

Plane Talking

JLT AEROSPACE

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Executive Summary

Market – just coasting or is it lost?

The recent series of natural catastrophes has had little impact (at least so far) on the market. Aviation losses, whilst still happening, have also been light, relative to prior years.

As a consequence little has changed in the aviation market over the first half of 2011, with premiums holding much as expiring, however with exposures generally predicted to increase, this means that premium rates have softened further over the period.

Whilst insurers have been more selective over the risks written, capacity has continued to be more than adequate in most instances. “Paid up” terms are still in the market but not quite as prominent as before.

Insurers talk of new products, however in the main these seem little more than attempts to cross-sell non aviation products to aviation clients. True innovation still appears elusive - we should perhaps question why? On the other hand, new products offered via the brokers, such as those providing relief from business interruption, are viewed cautiously by airlines, seemingly unwilling to spend any more premium than absolutely necessary.

Whilst there is a compelling argument that All Risks premium rates are too low from the perspective of technical risk assessment, experience provides the true litmus test and clearly market fortunes cannot be as dreadful as headline premium and claims numbers might suggest. We do not believe the diversifying impact of writing aviation, whilst useful, offers little rationale to stay in a loss making class of business, if indeed this is actually the case.

Insurers continue to try and expand their distribution network, modify their business mixes and underwrite more selectively, but in summary such actions seem only to “stir the pot” rather than provide any real change in the ingredients.

Without a meaningful withdrawal of capacity, a string of large losses or a fundamental shift in the product, we believe the current (relative) market calm is set to continue. There will at least be some excitement from the next round of personnel movements, where we anticipate some changes on both the underwriting and broking arenas. We eagerly await firm developments!

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Lead Lines



Time to Re-think Recourse Action?

At a time when policyholders and their insurers are feeling squeezed financially it is important to explore areas where financial returns might exist. One such area is that of recourse action or subrogation action taken by an insured or its insurers against a party which is considered to be legally liable for damage caused as a result of an incident or, worse still, of an accident. Such damage can result in significant losses.

If you add to this, some recent examples of recourse actions which have produced worthwhile recoveries, the financial case becomes more compelling. Certainly, the amounts recouped for both insureds and insurers have directly benefitted "the bottom line".

Before dismissing what follows as the exhortations of someone with a vested interest in pursuing claims and prosecuting litigation, please allow me to make the case for giving recourse action greater consideration as objectively as I can!

True, historically there has been a general reluctance on the part of the aviation insurance market to fight subrogation cases on account of some unhappy experiences in the past.

In the 1980s and 1990s, more than one major hull subrogation case in the USA failed because of difficulties circumventing the exculpatory language in the relevant contracts between the parties, or became a pyrrhic victory since the recovery made was matched by the costs incurred. In the USA, the process of discovery, being the disclosure to one's opponent of all relevant documents relating to the dispute, can be extremely burdensome and costly. Moreover, in the USA, unlike in some other jurisdictions, a successful party cannot generally recover its legal costs from the unsuccessful party.

Insureds have also been reticent to pursue recourse action on their own, without the comfort of being joined in the recovery effort by their insurers.

However, recent outcomes in a variety of countries suggest that there are rewards to be reaped for those who persevere, whether they be policyholders or insurers, and in many cases both.

The existence of hull deductibles and the mounting cost of repairing aircraft should also focus attention on whether losses could be recovered from third parties.

It may therefore be useful to list some of the practical considerations to bear in mind when contemplating recourse action:

1. Pick your case carefully: the merits of each case need to be reviewed closely. If that assessment predicts a 50% or higher prospect of success, then serious consideration should be given to pursuing the matter.

2. Costs should not always be regarded as a reason to forego subrogation: often, the fear of incurring disproportionate costs is misplaced. Often, the costs incurred are a fraction of the recovery made. Costs of US\$40,000 against a recovery of US\$650,000 is a recent example. In a number of jurisdictions, most of the costs incurred can be recovered from the losing party. For instance, in England, one can expect to recover about two-thirds of the costs billed by a lawyer to his client, together with judgement interest at a rate which in recent years has far exceeded general investment rates.

The Commercial Court in London is a remarkably valuable resource as a venue for adjudicating disputes. Private arbitration will be appropriate when confidentiality is paramount, but the Commercial Court is usually cheaper, and is presided over by judges of the highest calibre. And the court works hard to ensure that litigation is comparatively quick. A subrogation case in which proceedings were filed in the Commercial Court last November has recently been given a two week trial date in March 2012. Few courts could compete with that.



Phillip Bass,

Partner - Clyde & Co LLP - London

Biography

Philip is a partner in the Aviation Department of Clyde & Co which specialises in the handling of aviation-related claims, regulatory matters and commercial transactions.

He is a qualified private pilot and has an IATA Diploma in Air Law.

He spent 10 years in the firm's Singapore office but is now based in London.

Renewal Analysis

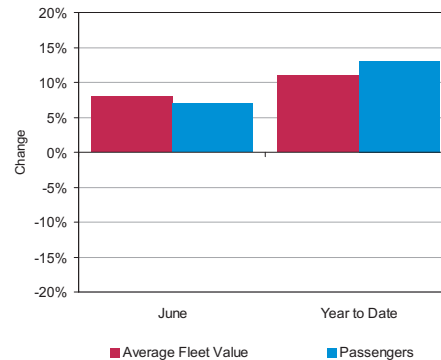
Exposures

The single digit growth in fleet values and passenger numbers is lower for recent renewals, than of previous months.

Only a couple of airlines presented more significant growth than the monthly average.

Year on Year % Exposure Change

June / Year to date. Based on latest Information at 27 June 2011



Source: JLT Database

Premiums*

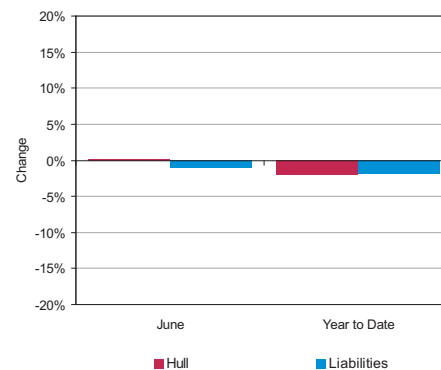
Once again, despite the reduction in rates, the increases in exposure have enabled underwriters to maintain premium levels.

| Year to Date (Like for Like) | Hull USDm | Liability USDm | Total USDm |
|---------------------------------|--------------|-------------------|---------------|
| 2010 | 90 | 161 | 250 |
| 2011 | 88 | 158 | 246 |
| % Change | -2% | -2% | -2% |

* Net of brokerage and at lead terms

Year on Year % Premium Change

June / Year to date. Based on latest Information at 27 June 2011



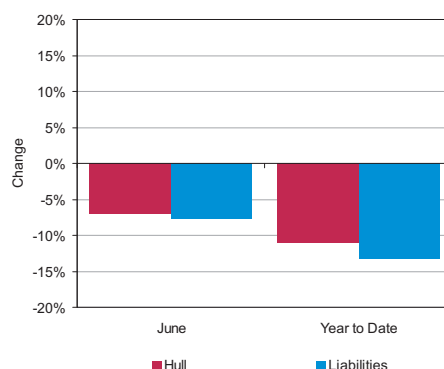
Source: JLT Database

Rates

Rates continue to follow the market trend seen so far this year, with reductions again commonplace.

Year on Year % Rate Change

June / Year to date. Based on latest Information at 27 June 2011



Source: JLT Database

Comment

The momentum of airline renewals begins to accelerate in June with around 15 operators coming to the market. Out of these there is just one of significant size, that being Eva Air of Taiwan with a fleet valued at nearly USD5 billion and estimated passenger numbers of around 10 million.

Forthcoming Airline Renewals

Not only is July the busiest month so far this year with over 30 renewals, it also has some of the biggest individual airlines coming to the market with a number of US operators swelling the premium base.

American Airlines, now the second largest individual airline in the world remains well ahead of the package operator Federal Express in terms of fleet value.

Aeroflot next up in size is expected to have a substantial increase in fleet value on renewal as it takes a number of other Russian airline operators under its banner including Rossiya, Orenair, Vladavia, and STC.

| Airline | Renewal Date | Expiring AFV USDm |
|------------------------|--------------|-------------------|
| Aigle Azur | 1st July | 436 |
| Air Italy | 1st July | 403 |
| Air Macau | 1st July | 632 |
| Air Mediterranee | 1st July | 293 |
| Alaska Airlines | 1st July | 4,476 |
| American Airlines | 1st July | 19,987 |
| Arkia | 1st July | 194 |
| Ethiopian Airlines | 1st July | 1,885 |
| Federal Express | 1st July | 14,063 |
| Indigo Group | 1st July | 5,254 |
| Israir | 1st July | 116 |
| LIAT | 1st July | 104 |
| Merpati | 1st July | 285 |
| Middle East Airlines | 1st July | 825 |
| Onur | 1st July | 918 |
| Pinnacle/Colgan | 1st July | 2,993 |
| Silkway | 1st July | 151 |
| Sky Airlines (Chile) | 1st July | 134 |
| Syrian Arab | 1st July | 222 |
| Volga Dnepr | 1st July | 1,650 |
| Aeroflot | 2nd July | 4,585 |
| Cargotitalia | 5th July | 121 |
| Kingfisher | 6th July | 2,804 |
| Santa Barbara Airlines | 8th July | 224 |
| Atlasjet | 11th July | 593 |
| Sri Lankan Airlines | 11th July | 765 |
| IndiGo Airlines | 28th July | 1,470 |
| Lynden Air Cargo | 15th July | 120 |
| PLUNA | 15th July | 234 |
| TNT | 15th July | 1,000 |
| Kelowna Flightcraft | 22nd July | 115 |
| Binter Canarias | 26th July | 298 |
| SATENA | 29th July | 156 |
| Transportes Aeromar | 31st July | 133 |

Source: JLT Database, based on current risks with AFV in excess of USD100m

Loss Analysis

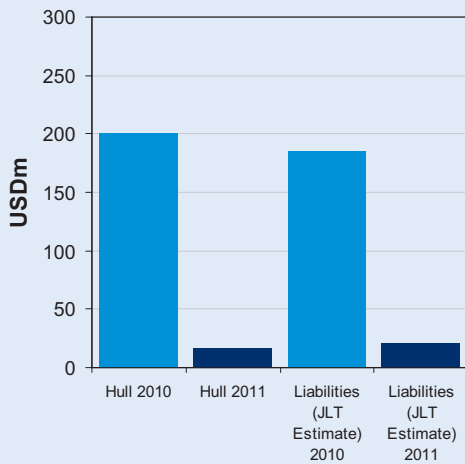
Airline Loss Summary

May

- Hull and spares losses of USD16.61m
- 47 airline fatalities
- Liability loss estimate of USD20.70m

May Losses

All Known Airline Losses Net of deductible

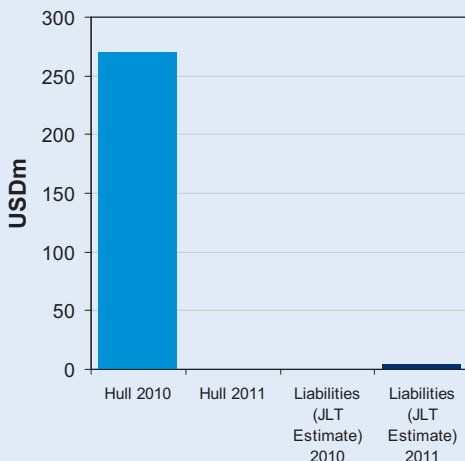


June

- Hull losses nil
- 46 airline fatalities
- Liability loss estimate of USD4.70m

June Losses

All Known Airline Losses Net of deductible



| | | | |
|--|-------------------------------|--------------------------------|--------|
| 6th | Solenta Aviation | Antonov An-26 (TR-LII) | Gabon |
| On approach to Libreville on a positioning flight, the aircraft encountered problems and was forced to ditch in the sea a few hundred metres from shore. No fatalities or injuries occurred. | | | |
| 6th | Skywest Airlines | Bombardier CRJ-200 (N886AS) | USA |
| The aircraft landed at Milwaukee with the starboard undercarriage retracted following a technical problem. This same aircraft had a similar problem 9 months previously. | | | |
| 12th | Universal Airlines | Douglas DC-6BF (N600UA) | USA |
| This aircraft was substantially damaged when it made a gear up landing at Cold Bay International, AK. The aircraft was operating a positioning flight for a routine cargo flight. | | | |
| 19th | Airbus Industrie | Airbus A380 (F-WWDD) | France |
| After landing at Le Bourget the aircraft was being towed from the taxiway to the Air Salon's static display area when the starboard wingtip struck a building. The wingtip separated from the aircraft and lodged in the building. | | | |
| 20th | RusAir (operated for Rusline) | Tupolev Tu-134A (RA-65691) | Russia |
| The aircraft crashed short of the runway at Petrozavodsk at the end of a flight from Moscow Domodedovo. Reports suggest the aircraft deviated from the flightpath on approach in twilight and fog. The airport is not equipped with an Instrument Landing System. Six people survived, with varying degrees of injury, from the 43 passengers and 9 crew. Coverage is believed to be retained in the Russian market. | | | |
| 23rd | Tara Air | Dornier 228 (9N-AGQ) | Nepal |
| Landing at Simikot on a cargo flight from Nepalguni the aircraft went off the side of the runway causing damage to undercarriage, wingtip and propeller. | | | |

* The JLT liability estimates are provided merely as a guide.

Insurance News

Merger Talk...

Clyde & Co and Barlow Lyde & Gilbert are in negotiations over a possible merger that will create a London-based attorney firm with more than 1,000 lawyers and annual revenues in excess of GBP300m.

If approved by the majority of both firms' partnerships, the deal will lead to the establishment of a combined entity that would rank just outside of the UK top ten law firms in London by turnover.

S&P downgrades Navigators...

Rating agency Standard & Poor's (S&P) has revised its outlook for Navigators Group Inc and its subsidiaries to negative from stable following the release of Navigators' first quarter results.

S&P maintained a "BBB" credit rating on Navigators Group Inc and an 'A' counterparty credit rating on the operating companies Navigators Insurance and Navigators Specialty Insurance.

Argo Group to Launch New Insurance Company in Brazil...

The international underwriter of specialty insurance and reinsurance products, Argo Group, announced the creation of a new indirect insurance subsidiary that will be located in Brazil.

Argo Group announced that Pedro Purm Jr. has been selected to serve as chief executive officer of the new venture.

The new company, which will be based in Sao Paulo, will write a broad range of commercial property, casualty and specialty coverages including engineering, professional, energy, cargo, marine and aviation insurance.

Liberty Mutual given ratings boost...

AM Best has revised its outlook on Liberty Mutual Insurance Companies and Peerless Insurance Company Pool (PIC Pool) to stable from negative.

The rating agency also affirmed their financial strength rating of "A" (excellent) and issuer credit rating of "a" (excellent).

In addition AM Best also revised the outlook to stable from negative for Liberty Mutual Holding Company, the ultimate parent of the group, and Liberty Mutual Group Inc. Their "bbb" issuer credit rating was also affirmed.

Japanese insurers' outlook now stable...

Four major Japanese insurers have now been assigned a stable outlook after international ratings agency Fitch removed them from under its negative ratings watch.

The four insurers are Mitsui Sumitomo, Aioi Nissay Dowa, Sompo Japan, and Nipponkoa Insurance.

GIC given A- rating...

AM Best has awarded Kuwait based Gulf Insurance Company (GIC) the financial strength rating of "A-" (excellent).

Generali Espana receives Fitch rating...

Fitch Ratings has assigned Spanish insurer Generali Espana the financial strength rating of "AA-", with a stable outlook.

Generali Espana's financial strength rating is now aligned with that of the other core operating entities within the Generali Group.

Lancashire receives AM Best upgrade...

Ratings agency AM Best has upgraded the financial strength rating of insurance company Lancashire from "A-" to "A".

The rating agency also upgraded the company's issuer credit rating from "a-" to "a".

Arrivals and Departures

- We are very pleased to announce the further expansion of our Aviation team with the addition of three senior practitioners.

Lee Turner, Paul Waring and Adam Sullivan have joined JLT Aerospace after completing their notice periods with Marsh. Lee and Paul will be based in London as Partners in our practice and Adam has joined our office in Singapore as a Managing Director.

Whilst subject to on-going contractual obligations, the addition of Lee, Paul and Adam is further evidence of JLT's commitment to the aviation insurance specialty and our investment in talent able to provide the best solutions and service to our clients.

- Brian McBride has joined Starr Aviation as Senior Vice President of Underwriting. Mr McBride will be based in Atlanta and will take control of Starr Aviation's US Airline risks book.
- QBE Insurance Group have announced that Emilio Di Silvio, the managing director of QBE's European aviation segment, will retire at the end of the year.

Aerospace News

Chilean ash cloud circles the globe...

On 4 June a volcano in the Puyehue-Cordon Caulle complex in southern Chile began erupting.

The volcano which had been dormant for decades forced more than 4,000 people living nearby to evacuate as it spewed forth an ash plume more than 6 miles high.

The ash cloud travelled via strong winds around the Southern hemisphere forcing airlines to cancel hundreds of international and domestic flights and causing travel chaos.

As of time of press the ash cloud continues to disrupt flights to and from the Australian and New Zealand regions.

It is not yet reported the total number of flights cancelled and total loss of revenues to airlines as a result of this event.

Ash disrupts air travel in East Africa...

The Nabro volcano in Eritrea erupted on 12 June spewing forth a plume of ash over 8 miles high into the air. The eruption followed a series of earthquakes that took place in the region.

Ash from the volcano caused a large number of flights to and from the East African region and as far away as Saudi Arabia and Egypt to be disrupted.

The total number of flights cancelled as a result of this eruption has not yet been reported, however, the number is expected to be relatively small in comparison with that of other recent volcanic events.

Business Interruption Products...

For further information on this topic please contact your local JLT representative or email us at: publications@jltre.com

Ready for take off - Sciemus enters space launch market...

Sciemus has expanded its offering to the space industry after deciding to unveil its own launch insurance facility. The new venture in partnership with US based specialty insurance company RLI will cater to the launch +1 year satellite insurance market.

As a result of the new partnership, RLI will now join Sciemus Space Insurance Services Limited (SSISL).

SSISL acts as a technical and insurance service provider to a consortium of insurers. The consortium is lead by Montpelier Re in Bermuda with capacity of USD30m.

Strikes cause flight disruption...

Flights to, from and within Greece were heavily disrupted as air traffic controllers took part in a country-wide general strike over the Greek government's intentions to implement a new austerity plan.

The 48-hour strike took place on 28 and 29 June and resulted in travel chaos, flights were cancelled, some airports completely shut down, ferry ports were closed and train and bus services operated limited schedules.

The strike also hampered public services, leaving hospitals operating at emergency staffing levels and closing schools, government offices and courts.

RBI acquires Ascend...

Reed Business Information (RBI), the business information division of Reed Elsevier, has announced that it has acquired the entire issued share capital of Ascend Worldwide Group Holdings Limited (Ascend).

Ascend will be integrated with RBI's aerospace information and data services business, Flightglobal.

Lead Lines Continued...

Another reason for parties to insert English governing law and jurisdiction provisions in their contracts? In the right case, cost effective recourse action can be made in quite small claims. In certain circumstances, it may be possible to enter into conditional fee arrangements whereby a lawyer offers discounted rates in return for a success fee, if the action results in a recovery.

3. *"Jurisdiction matters"*: getting the case into the correct forum is key to success. Knowledge of local law and court procedures is essential when devising a strategy. This covers everything from preparing the evidence in the proper form, be that the execution of powers of attorney in Poland, the authentication of original documents in China or reliance upon consumer legislation in Australia.

4. *Move quickly*: in some jurisdictions such as in Thailand, recourse action can be subject to a one year limitation period. Subrogation should not therefore be an after-thought to dealing with the immediate hull and liability claims. It may be necessary to launch proceedings in order to protect the position of the insured and consequently insurers until any technical investigation has been completed, and the total costs resulting from the event are known.

Prompt action can also place one's opponent under pressure to react and result in an early settlement. In a recent case, legal proceedings were filed one month after the event and the settlement reached seven months later, before the aircraft repairs had been completed.

5. *Act as a team*: the insured and insurers have a joint interest in pursuing recourse action successfully. In most cases, they share a common goal. Effective coordination on all aspects is vital to ensure one party does not prejudice the other party's legal position. Cooperation over the collection of material documentary evidence and the provision of witnesses will enable the case to be advanced more efficiently and increase the probability of success.

Both policyholders and insurers might therefore wish to reflect on the above when considering subrogation action.



PlaneTalking

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Contact Us

Subscriptions and General Queries

publications@jltre.com

Editorial Team

Brad Hills

Tel: +44 (0) 207 466 1434

brad_hills@jltgroup.com

Victor Fryer

Tel: +44 (0) 207 466 6818

victor_fryer@jltgroup.com

Business Contacts

Nigel Weyman

Tel: +44 (0) 207 466 1448

nigel_veyman@jltgroup.com

Bill Smith

Tel: +44 (0) 207 466 6654

bill_smith@jltgroup.com

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