. Unlike the PRA, the FCA is not proposing to ditch the Approved Persons Regime (APR) but it will be changing the APR next year, so that individuals who would previously have required pre-approval by the PRA will now require pre-approval by the FCA.

As part of the reforms, the regulators have also announced significant new rules concerning issues such as whistle-blowing and the provision of regulatory references for prospective new employers. Both regulators have emphasised that the changes to the regime for personal accountability are not about "heads on spikes" but the new regime will make it easier for enforcement action to be taken against individuals. Senior managers are currently supervising implementation projects as well as taking advice on the implication for them personally.

Finally it should be mentioned that this is not the end of the story; the government has recently announced that the new regime for personal accountability in banks (which goes much further than the regime for insurers) will be extended to all financial services including insurers in 2018.

Richard Breavington
Partner
+44 20 3060 6341
richard.breavington@rpc.co.uk

Robbie Constance
Partner
+44 20 3060 6422
robbie.constance@rpc.co.uk

David Webster
Partner
+44 20 3060 6614
david.webster@rpc.co.uk

Directors & Officers

Key developments in 2015

The unethical practices of D&Os have been hitting the headlines in 2015. Without doubt, the biggest scandals of the year have been FIFA and Volkswagen (VW).

Back in May, several FIFA officials were arrested in raids in Switzerland. The raids were the start of a complex and expanding investigation by the US and Swiss authorities into alleged corrupt practices at FIFA. This scandal is notable because it demonstrates a willingness on the part of US authorities to initiate investigations that have a limited connection with the US.

In September, news of a bigger scandal (in monetary terms) broke. Following a US Environment Protection Agency investigation, VW admitted that it had fitted "defeat devices" to approximately 11m diesel-powered cars worldwide. The devices cheated US emissions tests to ensure that their cars did not exceed statutory limits for nitric oxide and nitrogen dioxide. Since the initial story broke, the scandal has spread to other brands within the VW Group (eg Audi) and the cheating of mandatory EU emissions tests.

The scale and publicity of these scandals are a serious exposure for D&O insurers. In addition to the traditional D&O exposures, extended covers will also be exposed. For example, sub-limited cover for reputational management will be fully exposed and the limited nature of such cover might lead insureds to question its value.

This added scrutiny and publicity will only fuel the rise of "shareholder activism" if shareholders believe that they have been misled and made poorer by the unethical and/or unlawful conduct of D&Os.

What to look out for in 2016

The Financial Conduct Authority's (FCA's) new rules on whistleblowing will be in force from September 2016. The rules are designed to provide a recognised framework for employees to report serious fraud and/or unlawful conduct, in exchange for legal protections and/or immunity from prosecution. These rules are being introduced at the same time as the first use of a Deferred Prosecution Agreement (DPA) by a UK prosecutor (the Serious Fraud Office) (SFO). It is hoped, by the UK authorities, that DPAs and whistleblowing will reduce the length of criminal prosecutions and increase revenues for HM Treasury. It should be noted, however, that (unlike in the US) whistleblowers will not be paid from a share of the imposed fines.

Whistleblowing could cause a number of problems for D&O insurers and their wordings. Taking one issue as an example, an admission of a wrongful conduct by a whistleblower (who is also an insured person) could trigger a standard conduct exclusion. However, in this example, the admission could lead to an immunity/leniency agreement with a prosecutor, which could also reduce any policy exposure and therefore be in the insurers' interests. To get around this problem, underwriters and brokers may want to consider creating bespoke whistleblowing conditions for their wordings; this condition could seek to preserve cover if the whistleblower (and insured person) is complying with the FCA's whistleblowing rules and guidance.

These new rules will take time to bed-in and in the short term could lead to more investigations and exposures for insurers.

Simon Goldring
Partner
+44 20 3060 6553
simon.goldring@rpc.co.uk

Will Sefton
Partner
+44 20 3060 6924
will.sefton@rpc.co.uk

Antony Sassi
Partner
+852 2216 7101
antony.sassi@rpc.com.hk

Energy

Leigh Williams
Partner
+44 20 3060 6611
leigh.williams@rpc.co.uk

Mark Errington
Partner
+65 6818 5666
mark.errington@rpc.com.sg

Key developments in 2015

Since the publication of last year's Annual Insurance Review, the energy market has witnessed a substantial fall in oil prices. The price of crude oil has halved since late 2014, and now stands at under $50 a barrel.

The falling oil price is largely the result of an unanticipated rise in the production and supply of US shale oil, and unexpected reductions in oil demand from consumer nations caused by economic stagnation and increased energy efficiency. The descent has had a significant impact on the balance sheets of oil companies. Amongst large-scale lay-offs and mothballed projects, some production companies have entered into mergers to protect their businesses.

In a bid to minimise loss costs, oil companies have reduced their risk management budgets. Resultantly, insured oil companies are putting increased pressure on insurers to reduce their premiums at renewal. In the context of a soft market, insurers' ability to resist their insureds' price demands is fettered. Insurers' position is further aggravated by a reduction in the premium pool available to insurers, as a result of mergers and insolvencies of insureds within the oil and gas industry.

The consensus amongst economists is that oil prices will not return to the $100 mark for the foreseeable future. The oil price collapse has also coincided with stagnant global interest rates and low incidences of major loss, which has caused high levels of market capacity, resulting in extraordinary competitive pressure on insurers. This pressure is likely to remain until the energy market becomes a less attractive venture for investors, conceivably as a result of deteriorating profitability, alternative investment opportunities and/or a series of major losses.

What to look out for in 2016

As discussed above, the fall in oil prices has had a detrimental impact on oil company finances. Future projects, such as Shell's Pierre River project in Alberta, have been mothballed due to unfavourable economics. Similarly, operational but marginal programmes that were conceived before the oil-price crash, will now be loss-making ventures from which operators will be keen to walk away.

Over the coming year, it's possible that insurers will see an increase in the number of claims arising from the decommissioning and dismantlement of mothballed or abandoned projects. As an irrecoverable loss cost, insureds will be keen to wind-down projects as economically as possible. Cost-saving efforts that have been implemented by oil companies may increase the incidence of claims. Measures such as cheaper labour, reduced managerial supervision and the use of inferior equipment/materials could increase the risk of error, delay and operational failure.

However, there is some indication that energy losses will be mitigated by the fall in oil prices. The large scale redundancies across the industry over the last year may have increased the quality of the remaining pool of construction and operational engineers. In addition, companies are likely to be increasingly risk averse to ensure that operational projects are not hampered by delays and additional cost.

Financial Institutions

Key developments in 2015

The foreign exchange rigging scandal refuses to go quietly. Last year we reported a deluge of regulatory fines, and global banks' balance sheets have taken another hit in 2015. US authorities imposed $5.6bn in further penalties, whilst the Financial Conduct Authority (FCA) fined Barclays more than £284m for control failures in its forex business – the largest fine in the UK regulator's history.

Civil proceedings picked up pace as well. August saw nine banks – including Barclays, HSBC and Royal Bank of Scotland (RBS) – settle a New York class action for a ground-breaking $2bn. Meanwhile, the arrest of a former RBS trader in December 2014 marked the intensification of the Serious Fraud Office's criminal enquiry. By June, investigators were preparing interviews under caution with senior traders, including several alleged members of the online chatrooms in which fixing was orchestrated.

As the scale of the manipulation became ever more apparent, regulators' attentions turned to prevention. In April, the FCA gained new powers to regulate seven financial benchmarks, including the so-called "4pm London fix" which the manipulators targeted. June saw the conclusion of the Bank of England's Fair and Effective Markets Review. The Bank's final report recommended the introduction of a statutory market abuse regime for forex, enhanced sentencing powers, and an "FX code" governing traders' conduct.

Insurers with potential exposures to regulatory fines should assess the applicable English law and their coverage response options carefully. Whilst there are clear principles which apply to this issue, their application is not always straightforward.

What to look out for in 2016

In October 2015, the FCA made two proposals relating to payment protection insurance (PPI) complaints. Firstly, the regulator intends to impose a "deadline" after which historic PPI complaints cannot be brought, presently expected to be spring 2018. Whilst institutions and their insurers will be relieved at the introduction of this long-stop date, the trade-off may be a fresh surge in complaints over the next two years.

The FCA's second proposal further enhances the prospects of a surge in PPI claims. This proposal relates to commissions not disclosed to purchasers of PPI (following the Supreme Court's findings in *Plevin v Paragon Personal Finance*). In summary, where at least half of the PPI premium was not remitted to the insurer but was retained as an undisclosed commission, the lender would be required to pay redress on the basis that its relationship with the borrower was "unfair" under the Consumer Credit Act 1974.

If accepted, this proposal could encourage a fresh category of complaints which do not rely on the unsuitability of the PPI policy – potentially opening the door to compensation for claimants whose complaints were previously rejected. Banks have already expressed concern, with one high street name noting in its interim results that "there is currently a high degree of uncertainty as to the eventual costs of redress".

The FCA published its consultation paper, covering both proposals, in November 2015 and responses are due by 26 February 2016. Institutions will no doubt have plenty to say, and their insurers will await the outcome of the consultation with interest.

Simon Greenley
Partner
+44 20 3060 6854
simon.greenley@rpc.co.uk

James Wickes
Partner
+44 20 3060 6047
james.wickes@rpc.co.uk

Antony Sassi
Partner
+852 2216 7101
antony.sassi@rpc.com.hk

Financial Professionals

Key developments in 2015

Pension freedoms were the key change in 2015, coming into effect in April 2015 and permitting pensioners to draw down their pension entirely in cash, as well as introducing a number of other options, such as income draw down with no upper limit. The impact was immediate, with £2.5bn being withdrawn in the three months following introduction, and drawdown replacing annuities as pensioners' preferred retirement option. Change inevitably creates new risks and challenges, perhaps particularly in relation to the tax implications of the new freedoms. However both the Financial Conduct Authority (FCA) and the Treasury are discussing further changes (for example, clarifying the distinction between advice and guidance) which may reduce risk for insurers which have clients involved in the pension advice industry.

Pension freedoms landed in a post-Retail Distribution Review (RDR) landscape, creating fears that newly free pensioners would fall straight down the advice gap. Post-RDR, advisers are no longer remunerated by commission and instead must charge fees. Across the advice market, consumers now have to pay for advice which was previously apparently free at point of sale. Wealthy consumers have the means and the motivation to meet these charges, but those less well-off may not. A key challenge for advisers in 2015 and beyond is deciding whether to offer services to plug this gap, and if so, how to do so. The "rise of the robots" has been much touted, with firms investigating their options for providing cost effective advice on an automated or semi-automated basis.

What to look out for in 2016

The advice gap is likely to be the key focus for 2016. The FCA launched the Financial Advice Market Review (FAMR) in August 2015 "to examine how financial advice could work better for consumers" and, in October 2015, the FCA confirmed that one of FAMR's key objectives would be to "examine whether there's an advice gap for those people who don't think they can afford to get financial advice". The FAMR consultation exercise closed on 22 December 2015 and the FCA intends to produce proposals ahead of Budget 2016.

Innovation may be a feature of 2016, not just in how advice is delivered, but also in the products which reach the market. In 2016, robo-advice may be the focus of firms' investigations into gap-filling advice delivery. Investment and innovation will be needed, from both firms and their technology providers, if efficient and cost effective technology is to be developed. Robo-solutions will also have to be backed by firm's insurers, which may be wary of a potential new pool of systemic complaints (affecting all clients using a faulty robo-solution).

Project Innovate was developed by the FCA in order to foster the development of new products and services. At the end of 2015, the FCA announced the introduction of a regulatory "sandbox" – a safe space in which firms can test innovative products without the usual regulatory consequences. In Spring 2016, this sandbox will open for proposals from firms for testing. If the usual regulatory consequences truly are suspended, then this may reassure insurers concerned that product innovation might mean an increased risk of claims.

Simon Laird
Partner
+44 20 3060 6622
simon.laird@rpc.co.uk

Jeremy Barnes
Partner
+44 20 3060 6902
jeremy.barnes@rpc.co.uk

Antony Sassi
Partner
+852 2216 7101
antony.sassi@rpc.com.hk

General Liability

Gavin Reese
Partner
+44 20 3060 6895
gavin.reese@rpc.co.uk

Nick McMahon
Head of Health and Safety
+44 20 3060 6896
nick.mcmahon@rpc.co.uk

Key developments in 2015

Whilst Qualified One Way Cost Shifting (QOCS) has been around since April 2013, it was not until 2015 that QOCS became the norm for litigated claims. With no cost risk and economics in their favour, some claimants appear to have been trying their luck in the hope that insurers will simply fold when faced with low value claims. Thankfully insurers have taken a strong stance in respect of spurious claims, despite not being able to recover their own costs, and with some successes for defendants at trial, hopefully claimants will think twice about issuing proceedings in the hope that insurers will be buying off even the most spurious of claims.

Some legislative assistance has been provided to defendants in 2015 to fight such claims. s.57 Criminal Justice and Courts Act 2015 altered the previous position meaning that a court must now dismiss a fundamentally dishonest claimant's claim in full, including all honest elements of a claim (subject to any "substantial injustice"). The Social Action, Responsibility and Heroism Act 2015 directs that the court must have regard to whether the alleged negligence or breach of statutory duty occurred when a person was acting for the benefit of society, acting heroically by intervening in an emergency to assist an individual in danger or acting with a predominantly responsible approach towards protecting the safety of others.

What to look out for in 2016

Despite being relevant to both QOCS and s.57 Criminal Justice and Courts Act 2015, the precise nature of "fundamental dishonesty" remains a grey area because it hasn't been defined by statute. An exception to QOCS applies where a claimant is found to have been fundamentally dishonest (CPR 44.16) and a fundamentally dishonest claim must now be dismissed in full under s.57, yet neither provides a definition.

The first case to deal with fundamental dishonesty under CPR 44.16 was *Gosling v Screwfix Direct Ltd 2014*. The court found that fundamental dishonesty had to be given a contextual meaning. "Incidental" or "collateral" dishonesty was not fundamental. Dishonesty that went to the "whole or a substantial part" of the claim was required. However, at the time of that judgment s.57 had not been introduced and as such a claimant could still recover those damages honestly incurred. As such there were different considerations to be had when considering where to "set the bar". Given the benefit to defendants that can be obtained by a finding of fundamental dishonesty it is likely that 2016 will see the courts being asked to provide further and more detailed guidance on this issue.

Health & Safety

Nick McMahon
Head of Health and Safety
+44 20 3060 6896
nick.mcmahon@rpc.co.uk

Gavin Reese
Partner
+44 20 3060 6895
gavin.reese@rpc.co.uk

Key developments in 2015

This year saw an increase in corporate manslaughter convictions. After a slow start following implementation of the Corporate Manslaughter and Homicide Act 2007 (the Act) in 2008, there have now been 16 convictions in total, with six alone in 2015. This year saw the highest fine imposed under the Act to date, CAV Aerospace Ltd fined £600k following the death of an airport worker when a load toppled onto him.

So far the fines imposed under the Act have been against relatively small companies only, and there has yet to be a conviction against a large company. With the new sentencing guidelines being published in November 2015 (see below), corporate entities convicted under the Act will face significantly higher penalties, whatever their size. CAV Aerospace Ltd had an annual turnover of approximately £75m as at December 2013. Had it been sentenced under those guidelines, the fine could have ranged between £4.8m and £20m, subject to mitigation and scrutiny of company finances.

There has been an increasing use of the court's discretion to make publicity orders when sentencing under the Act. Such orders have compelled the convicted company to advertise or publicise its conviction. The consequences of reputational damage could in some cases outweigh any fine.

This year also saw the first prosecution under the Act brought against a health Trust. In October 2012, a mother died within hours of giving birth to her second son at Tunbridge Wells Hospital. She had required an emergency caesarean operation. The trial is expected to commence in January 2016 and will no doubt receive much press coverage.

What to look out for in 2016

Tougher sentencing has now arrived for those convicted of health and safety offences, corporate manslaughter and food safety and hygiene offences. The Sentencing Council published the new sentencing guidelines in November 2015, and these will apply to sentencing on or after 1 February 2016, regardless of the date of the offence.

The guidelines are intended to provide more consistency, and alignment between the level of sentencing and a defendant's financial means. There is no upper limit on penalties. However, the offence range for large organisations with an annual turnover of more than £50m will be from £4.8m to £20m for offences under the Corporate Manslaughter and Homicide Act 2007 and up to £10m for the most serious of other health and safety offences. Organisations turning over substantially more than £50m could face punishment well above that bracket. Overall, levels of fine could be significantly higher than is currently the case.

A warning sign was sent by the Court of Appeal in June 2015 in a case concerning the level of fine placed on Thames Water Utilities Ltd for an environmental offence (see [2015] EWCA Crim 960). The court stated that a fine for very large companies could be in excess of £100m. Such fines, which the financial services market is used to, could now be seen within the health and safety sector. In addition to financial penalties there is an increased risk particularly of imprisonment for individual failures.

We will await with interest how courts will apply these guidelines, and in due course how that might impact on accident statistics.

RPC

International Arbitration

Jonathan Wood
Head of International Arbitration
+44 20 3060 6562
jonathan.wood@rpc.co.uk

Key developments in 2015

This year saw a further explosion of interest in how parties and legal representatives conduct themselves in international arbitration and ethical considerations.

The London Court of International Arbitration (LCIA) adopted explicit provisions in the new LCIA Arbitration Rules and proposals for a global ethics tribunal. The Rules are the first institutional rules that have included provisions regulating the legal representatives' conduct. Article 18 of the Rules deals with the parties' fundamental right to choose legal representatives, as well as with the consequences of any change or addition to the parties' legal representation after the formation of the arbitral tribunal. The Rules contain "General Guidelines for the Parties' Legal Representatives", including an obligation not to mislead the tribunal. Further, they expressly establish the tribunal's power to determine violations of the Guidelines and to order sanctions against the legal representatives in the case of a violation. One might argue that the regulation is necessary to level the playing field in international arbitration where standards differ due to cultural differences. However, the arbitration community echoes the risks of over-regulation and the introduction of too stringent standards. It would certainly be interesting to observe further developments in this key area and whether the LCIA will step up as the international regulatory body.

What to look out for in 2016

Insurance disputes are often resolved through arbitration, particularly disputes arising out of risks underwritten in less established insurance markets.

As Lloyd's of London pursues its Vision 2025 which will see the market focus on emerging markets, reliance on arbitration clauses will increase. This will be supported by changes in local law in emerging market jurisdictions to support the effective arbitration of disputes.

We saw the implementation of new arbitration laws incorporating or based on the UNCITRAL Model Law in Saudi Arabia in 2012 and in Bahrain in 2015 as well as an important overhaul of arbitration law in India. Emerging markets will also see development in the infrastructure necessary to support arbitration, for example, the Russian Arbitration Association was formed in 2013. The growth and development of laws supporting arbitration in emerging markets will continue into 2016.

International Property

Rebecca Hopkirk
Partner
+44 20 3060 6210
rebecca.hopkirk@rpc.co.uk

Mark Errington
Partner
+65 6818 5666
mark.errington@rpc.com.sg

Key developments in 2015

Following another year of benign natural catastrophe losses and low global interest rates, alternative capital has continued to flow into the international property insurance and reinsurance markets.

The insurance linked securities (ILS) market has developed into a mainstream source of capacity for catastrophe programmes. The increased utilisation of alternative capital insurance arrangements has decreased the market share and premium rates of reinsurers within the traditional market. Whilst the incremental shift from traditional reinsurance will likely continue into 2016, it remains to be seen how the ILS market will respond to increases in global interest rates, or to a major unmodelled loss event. The recent BHP mining loss in Brazil is expected to give rise to insurance claims totalling in excess of $500m. Losses on this scale serve as a reminder of the importance of good technical underwriting, and will test the resolve of recent entrants and the sustainability of current pricing trends. There are concerns that the influx of investor capital is a temporary "good weather" phenomenon, and that interest from investors will dissipate if the investment environment becomes turbulent.

What to look out for in 2016

The rush for terrorism cover and policy-extensions after 9/11 was motivated by an anticipation of further, and similar, catastrophic attacks on commercial property. The terrorists' intention to cause fear was realised in the growth of the terrorism insurance market.

The horrific attacks across Paris on 13 November 2015 may trigger another rise in interest for terrorism cover. Aside from the incalculable human cost, it is anticipated that the cost of the attack on the Parisian economy will amount to between $9bn and $12bn. Although damage to property in the Paris attacks was minimal, the severity of the incident has created a perception that the risk posed by terrorists is significant. Furthermore, the use of explosive devices during the attack demonstrates the destructive capability of terrorist groups operating within Western nations.

The perceived increase in terrorism risk has coincided with the growth of the cyber-risk market. The, once-theoretical, risk that a cyber-attack could cause damage to physical property was realised in December 2014, when hackers attacked the systems of a steel mill in Germany (ThyssenKrupp) and disabled the mill's ability to shut down its blast furnace causing significant property damage. An attack of a similar nature at a power plant or refinery could cause far greater destruction.

Terrorist groups have declared an intention to instigate cyber-attacks, and in May 2015 hackers associated with ISIS declared "Electronic War" on the West. It is likely that many insureds will revisit their terrorism insurance arrangements in light of recent events.

As profitability continues to decline in the hyper-competitive established international property markets, insurers will continue to look for opportunities in emerging markets. As many of those risks will be in areas of political, economic or social instability, there is also likely to be an increased demand for political violence cover. (Re)insurers are increasingly required (whether by local regulation or pressure at renewal) to adopt local law in their policies, so this will expose them to the risks inherent in writing business in those areas. (Re)insurers will need to be alert to the nuances of local law/regulations, understand how they will impact on the scope of cover and if there is limited local claims handling expertise it's anticipated there will be increased efforts to retain claims control if possible.

Legal Practices

Key developments in 2015

The upsurge in solicitors' PI notifications following *Mitchell v News Group International (2013)* – which held that parties failing to comply with Court rules are unlikely to obtain relief from sanction – has thankfully reduced following the Court of Appeal's common sense in the *Denton, Decadent and Utilise* appeals. However, the post-*Mitchell* world is still very stringent and claims volumes remain significantly higher than before.

Firms need to pay close attention to deadlines and if they believe that the deadline may be missed, they should consider whether they are able to use the buffer rule under CPR 3.8 (4) to agree an extension. It is not just a matter of complying with deadlines. Costs budgets, which are now required in all cases where the sum claimed is less than £10m, need to be carefully prepared. Lawyers should budget early. The estimated costs should be proportionate to the sums claimed. There is a limited opportunity to change any budget.

There is a significant risk of having a lower budget imposed which also means that the risk of overshooting any budget increases. Law firms may then face claims from clients for that overshoot of costs. This then brings into play coverage issues – costs recoveries are arguably not covered. However, in the event that the claim arises as a result of the negligent drafting of the budget, cover should be provided.

What to look out for in 2016

Cyber attacks have increased significantly in 2015, and look set to rise further in 2016. Fraudsters initially targeted high street conveyancing firms but are now moving onto larger firms (with larger client account balances).

Scams are becoming more inventive, and include so-called "spear phishing attacks" where fraudsters infect the firm's systems with malware, which then intercepts legitimate banking traffic and changes payment details to the fraudster's account. Clients have also been targeted with these scams, receiving emails purporting to be from their lawyers with new bank details and asking them to send money to the new (fraudulent) account.

These attacks are costly not just in terms of money stolen but in the time required to resolve them. The Information Commissioner's Office will need to be notified, as will the Solicitors Regulation Authority and any affected data subjects. There may be claims for damages from affected parties, whilst the prospects of recovery from the fraudster are slim. The firm's day-to-day operation may also be interrupted whilst the data breach is investigated, not to mention long-lasting reputational damage.

Firms should update their security software frequently and check to ensure that banking queries really are genuine before acting on them. Given that solicitors' professional indemnity policies were not created with cyber risks in mind, firms should consider obtaining dedicated cyber risk insurance cover, as they could otherwise be left with an uninsured loss if they are targeted.

Paul Castellani
Partner
+44 20 3060 6344
paul.castellani@rpc.co.uk

Joe Bryant
Partner
+44 20 3060 6905
joe.bryant@rpc.co.uk

Antony Sassi
Partner
+852 2216 7101
antony.sassi@rpc.com.hk

Life Sciences

Dorothy Flower
Partner
+44 20 3060 6481
dorothy.flower@rpc.co.uk

Key developments in 2015

Insurers in the Life Sciences sector may look back on 2015 as the year when consumers' use of their own clinical data changed forever, with as yet unpredictable consequences.

The Apple Watch, launched in March 2015, led the charge for an industry that now offers consumers the possibility of harvesting and using their own clinical data in a way that until recently was the preserve of doctors. Clinical information collated by wearable devices includes heart rate, activity levels and sleep patterns. The Apple Watch uses its built-in accelerometer and heart rate sensors, in tandem with GPS on an iPhone, to track motion and provide a user with feedback on fitness levels. If that is the extent to which manufacturers hope consumers use the Apple Watch and similar devices, then there is little reason for insurers to be concerned by consumers' use of health data. However, manufacturers have signalled that apps will be able to measure activities and use risk factor information to evaluate users' lifestyles in relation to key health indicators.

Insurers of health professionals who rely on data collected that way should be alert to the risk of error and consequent misdiagnosis. Insurers of the manufacturers of such devices should be aware of the risk that technology-literate consumers may use this information to attempt to self-diagnose and even to self-treat.

Consumers who are unaware of the potential consequences and implications of using unfamiliar software may blame the manufacturer when something goes wrong. The key for insurers of wearable devices is to communicate where responsibility lies for acting on the information generated by the product. A gadget is unlikely to cause injury on its own: the risk lies in a consumer acting (incorrectly or unwisely) on the complex health data it generates.

What to look out for in 2016

Insurers will be waiting to see whether proposed amendments to the regulation of medical devices make it from the EU's committee rooms to law during 2016.

Draft regulations are intended to replace the existing trio of Directives on the regulation of medical devices and in vitro diagnostic medical devices. The new regulations were drafted by the European Commission, have been reviewed by the European Council, and are currently making their way through the European Parliament.

The key proposals include: the extension of the regulatory regime to aesthetic products that are similar to medical devices; amendments to the definition of software as a medical device; further requirements for manufacturers to improve the traceability of medical devices; obligations to publish the outcome of clinical evaluations; and increased responsibilities for notified bodies to carry out unannounced audits and tests.

Until now, the European framework for the regulation of medical devices had remained largely unchanged since the 1990s. The new laws will represent a significant addition to the regulatory burden on manufacturers and notified bodies. Insurers and manufacturers should be prepared to ensure medical devices are manufactured and marketed in compliance with the new regime when it comes into force.

Marine/Shipping

Andrew Horton
Partner
+852 2216 7102
andrew.horton@rpc.com.hk

Iain Anderson
Partner
+65 6818 5672
iain.anderson@rpc.com.sg

Steven Wise
Partner
+852 2216 7171
steven.wise@rpc.com.hk

Key developments in 2015

The shipping market has experienced relatively rough seas in 2015, which has seen further high-profile insolvencies of ship owners, operators, charterers, financers and suppliers worldwide. When OW Bunker declared bankruptcy in November 2014, it was the third-largest company in Denmark by turnover and the world's largest marine fuel supplier. The insolvency has thrown up issues of credit insurance and legal expenses insurance.

The sudden collapse of a marine fuel supplier which many in the market previously considered "too big to fail" has made a strong case for credit risk insurance, as it has been reported that the OW Bunker insolvency has left banks, physical suppliers and traders hundreds of millions of dollars out of pocket. Further knock-on insolvencies are expected.

One of the "International Group" of specialist marine legal expenses insurers is currently supporting its shipowner assured in a "test case" against allegedly secured creditors of OW Bunker, potentially all the way to the Supreme Court in England.

On the cargo insurance side, the port explosion in Tianjin, China in August 2015 is expected to be one of the largest single cargo loss events in history, with the auto industry expected to be a major contributor to cargo and stock losses. The scale of the damage also throws the risks posed by undeclared dangerous cargo into stark relief.

Although a number of individuals have been detained by the Chinese authorities, no official report into the cause of the explosion has yet been published, and in the meantime cargo insurers have been asked to foot the bill in the first instance under cargo policies. Such losses may, however, find their way to liability insurers of the warehouses, freight forwarders and carriers concerned.

What to look out for in 2016

The Insurance Act 2015 will affect the operation of marine insurance policies written from 12 August 2016.

Warranties become "suspensive conditions" so that an insurer's liability to pay claims is suspended until a breach is remedied. Take the hull insurance of a rig for a towage voyage where the insured warrants use of a tug with a minimum bollard pull. If a tug with pull below the warranted threshold is used, cover will be suspended if and until a substitute tug with sufficient pull is employed. The Act also introduces new provisions that will prevent an insurer from refusing cover if it can be shown that non-compliance with a term could not have increased the risk of the loss which occurred. If the rig being towed by the tug with below warranty pull was lost through fire – the pull not increasing the risk of the fire – the insurer may not be able to deny cover.

The onus to disclose material circumstances remains largely on the insured, with fair presentation deemed when the prudent insurer is put "on notice". The *Galatea* decision earlier this year provides an interesting example of how the Act will impact remedies for innocent non-disclosure. The *Galatea* was insured for €13m. Post-loss it transpired that a valuation of €7m had been obtained prior to placement which was not disclosed. Although the non-disclosure was innocent it was material and insurers could avoid cover. Justice Legatt noted that were the Act already in force the insurance would have been treated as valid in the reduced amount of €8m – how much insurers would have insured the vessel for had that valuation been disclosed.

Media

Key developments in 2015

Keith Mathieson
Partner
+44 20 3060 6486
keith.mathieson@rpc.co.uk

There have been a number of important libel decisions this year in relation to aspects of the Defamation Act 2013. Examples are *Lachaux v Independent Print Limited*, which requires claimants to provide evidence of damage to reputation in order to establish serious harm, and *Yeo v Times Newspapers Limited*, which indicates that the defence of publication on a matter of public interest is likely to operate in a similar way to the old Reynolds privilege defence. The full impact of the Act is not yet clear, but developments thus far are generally of benefit to defendants.

In September, the Press Recognition Panel (which had been established as part of the Royal Charter, which was enacted in the wake of the Leveson Inquiry) declared itself open to receive applications from prospective self-regulators. Most media organisations are members of the Independent Press Standards Organisation (IPSO) which was set up in opposition to the Government's proposals. Another self-regulator, the Independent Monitor for the Press (IMPRESS), stated that it would apply for recognition under the Royal Charter in late 2015. Whether the application will be approved remains unclear, as does IMPRESS' chances of attracting publishers.

What to look out for in 2016

The General Data Protection Regulation is likely to enter into force in 2016 and will replace the Data Protection Directive, which dates from 1995 and was incorporated into English law by the Data Protection Act 1998. The new Regulation is likely to expand and codify the so-called "right to be forgotten" following the decision of the European Court of Justice in the *Google Spain* case, enhance the level of protection accorded to users' data and increase the regulatory burden on individuals and organisations that process it.

The next year will also see the case of *Vidal-Hall v Google* go before the Supreme Court. The case will conclusively determine the question of whether claimants suing under the Data Protection Act should be able to recover damages where they have not sustained pecuniary loss. If the Court of Appeal decision, which answered that question in the affirmative, is upheld the number of data protection claims is likely to increase significantly.

Medical Malpractice

Dorothy Flower
Partner
+44 20 3060 6481
dorothy.flower@rpc.co.uk

Key developments in 2015

The Supreme Court's decision in *Montgomery v Lanarkshire Health Board* sent shock waves through the defendant medical malpractice world, put fear into the hearts of healthcare professionals but had claimant lawyers rubbing their hands in glee. The bar has been raised in terms of informed consent, and the concept of "medical paternalism" further eroded. It is no longer deemed acceptable for a healthcare professional to rely on the fact that respected contemporaries would not have warned a patient of a particular risk. The healthcare professional must now warn of all risks that would be considered material by both an objective patient and/or by the particular patient sitting in front of them.

Claims alleging that inadequate information was provided to enable the patient to give informed consent were difficult to defend even in the pre-*Montgomery* era. Predictably, claims with allegations of lack of consent appear to have increased post *Montgomery*, bringing with them further litigation risk for insurers. Comfort can be taken however from the fact that appropriate available evidence will still offer the opportunity to successfully defend consent claims. Comprehensive record keeping by practitioners, accompanied by a clear understanding of their patient and knowledge of the risks associated with the procedure they are recommending, will greatly assist a defendant practitioner in defence of the claim. Furthermore claimants must still show that, had they been warned of a risk, they would have declined the recommended treatment. Competent and caring healthcare professionals who understand the need to create an "audit trail" should still win the day in court.

What to look out for in 2016

An announcement by the Government last August set hares running amongst claimant medical malpractice lawyers. The concern about the growing legal spend of the Department of Health has resulted in a proposal to fix costs in "low value" clinical negligence claims. The consultation was due to begin in October 2015 but has been put back to 2016 due to the furore it provoked at pre-consultation stage. It is suggested that solicitors' costs should be fixed in cases where damages payable are £250,000 or less. Claimant lawyers argue that such a regime is unnecessary following the introduction of costs budgeting, the proportionality test and the abolition of success fees and insurance premiums. The defendant community would say however that these changes have as yet produced little change in the massively inflated costs bills submitted by claimant lawyers and allowed by the courts. It may be that the reforms need more time to bed down; after all, they have been in place for only two years – a blink of an eye in the medmal litigation world – but at some stage the nettle must be grasped. Whether a system of fixed costs is the best tool however is debatable. Insurers will wish to avoid the scenario where experienced claimant practitioners are driven out of the market and replaced with claims management companies bringing large numbers of spurious and ill-conceived claims. Even in a fixed costs regime, such a move is likely to lead to an overall increase in insurers' costs and a raft of unhappy healthcare clients.

Miscellaneous Professional Indemnity

Key developments in 2015

Over the past 12 months, Miscellaneous PI has consolidated into a class of business in its own right and is now an established insurance sector. Whereas Miscellaneous PI was once a hot topic as an emerging class, now the profession is focussing on how best to accommodate and consolidate the wide range of insureds, from archaeologists to zoologists.

The perennial issue of internet based advertising remained live during 2015. Professional indemnity products sourced cheaply on the internet, sometimes for less than £10 per month, are creating a headache for brokers and, often, the policyholder. The products are usually not bespoke and often do not fit the (sometimes very niche) requirements of the professional. However, many insureds choose the product based on a cheap initial outlay and worry about the level of cover later. Insureds, brokers and insurers should be sure to satisfy themselves that the product fits the need of the policyholder. It must cover the business that the policyholder carries out and, crucially, the professional business that the policyholder intends to do over the next year. It is often the professions within the Miscellaneous Risk category that change the fastest.

IT professionals remain an extremely popular risk for insurers and brokers report that such risks are very easy to place. Insurers view IT professionals as low risk and report few claims. However, any claims brought against IT professionals have the potential to be extremely large as many businesses become increasingly reliant on technology.

What to look out for in 2016

Miscellaneous PI remains a popular area for insurers; it is seen as relatively lucrative and quite low risk. Insurers envisage a low frequency of claims, coupled with relatively few catastrophic losses. However, with some insurers writing for over 100 types of profession, insurers will need to ensure that they investigate each risk carefully to ensure that they understand exactly what they are writing. This is particularly true in respect of multidisciplinary practices. The wide drafting of many policies means that a large number of claims can be brought so it is important for underwriters to remain vigilant.

Insurers can also expect to continue to receive increased requests for cover as more and more professionals are required to obtain professional indemnity cover as a condition of their contracts with their clients, particularly where those clients are governmental or local authority organisations. The increase in requests for higher limits of indemnity (often up to £10m), again following client contractual demands, is expected to continue into 2016.

We also expect new EU data protection legislation, likely to come into force in 2016, to have an impact on many professionals. This could lead to significant third party claims. One example might be a claim from marketing professionals who lose their client's next sales strategy or client lists.

In addition, we expect to see an increased amount of media related claims as more and more businesses use social media platforms for their own advertising.

Ben Goodier
Partner
+44 20 3060 6911
ben.goodier@rpc.co.uk

Joe Bryant
Partner
+44 20 3060 6905
joe.bryant@rpc.co.uk

Antony Sassi
Partner
+852 2216 7101
antony.sassi@rpc.com.hk

Pensions and Actuaries

Robert Morris
Partner
+44 20 3060 6921
robert.morris@rpc.co.uk

Key developments in 2015

On 6 April 2015, wholesale changes to how individuals can make use of their pension savings were made, with over 55s now able to take their pensions entirely in cash or implement a number of other options, such as drawdown with no upper limit.

As anticipated, new products have entered the market to cater for these new freedoms. Financial Conduct Authority (FCA) product sales data comparing Q1 and Q2 2015 showed that income drawdown products sold in the UK increased by 46% since the pensions freedoms were introduced. However, despite predictions that the pensions freedoms would signal the death of the annuity, FCA data shows only a relatively modest fall of 20% in annuity sales, suggesting that the security brought by a guaranteed income remains an important consideration for many.

The substantial increase in pensions freedom related Financial Ombudsman Service (FOS) complaints that some predicted has not yet materialised. In October, the FOS reported a 20% increase in the number of enquiries it had received regarding pensions in the first six months of 2015, but only a 4% increase in the number of complaints. The pensions freedoms have, however, introduced new areas for customers to complain about. Many of the complaints that the FOS received concerned delays in effecting pension pay-outs, and the FOS also received complaints concerning exit charges and fees in relation to accessing pension pots, as well as complaints in relation to existing products that do not allow access to the new pensions freedoms. It remains to be seen whether these kinds of complaints become more frequent over time now that the pensions freedoms are in force.

What to look out for in 2016

The pensions freedoms will remain a significant focus for the pensions sector in 2016, as the sweeping changes introduced in 2015 bed in and the Government and the FCA continue to bring in refinements and improvements to the new regime.

An area of focus for further reform is likely to be barriers faced by individuals who want to take advantage of the new flexible access options, for example excessive exit penalties. In the 2015 Budget the Government explained that it wants to ensure that transfers between pension schemes are "quicker and smoother" and that it may consider a cap on exit charges. The FCA recently requested information from firms about the barriers faced by consumers who are seeking to access their pension savings.

One area on which advisers will hope for further clarification is the issue of insistent clients, ie situations where an individual does not want to follow an adviser's advice. The FCA recently produced a fact sheet for advisers on this issue, but it has been criticised by firms for its lack of clarity and the Work and Pensions Committee has called on the Government to give this issue further consideration.

Although its introduction has now been pushed back from 2016 to 2017, the Government continues to plan to introduce a secondary annuities market, to allow those who opted to purchase an annuity before the pensions freedoms were introduced to take advantage of the flexibility that the freedoms allow.

Political Risk and Trade Credit

Mark Errington
Partner
+65 6818 5666
mark.errington@rpc.com.sg

Jonathan Wood
Head of International Arbitration
+44 20 3060 6562
jonathan.wood@rpc.co.uk

Geraldine Bourke
Legal Director
+65 6818 5696
geraldine.bourke@rpc.com.sg

Key developments in 2015

Political risk insurance hit the headlines, when on 12 March 2015 the Financial Times commented: "The West has a new industry. It is the booming business of calculating geopolitical risk."

The trend to non-trade capacity has continued, indeed, overcapacity is now a talking point in the market. Capacity for political violence in the MENA region is reported to be over $1bn (albeit Yemen, Syria or Iraq are uninsurable or prohibitively expensive) despite the fact the region remains turbulent mainly due to ISIS/other extremist groups. Elsewhere, capacity is now reported to exceed $2bn for a single policy and the market remains soft despite rising claims due to the end of the commodity super cycle.

The Russian recession (amplified by oil export declines) and the continued devaluation of the Russian ruble is seriously impacting both Russia and CIS countries such as Kazakhstan (which has experienced its own consequent currency devaluation) causing sovereign credit risks and has led to an increase in loss notifications in the region.

In Asia, alleged corruption involving Malaysian Prime Minister Razak's 1MDB fund and continued unrest and violence in Thailand (democratic elections further delayed by the military government) have caused investors to take a "wait and see" approach, further damaging the respective economies. Chinese stock market turbulence, caused by the government forcibly trying to influence the market and currency, has raised questions about the government's ability to stabilise the economy and manage shocks. With the Chinese economy performing poorly some commentators believe China may focus domestic attention on more nationalist sentiment potentially raising tensions in the South China seas.

What to look out for in 2016

The implementation of the Insurance Act 2015 will mean a thorough overhaul of PCR wordings (eg the use of detailed warranties in pure political risk policies will have to be reviewed) and the market will need to prepare for the new rules on disclosure and fair representation of risk.

The threat posed by ISIS is growing and tensions with the West have escalated following the attacks in Paris and California. For the coalition forming against ISIS this may increase terrorist threats in participating states, including Europe, Russia and the US as well as the Middle East.

The continued depression in oil prices may have further impact on oil-producing countries in the Persian Gulf, which could lead to increased economic and political turbulence, further exacerbating an already volatile region. One positive development may come from the Iran nuclear agreement which has the potential to change the political risk environment in the country (and the wider region) by allowing foreign investments into the country. However, this is dependent on whether sanctions (many of which are currently suspended) are permanently lifted following final assessment by the IAEA in January 2016.

Lastly, all eyes will be on the US to monitor the impact of the Fed's decision to increase interest rates and the Presidential elections in 2016 (both events which make an impact globally). The rise of Donald Trump as the Republican frontrunner reflects the growing trend towards nationalism exhibited elsewhere in the world (eg Le Pen's recent success in the first round of French regional elections).

Power

Key developments in 2015

Global capacity in the power generation sector remains at high levels despite notable recent withdrawals of certain carriers, and with relatively few catastrophic losses in the power sector again in 2015, there has been continued pressure on rates.

There have been notable changes to the landscape in the power generation sector over the course of the last 12 months with General Electric (GE) acquiring Alstom's power business, after obtaining approval from global regulators. This deal brought together two of the world's largest manufacturers of power plant hardware, and provides GE with (approximately) a further 500 GW of installed power around the world, increasing its installed power generation base to some 1,800 GW.

Ansaldo Energia also benefitted from the GE deal as a number of Alstom's turbine assets were sold to Ansaldo in order for GE to obtain regulatory approval for the $14bn deal. It is anticipated that Ansaldo's turnover will increase significantly as a result of the deal, ensuring that it remains a major player in the manufacture of power equipment. These major changes in the global power generation market will inevitably lead to certain consolidation and cost cutting measures.

Further changes were experienced in 2015 with a continuing increase in focus on cleaner and less polluting forms of power production, particularly in more developed countries. The 2015 United Nations Climate Change Conference saw 195 nations sign the Paris Agreement, focussed on reducing global emissions. The extent to which the Paris Agreement becomes legally binding upon, and implemented by, its signatories remains to be seen. Nonetheless the move away from coal fired power plants to natural gas, nuclear and renewables especially in Europe and North America is set to continue.

What to look out for in 2016

As insureds continue to install larger single unit turbines capable of producing more wattage in power plants, insurers' maximum foreseeable and probable maximum loss exposures are likely to continue to increase. Manufacturing replacement parts and undertaking repairs to these newer larger units can often take longer, potentially exposing insurers to larger business interruption losses. Many power producers (especially in more developed nations) are likely to seek to upgrade and/or diversify their power generation capabilities for both energy security and environmental reasons. Underwriters will need to fully appreciate the risks involved, particularly in relation to newer technologies.

We anticipate there will be an increased focus on cyber risks as insureds assess their potential exposures arising from power plant operations. Losses arising from a cyber-attack on a power plant have the potential to extend beyond traditional operational losses (such as property damage, loss of revenue and supply chain disruption). On a large scale, these sorts of attacks have the potential to cause catastrophic losses (including significant third party liability) given the prospect of hackers targeting power station Distributed Control Systems, causing hardware to overload and/or burnout. Underwriters should be aware of potential exposures, price accordingly and consider the appropriateness of existing cyber extensions or exclusions.

Rebecca Hopkirk
Partner
+44 20 3060 6210
rebecca.hopkirk@rpc.co.uk

Leigh Williams
Partner
+44 20 3060 6611
leigh.williams@rpc.co.uk

Mark Errington
Partner
+65 6818 5666
mark.errington@rpc.com.sg

Procedure, Damages and Costs

Jonathan Wyles
Legal Director
+44 20 3060 6415
jonathan.wyles@rpc.co.uk

Key developments in 2015

The courts have given mixed messages about costs in 2015. In March, there was a hike in the cost of issuing court proceedings, an increase of several hundred percent in several cases. A court fee of £10,000 must now be paid on a claim worth £200,000 or more. This saw a surge in proceedings being issued to avoid the increase with a consequent increase in the costs that insurers have to face in dealing with claims. However, the future should see less litigation as the higher court fees will deter legal proceedings and so save costs.

With the second full year of costs management, we are seeing a more measured approach from the courts as they are prepared to give guidance as to what is and is not reasonable. One clear message is that if you know you will incur more costs then you must apply to the court straight away to amend the costs budget – see the RPC case of *Yeo v Times Newspapers*.

What to look out for in 2016

It could be that in 2016 we see the courts and the Ministry of Justice sort out damages based agreements. A crucial part of the Jackson reforms saw the abolition of the double whammy for insurers of claimants being able to recover an uplift on legal costs and an ATE premium, both of which were excessive. Another important component to the reforms was that there would be an alternative method of funding to enable claimants to bring justified claims with the benefit of (usually) sensible legal representation.

With public funding so limited to be non-existent for most claims, damages based agreements were seen as the answer to what has proved to be the removal of conditional fee agreements from the claims landscape. However, the current regulations simply make damages based agreements unworkable. Reform in 2016 is promised – let's hope it is delivered.

If it is not, we will see more claims being brought by litigants in person who simply do not understand how to bring claims, or whether the claims have any merit, have never heard of pre-action protocols, or who believe that litigation is the only answer. All of this increases the costs that insurers have to incur in dealing with such claims, including those that would not have been brought if the claimants had received legal advice.

Products

Key developments in 2015

The Consumer Rights Act 2015 (the Act) came into force on 1 October 2015. Consumers can now seek to rely upon the Act's provisions on pre-contractual information to bring claims that may trigger product guarantee or product liability policies.

The Act has created a risk that an insured's loose talking employees or badly drafted marketing materials could be relied upon by consumers claiming for breach of contract. Amongst the changes brought in by the Act are provisions that make it easier for a consumer to sue a business that makes misleading statements at the pre-contractual stage: so spoken or written statements may be deemed to be binding contractual terms if the consumer takes account of those statements when deciding to enter into a contract, or when making a decision about a service after the contract is formed.

Until October 2015, misleading information given to a consumer did not automatically bind a business; so a consumer's options were limited to claims for misrepresentation. Now, misleading statements may have the status of contractual terms, allowing consumers to sue for damages that put them back into the position they would have been had the misleading statements been true. Hyperbolic claims over the performance of a product or optimistic assurances about a service provided to customers will now carry greater risk. Consumers may cite the Act in addition to pursuing other causes of action, such as in tort or under the Consumer Protection Act 1987.

We expect that insurers will seek to introduce terms into policies that mitigate the risks created by the Act. Exclusions could deny cover where a business departs from its prepared written statements – thus avoiding responsibility where the insured inadvertently enters into ad-hoc contractual terms through advertising puff or off-the-cuff sales patter.

What to look out for in 2016

From 2016, the Medicines and Healthcare products Regulatory Agency will regulate all medical products including e-cigarettes containing more than 20mg/ml of nicotine. E-cigarettes containing less than 20mg/ml of nicotine will be classified as tobacco-containing products and regulated under the provisions of the European Tobacco Products Directive.

Opinion remains divided as to whether the perceived benefits of e-cigarettes as an aid for giving up smoking outweigh the unknown and potentially harmful effects on health. Given the uncertainties regarding the risks and benefits of e-cigarettes, the insurance industry has so far adopted a cautious approach to providing cover for the risks associated with e-cigarette use. Insurers may be more willing to engage with this evolving industry as it becomes a regulated business and as the potential health implications become clearer.

Where cover is provided, insurers will want to be satisfied that the products are safe and all regulatory requirements have been followed as conditions of the policy. Insurers are likely to work closely with manufacturers of e-cigarettes to ensure that all known risks of the products are disclosed to users, that usage is monitored to detect any health concerns that arise as use of the products become more widespread, and that the long-term risks are assessed.

Gavin Reese
Partner
+44 20 3060 6895
gavin.reese@rpc.co.uk

Dorothy Flower
Partner
+44 20 3060 6481
dorothy.flower@rpc.co.uk

Property and Business Interruption

Key developments in 2015

The Court of Appeal decided on the meaning of attendance in *Milton v Brit*. The issue was whether the presence of two men sleeping in different parts of the premises where a fire was started amounted to the premises being "left unattended". The court held that it did. The ordinary meaning of the word "attending" is "looking after something". "Attended" involved not only someone being present at the premises but that someone was keeping the property under observation and was in a position to observe any attempt to interfere with it.

Attendance/unattended are widely used terms in commercial property insurance contracts. The decision provides clarity and guidance in determining compliance with security requirements in commercial property policies. Although the meaning will depend on the particular circumstances, it is clear that "attendance" requires a degree of actual attention and not just a physical presence.

Meanwhile, compliance with reinstatement conditions was another development last year. The issue arose in *Western Trading v Great Lakes*, where the insured sought a declaration that it was entitled to be indemnified for the cost of reinstating a property. The court rejected the insurer's argument that the insured's failure to carry out reinstatement with reasonable despatch precluded a claim for the full cost of reinstatement. It was held that a requirement to reinstate did not arise until the insurer had confirmed that it would indemnify. The decision confirms that an insured would only have to commence reinstatement works following the making of a declaration.

What to look out for in 2016

The Government reinsurance scheme for flood insurance is expected to launch in April 2016. Flood Re is an independent not-for-profit reinsurance vehicle intended to provide affordable cover for flood-prone households. The scheme allows insurers to pass the flood risk component of a home insurance policy into Flood Re. The risks are then pooled into a fund and paid out to insurers if claims are made.

The Water Bill, which legislates the power to set up Flood Re, received Royal Assent in May 2014. Secondary legislation that defines how Flood Re will operate was laid before Parliament in April 2015.

Meanwhile, we await the outcome of the Supreme Court decision in *Mitsui v Mayor's Office* on the issue of whether consequential losses are recoverable under the Riot (Damages) Act 1886. This is now scheduled for 21 January 2016.

In a review commissioned by the Government following the riots of 2011, it was found that the 1886 Act lacked clarity and was in urgent need of updating. A draft Riot Compensation Bill was therefore laid before Parliament in March 2015. The Bill signifies a significant overhaul of the 1886 Act. While the right to claim compensation from the police remains intact, key proposals include a new compensation cap of £1m per claim and the exclusion of consequential loss claims (regardless of the outcome in *Mitsui*). There are likely to be further changes once matters are debated. The Bill provides a clearer framework for dealing with claims following a riot.

Victoria Sherratt
Partner
+44 20 3060 6263
victoria.sherratt@rpc.co.uk

Catherine Percy
Partner
+44 20 3060 6848
catherine.percy@rpc.co.uk

Mark Errington
Partner
+65 6818 5666
mark.errington@rpc.com.sg

Reinsurance

Richard Breavington
Partner
+44 20 3060 6341
richard.breavington@rpc.co.uk

Mark Errington
Partner
+65 6818 5666
mark.errington@rpc.com.sg

Key developments in 2015

Global reinsurance market conditions remained challenging in 2015. The continued benign loss environment has left a surplus of capital in the market. The traditional reinsurance market is also losing a proportion of market share to insurance linked securities (considered below), such as Cat Bonds. The shrinking demand and excess capacity have resulted in a continued softening market for reinsurers. This has been characterised by pricing reductions and weakening terms and conditions.

The softening of the market has continued to drive reinsurers towards consolidation. There has been a wave of mergers and acquisitions activity in 2015, as carriers look for scale to combat market pressures. The creation of the XL Catlin brand, Endurance's purchase of Montpelier Re and the acquisition of PartnerRe by Exor are among those that contributed to the string of industry consolidations during the year. The expectation is that more deals will follow as companies look to create a more diversified book of business and to take advantage of efficiencies of scale, both in capital and resource.

What to look out for in 2016

The growth of the market in insurance linked securities (ILS) is set to continue in 2016. ILS are a means of ceding insurance risks to the capital markets. As such, they provide an alternative to the transfer of risk through traditional reinsurance.

To date, most ILS activity has taken place offshore. In the 2015 Budget report, the UK Treasury said it would work with the industry and regulators to develop a new legislative and tax framework to make the UK a viable ILS hub. Proposals to introduce a new ILS framework were contained in amendments to the Bank of England and Financial Services Bill. The Bill is currently at the Report stage in the House of Lords. If enacted, the provisions would effectively give the Treasury the power to make regulations for all aspects of ILS activities, including the "establishment and operation of transformer vehicles". In addition, draft provisions provide, "for such a body to comprise different parts" and "for such parts to have legal personality distinct from that of the body", introducing the concept of a protected cell company, which is an important part of many ILS structures.

More broadly, it is expected that the UK government will improve the relevant regulatory regime and the tax treatment of such arrangements. As a result of Solvency II, which will be implemented across the EU from 1 January 2016, the Government will have limited flexibility in relation to the regulatory regime. This shifts the onus onto the tax treatment of ILS arrangements. It remains to be seen what the Government will bring to the table and whether the new regime will succeed. Expect changes to start being announced within the next year.

Restructuring and Insolvency

Vivien Tyrell
Partner
+44 20 3060 6153
vivien.tyrell@rpc.co.uk

George Belcher
Legal Director
+44 20 3060 6552
george.belcher@rpc.co.uk

Key developments in 2015

In January, the Prudential Regulatory Authority (PRA) set out its approach to Part VII transfers for insurance business for the rest of 2015. This was prompted by competing pressures on its limited resources and what it described as a “spike” in the number of firms seeking to complete transfers in advance of implementation of Solvency II in January 2016. In the letter, the PRA stated that it would be more selective in committing to new transfers for the rest of 2015 and consider new transfers on a case by case basis, and only where the timetable is “credible and realistic”. Firms that failed to get their transfer done this year may then be reliant on the Solvency II transitional provisions to escape its effects. Given that these are in some cases as short as one year (eg for MCR) we can expect 2016 to be a busy year too.

In 2014, the PRA issued a paper SS4/14 Capital extractions by run-off firms within the general insurance sector. In November this year, it took the opportunity to update this with a series of amendments, which have the effect of softening the PRA’s requirements. Where before the PRA expected a firm to maintain post-extraction coverage of at least 200% of its ICA now it is proposing merely assets to cover its overall solvency needs pursuant to its ORSA or SCR. No doubt this owes to the imminent implementation of Solvency II, which the PRA is not allowed to “gold-plate”. We hope that this development will re-energise the run-off activity that was effectively killed in 2014, and allow the continued rationalisation of the closed market.

What to look out for in 2016

We are aware of a number of (re)insurers that are sitting on large portfolios of reinsurance debts running in some cases to the (low) billions of net book value. This indicates a widespread asset class across the whole market which appears attractive to potential acquirers of this debt, at least on paper. The “soft” insurance market on a global basis means that many insurers will be under increasing strain when it comes to paying claims. In the EEA, Solvency II is likely to accentuate this particularly at the smaller end of the market. In the UK, legal developments such as proposed amendments to the Insurance Act 2015 (providing for damages for late payments of reinsurance debts) may increase the pressure on insurers. Also, we are currently seeing a great deal of M&A/consolidation in the (re)insurance sector. These changing corporate relationships may serve to “unlock” any market inertia/ unwillingness to pursue reinsurance debts.

We are also aware that a number of large life offices are holding very substantial reserves against “gone-away” policyholders. These “gone-aways” owe to (i) policyholders where the address is unknown (ii) very old policyholders, most of which, based on national statistics, would be dead (iii) policyholders where an address is held, but the insurer, following tracing activity knows to be not current. Again, increasing M&A in the life sector (for example Aviva’s acquisition of Friends Life) are likely to pool existing gone-away populations, and to render potential solutions (for example schemes of arrangement) increasingly cost-effective.

Surveyors

Alexandra Anderson
Partner
+44 20 3060 6499
alexandra.anderson@rpc.co.uk

Antony Sassi
Partner
+852 2216 7101
antony.sassi@rpc.com.hk

Key developments in 2015

The last 12 months brought judicial guidance on who is the right claimant when loss has been suffered as a result of an alleged over-valuation of a property, where a loan made in reliance on that valuation is sold by the originating lender to a Special Purpose Vehicle (SPV), which purchases the loan using sums invested by noteholders.

In the case of *Titan v Colliers*, the Court of Appeal decided, albeit obiter, that where an SPV is set up for the purposes of securitising a loan, the correct claimant is the SPV, rather than the noteholders. The court noted that, although Titan had parted with the financial risk relating to the properties (having passed that risk to the noteholders), it had nevertheless retained ownership of the underlying property in the loans and the securities and it therefore retained the title to sue Colliers for negligence.

The court decided that Titan had suffered loss when it acquired the loans because (assuming Titan could make good its allegation of negligent over-valuation – on which it failed) the price it paid for the loans was too high. In reaching the view that Titan was the correct claimant, the appeal court observed that a noteholder/issuer relationship is much the same as a shareholder/company relationship, such that the noteholders' claim could be defeated by the doctrine of reflective loss. The root of the reflective loss doctrine is in company law and applies where the loss of an individual shareholder is inseparable from the loss of the company. To ensure that there is no risk of double liability on the defendant's part, only the company may sue in respect of that loss.

Not all securitisation cases will involve the same set of facts as *Titan v Colliers*, but the obiter comments that the reflective loss principle may apply to such cases is likely to impact on the securitisation and valuation industries.

What to look out for in 2016

Limitation is likely to continue to be a key battle ground for claims against valuers. Not only will parties continue to grapple with the question of how you value the borrower's covenant, to understand when the lender's loss occurs, there will also be continued arguments about where s.14A of the Limitation Act may apply. On the first issue, the court has given helpful guidance on the question of how best to value a borrower's covenant, in the case of *Canada Square Operations Ltd v Kinleigh Folkard & Hayward*, but it is still not clear the extent to which temporary default on the part of the borrower can be argued to render the covenant worthless. On s.14A, whilst the decision in *Toombs v Bridging Loans* will assist surveyors (and their insurers), there have been a number of other decisions that have reached fundamentally inconsistent outcomes, which is likely to fuel disputes about when a claimant will be treated as having the requisite knowledge to bring a claim.

Technology and Cyber Risks

Key developments in 2015

In 2015, the *Google v Vidal Hall* and *Schrems* decisions stole the show. Whilst the finding in *Vidal Hall* that there was no need to prove economic loss in order to proceed with individual claims for damages under s.13 of the Data Protection Act stole the headlines, it may soon be overtaken by the implementation of the new European Data Protection Regulation (see below). The continued expansion of the law of privacy and the finding that browser generated information constitutes personal data are likely to have more long lasting implications.

Schrems, which essentially spelt the end of the EU's "Safe Harbour" arrangements with the US, did not prove to be the end of the world as we know it as some had predicted, given the availability of alternative arrangements such as binding corporate rules. However, it looks likely to be an indication of the increased regulatory burden that will apply to international transfers of data.

What to look out for in 2016

Despite a number of false dawns, the European Data Protection Regulation is finally upon us and looks likely to become law early in the New Year. Whilst there will be a two year implementation period we predict that the larger fines and mandatory notification provisions of the Regulation will spark much greater demand for cyber insurance and breach response services. At a technical level we predict that breaches where the data controller has failed to encrypt data at rest will be dealt with increasingly severely by regulators. In most cases there is simply no excuse for this given the rapid reductions in the price of storage and processing power in recent years.

Richard Breavington
Partner
+44 20 3060 6341
richard.breavington@rpc.co.uk

Philip Tansley
Legal Director
+44 20 3060 6561
philip.tansley@rpc.co.uk

David Cran
Partner
+44 20 3060 6149
david.cran@rpc.co.uk

Tower Bridge House
St Katharine's Way
London E1W 1AA
T +44 20 3060 6000

Temple Circus
Temple Way
Bristol BS1 6LW
T +44 20 3060 6000

11/F Three Exchange Square
8 Connaught Place
Central Hong Kong
T +852 2216 7000

8 Marina View #34-02A
Asia Square Tower 1
Singapore 018960
T +65 6818 5695

15573

RPC