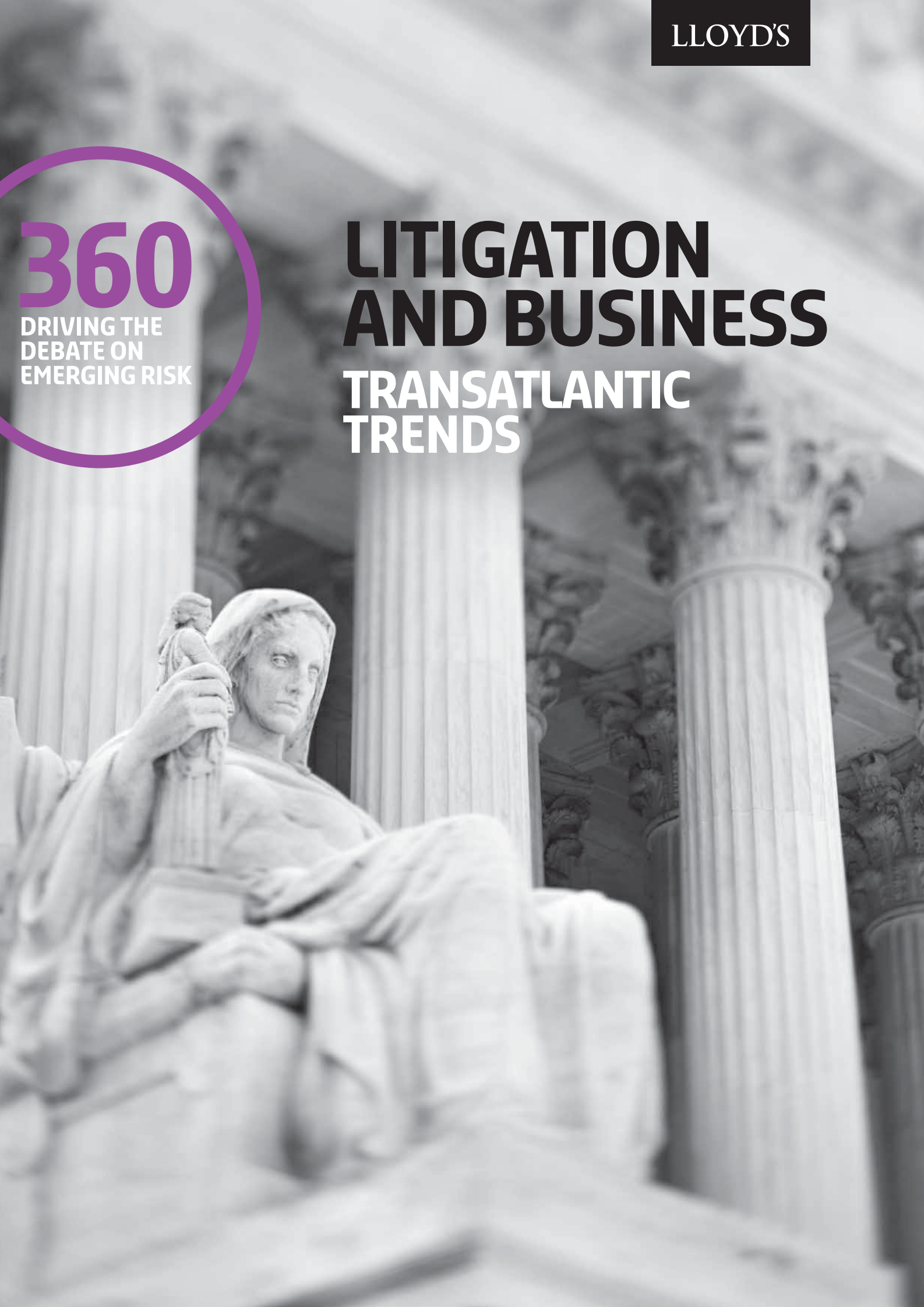
LLOYD'S

360
DRIVING THE DEBATE ON EMERGING RISK

LITIGATION AND BUSINESS

TRANSATLANTIC TRENDS



ABOUT RAND EUROPE

RAND Europe, an independent not-for-profit research organisation, continues a tradition of innovative problem-solving started by the RAND Corporation sixty years ago. Their shared mission is to help improve policy and decision-making through research and analysis.

ICJ Europe is a new joint venture between the RAND Institute of Civil Justice (ICJ) and RAND Europe. The ICJ is the premier source of independent public policy research on civil legal issues in the US. Together, the two institutes plan to establish a new research centre that will tackle policy issues confronting private and public sector decision-making in a global economy.

LITIGATION AND BUSINESS

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FOREWORD

Faced with a raft of emerging liability risks and the threat of claims from a widening group of stakeholders, boards everywhere view litigation as a growing challenge, according to Lloyd's most recent research. However, while many companies are devoting greater time and resources to respond to the evolving litigation environment, our findings suggest that boards could benefit from taking a more proactive approach when it comes to understanding the issues.

In today's dynamic global environment, it is perhaps unsurprising that the nature of litigation itself is also changing. Many business leaders in Europe are concerned about what they see as a spreading US-style compensation culture, but there are many factors involved. This report identifies three key trends in litigation which could have a significant impact on business on both sides of the Atlantic. Third party litigation funding, class actions and forum shopping are three areas where we can expect to see change. It is important that boards in both the US and Europe understand the potential impact on their business so they can strengthen their risk management strategy and processes accordingly.

Although it is the huge and potentially crippling damages that capture the headlines, much litigation actually takes place over smaller sums, which can still be very damaging to small and medium-sized firms. Current economic conditions bring a greater likelihood of claims, increasing the costs of dealing with disputes and of meeting damages. A review of these issues is therefore timely.

We are grateful to RAND Europe and the RAND Institute of Civil Justice Europe for their expertise and valuable insight. We hope that this report will help stimulate thinking and discussion on the changing nature of litigation and ultimately help boards to anticipate and prepare for the impact on their business.

Sean McGovern
Director and General Counsel of Lloyd's
November 2008

INTRODUCTION

From shareholder activism to the protection of intellectual property, business leaders have never needed to be so aware of their company's exposure to legal risks. Risk of facing litigation is influenced by two broad factors. The first comprises the legal techniques available to parties who wish to pursue a claim – for example, the ways in which they are allowed to pay their lawyers. The second is the nature and level of risks caused by business activity. The latter falls outside the scope of this report; it is useful, however, to begin by considering the broader global litigation landscape.

Although there is a lack of solid data on litigation trends in Europe and in the US, it is possible to draw some tentative conclusions about business exposure to litigation. In the US, tort filings (across 16 states) reached a peak in the mid-1980s, before falling to the same level in 2000 as in the mid-1970s. The situation in the UK is similar. A comprehensive study for the Association of British Insurers demonstrated a decline in the number of employers' liability claims between 1975 and 2002. Limited European data also seems consistent with this – figures on claims paid by French insurers between 2003 and 2007 show a slight rise followed by a fall, so the total drops from almost 70,000 in 2003 to 50,000 in 2007. While these figures clearly cover different legal issues and different time periods, all demonstrate a more general finding: litigation does not appear to be spiralling out of control.

We need to anticipate emerging factors that could begin to influence litigation risk in the future. Evidence suggests that large-scale liability risks are on the increase and are emerging from a wider range of sources. Research carried out by Lloyd's and the Economist Intelligence Unit in 2008 indicates that businesses face a growing number of lawsuits from customers and employees. But proceedings are increasingly being started by action groups and regulators, stakeholders who have previously been more passive in this sphere. Another recent study suggests that corporate litigation risk could be rising. The report uses three examples: foreign imports, liability for contaminated food supply, and premises liability. Each of these areas is currently generating numerous multi-million dollar claims in the US, which indicates the extent of the risk they represent.

To help businesses to understand the ever changing liability environment, this report examines three important and fast moving developments in global litigation that could have an impact on business: third party litigation funding, class actions and forum shopping. Each is widely applicable across countries and industries, including the US and the EU, and each reflects a desire to spread legal costs and to maximise advantage during litigation. Developments on each side of the Atlantic often drive developments on the other side.

WHEN CONSIDERING WHETHER TO FIGHT OR FILE A CLAIM, A CRUCIAL FACTOR IS THE COST INVOLVED

PART 1
THIRD PARTY LITIGATION FUNDING

Third party litigation funding involves a third party offering financial support to a claimant, typically in return for a share of damages if the claim is successful. The third party could be an insurer or a wealthy individual, but is often an intermediary providing the funding to pursue a claim. More easily available funding may encourage claims that would have otherwise been considered too expensive, or too risky, to pursue.

When considering whether to file or fight a claim, a crucial factor is the cost involved. Various countries have developed mechanisms to help litigants share this cost. While some European jurisdictions have used state-sponsored legal aid, recent trends indicate a shift towards various forms of private insurance. This may be provided by an insurer (in the case of a legal expenses insurance policy) or even by a lawyer (in the case of a no-win no-fee deal). In some cases, these are combined; for example, the English conditional fee agreement protects the client against costs through a no-win no-fee deal on legal fees and an insurance policy protects against the opponent's costs. In the US, attorney insurance is commonplace, as a result of contingency fees, which allow the lawyer to claim a fraction of damages, but only if the case is successful.

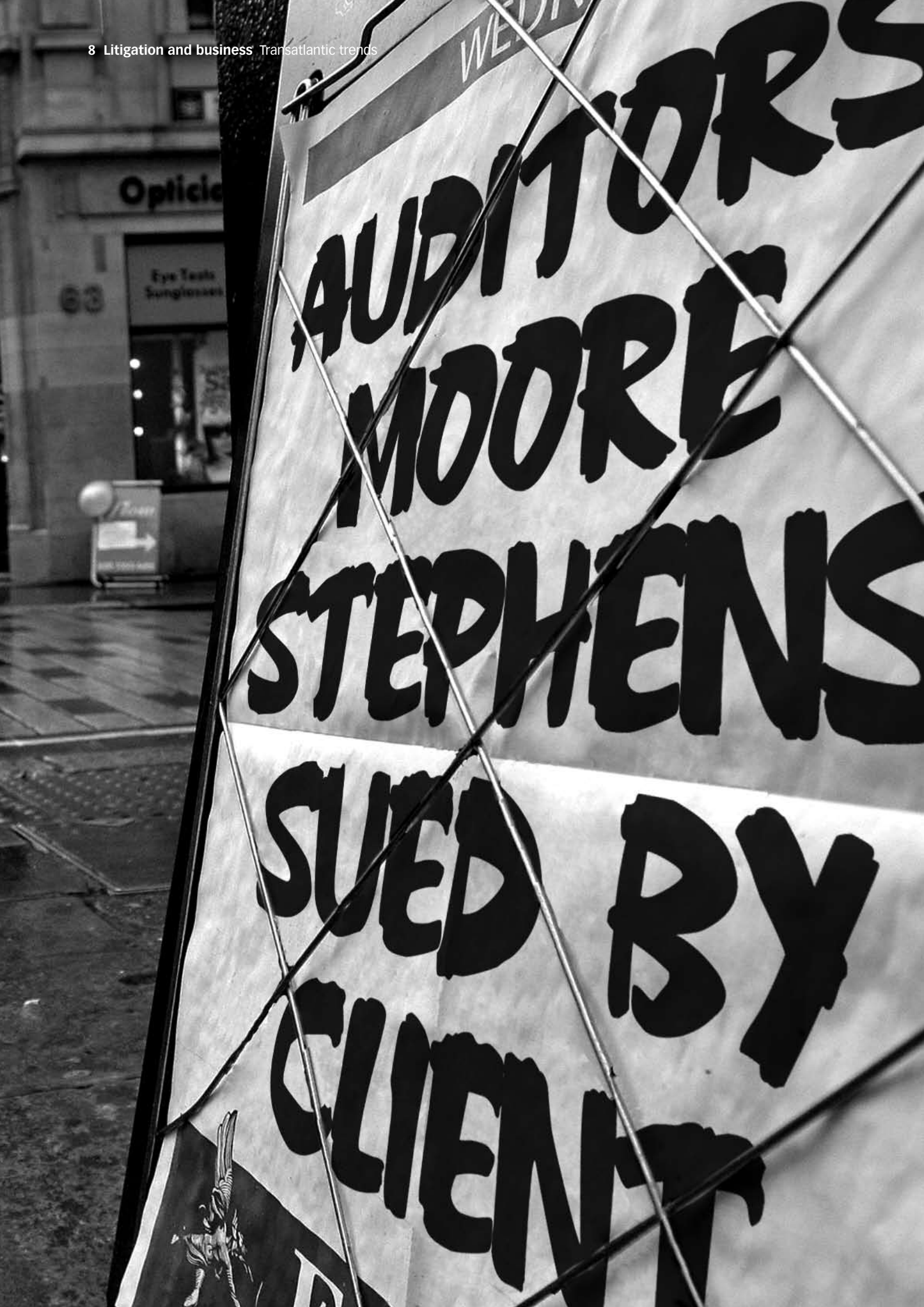
A difficulty with such private insurance arrangements is that they may not be able to support high risk claims, or ones that require considerable upfront expenditure. This presents a natural opportunity for financiers to become involved; either to help bankroll the early stages of a claim, or to package the risk in such a way that it is reduced to an acceptable level for the litigant. These are the roles played by third party litigation funding, therefore providing a natural interface between the needs of litigating parties and the capital-raising experience of financial markets.

Arrangements of this kind have been available since the 1990s in Germany. They have also been available in the US for a similar period, although various state laws regulating who may take a financial interest in a given case (so-called champerty laws) have restricted them to particular states. Large funders have begun to emerge in the UK, encouraged by a degree of support shown to third party arrangements in the recent *Arkin* judgement. Arkin brought a claim alleging that his shipping business had collapsed following anti-competitive practices by the defendant. To pursue the claim, third party funding was made available to him by a private funder in return for 25% of any damages up to £5m (and 23% thereafter). Arkin lost the case, but the court ruled that the third party funder should only pay the defendant's costs to a level that matched Arkin's, thereby restricting the funder's exposure. Third party funding has since been favourably reviewed by the English Civil Justice Council. Third party funding is also available in Australia, particularly as a means for funding class actions. Indeed, Australian third party funders are now establishing a profile in Europe.

These arrangements typically offer to cover the costs of litigation in return for a fraction of damages recovered. A common rule of thumb for the funder is to look for a damages/costs ratio of 3/1. Despite the support for third party funding expressed in *Arkin* and the view of the Civil Justice Council, such funding remains controversial. Some observers are uneasy about clients parting with damages, while others are concerned that additional sources of finance may fuel a litigation explosion. Further concern has been expressed about the influence that a third party funder might wish to exercise over the conduct of a case. In response, supporters argue that third party funders enable the pursuit of worthwhile claims, whose merits the funder has an incentive to ensure (since its capital is at risk), and that they do not seek to influence claim handling itself as their expertise is not in legal services.

Third party litigation funding has the potential to encourage an individual or company to pursue court action, where previously the costs involved may have persuaded them not to take action. The results of such litigation could be especially hazardous for small to medium-sized firms, as illustrated by a recent UK case. In *Moore Stephens*, a company sued its auditors (using third party litigation funding) for a sum that could easily have bankrupted the auditor (which had a turnover of £100m). Although the case was subsequently lost, it nonetheless demonstrates the potential impact of third party funding for small and medium-sized businesses.

"LOOKING AHEAD, THIRD PARTY FUNDING IS LIKELY TO GROW."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THIRD PARTY LITIGATION FUNDING HAS THE POTENTIAL TO ENCOURAGE... COURT ACTION, WHERE PREVIOUSLY THE COSTS INVOLVED MAY HAVE PERSUADED THEM NOT TO TAKE ACTION

Looking ahead, third party litigation funding is likely to grow. For one thing, the investment opportunities it provides are potentially independent of economic conditions, since the prospects of winning a case depend on its merits, not the economy. This may be especially attractive to capital in current economic conditions. Another interesting development in the UK will take place as legal disciplinary practices and multi-disciplinary practices begin to emerge. These will allow external capital to be invested in a solicitor's firm and formal partnerships between members of different professions (including the financial sector). Both measures will encourage innovative funding arrangements that combine financial and legal services.

Current third party funding practices are mostly directed towards large-scale (typically commercial) claims, because these can generate the required damages/cost returns. In some European jurisdictions such as Germany, predictable costs make it easier for funders to take on lower value claims, but it remains to be seen whether or how quickly this will become standard practice elsewhere.

Third party litigation funding raises a number of genuine issues for business relating to the prospects of facing (or fighting) a claim and the manner in which such claims are handled. Some types of case may be more attractive to third party funders – for example those with more predictable outcomes or speedier case handling, which can lower costs. Businesses should examine their potential exposure to claims funded in this way.

A firm considering the use of third party funding needs to identify suitable funders, and to evaluate the funding package on offer. Relinquishing a certain percentage of damages may be a good deal or a bad one depending on the characteristics of the case, so all elements of the funding package and the case need to be considered. Larger solicitors' firms are becoming increasingly involved in helping to bring funders and clients together. However, this facility will not always be available for smaller firms, which may result in them missing out on a competitive third party deal (perhaps jeopardising their litigation).

In principle, like other methods of litigation funding, third party funders' interests in the outcome of the case create tensions when assessing case strategy. A strong relationship between lawyers and businesses minimises the threat of this problem. This could raise more concerns for a small firm that does not retain lawyers on a regular basis.

The decision in the *Arkin* case also creates a funding gap. Who pays any outstanding costs owed to a victorious defendant once the funder has reached the extent of his liability? The defendant should not have to pay, so the claimant must make up the shortfall. This can be very expensive (£4.7m for *Arkin*) so, in cases where the defence costs may be substantial, the wise business will also investigate taking out an insurance policy against such costs at the start of the proceedings – or indeed, this can be arranged as part of the third party funding package.

Any business involved in litigation should consider the full range of funding options before selecting one. In some circumstances, an insurance product may be a good alternative to third party funding – for example, when the upfront costs are not too large. Once again, this places an onus on businesses to keep abreast of innovations for their own litigation (as well as the risk of facing others). As in any market, an informed buyer of legal services will generally make a better decision and with developments in funding options occurring rapidly, investing a little to become informed is worthwhile.

SUMMARY

- Businesses should expect third party litigation funding to rise on both sides of the Atlantic, bringing increased risk as it can help to make litigation more achievable for stakeholders with worthwhile claims.
- Current economic conditions may actually accelerate the growth of third party litigation, with investors keen to find new opportunities for investing capital not correlated with volatile financial market performance.
- The growth of third party litigation funding will also bring opportunities for those seeking to initiate a claim. Small and medium-sized businesses, which often find legal costs too high to justify litigation, may benefit most.

ANY BUSINESS INVOLVED IN LITIGATION SHOULD CONSIDER THE FULL RANGE OF FUNDING OPTIONS BEFORE SELECTING ONE

PART 2
CLASS ACTIONS

Class actions involve an action being taken to court on behalf of a wider group of people or businesses (the 'class'). By offering the possibility to spread the costs of the claim across a larger number of claimants, the prospects of a claim being brought may be enhanced and the aggregation of individual damages can lead to multi-million pound payouts.

Class actions are common and controversial in the US and are looming on the European horizon as well. The controversy surrounding class actions in the US represents a classic trade-off between the need to ensure access to justice and the need to protect defendants from unfair legal action. The tension arises from the potential of class actions to encourage litigation by spreading the costs of the claim across numerous litigants and from their ability to aggregate claims into substantial damages. Detractors argue that such class actions can pressure defendants into settling even meritless claims.

This debate has been fuelled in recent years by an alleged increase in class actions in the US. Interestingly, little hard evidence exists on class actions in the US. A recent RAND ICJ survey of insurers covers 65% of direct premiums written in the US property and casualty and life and health markets. This data indicates that there is clear evidence that class actions in the US grew substantially between 1992 and 2002, compared with a reduction in tort filings over the same period, but the rate of growth fell dramatically during the latter half of this period. Claims vary a good deal in terms of the numbers of defendants involved and fund size. Where reported, legal fees ranged from $50,000 to $50m, with aggregate fees and costs typically taking up about 50% of damages.

"THE CONTROVERSY SURROUNDING CLASS ACTIONS IS A CLASSIC TRADE-OFF BETWEEN THE NEED TO ENSURE ACCESS TO JUSTICE AND THE NEED TO PROTECT DEFENDANTS FROM UNFAIR LEGAL ACTION."

It is clear from this study that class actions vary much more than the headline stereotype might imply. They involve small, as well as large, corporate defendants and result in a wide range of outcomes.

In Europe, attitudes towards class actions are polarised. While some business forums lobby against them, a recent Legal Week survey of UK litigators sees England becoming the European class action capital – 59% of those surveyed believe class actions will take root within three years. In a separate survey by Legal Week, 25% of senior lawyers forecast a substantial rise in class action work, with 50% anticipating some growth. Leading US class action firms have begun to establish a presence in the UK and the recent *Shell* case provides a landmark European class action payout ($450m). Here, the oil giant was sued for alleged misrepresentation of its proven oil and gas reserves by all its non-US shareholders, who had bought stock between 1999 and 2004.

Elsewhere in Europe: Portugal, the Netherlands, Spain and Sweden have class action mechanisms in place, while Germany has a more restricted version and other states, such as France, are introducing laws to support consumers in class actions.

The precise details of class action rules across EU member states' vary. For example, in some, it is only possible to bring class actions in particular areas of law; in others, such actions can only be fronted by a representative body (such as a consumer organisation).

Officially, the EU does not favour the widespread introduction of class actions. In a speech in November 2007, the European Commissioner for Consumer Protection, Meglena Kuneva, espoused a cautious approach to assuring collective redress in consumer cases. In particular, she remarked upon the divergence of approaches across Europe and the need for European harmonisation of redress mechanisms.

CLASS ACTIONS ARE COMMON AND CONTROVERSIAL IN THE US AND ARE LOOMING ON THE EUROPEAN HORIZON AS WELL

CLASS ACTIONS VARY MUCH MORE THAN THE HEADLINE STEREOTYPE MIGHT IMPLY


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Therefore, there is uncertainty about how US experience will be translated in Europe. Cost rules, judge-made awards and a lack of punitive damages should all restrict the commonly claimed excesses of the class action system. At the same time, proposals for 'opt out' class actions in England and Wales are likely to increase the incidence of class actions. Third party funding from Australia may also play a role here, the fact that European jurisdictions are beginning to 'compete' for class action business is a good indicator of expected future demand.

Clearly, there is potential for class actions wherever a product is used by, or affects, a group of consumers in a similar way. This poses a problem for anyone seeking to manage this risk because it makes the nature and size of potential class actions difficult to predict. Businesses with shareholders may also face a class action. In general, the more individually tailored a company's product, the less likely it will be to generate a sufficiently common cause of action that might form the basis of a class action.

"THERE IS POTENTIAL FOR CLASS ACTIONS WHEREVER A PRODUCT IS USED OR AFFECTS A GROUP OF CONSUMERS IN A SIMILAR WAY."

When assessing class action risk, as well as the nature of a product, it is important for a business to understand the primary location of its consumers. The same consumer grievance in Spain will currently generate a different type of legal action than in France, for instance.

Some of the costs to business of class actions are clear: they relate to the potential legal costs and levels of damages involved. Others, however, are less obvious. Exposure to litigation risk may increase insurance premiums. Firms should check policy wordings to ensure that issues amenable to class actions (notably shareholder ones) fall within the scope of policies. Class actions also have non-financial costs, especially in terms of reputational damage, not least because the action and outcome must be advertised to potential class members.

SUMMARY

- Recent evidence shows that class actions in the US are far more varied than the multi-million dollar settlements that hit the headlines. Businesses should not assume that a relatively modest case could not become a class action.
- We can expect the opportunity for class actions to grow in the EU, so the likely risk to business of mass litigation may increase. This risk will vary across EU countries, so businesses need to be aware of the rules and procedures governing class actions in member states.

CLASS ACTIONS ALSO HAVE NON-FINANCIAL COSTS. ESPECIALLY IN TERMS OF REPUTATIONAL DAMAGE


SKY news
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BA/VIRGIN SETTLEMENT
MULTI-MILLION POUND FINE FOR BA
COLLUSION IN FIXING THE PRICES O

TWO NON-US COMPANIES WERE SUED IN A US CLASS ACTION OVER ALLEGED PRICE FIXING, RESULTING IN A MULTI-MILLION DOLLAR SETTLEMENT

PART 3
FORUM SHOPPING

Forum shopping involves claimants (or defendants) choosing the jurisdiction in which they pursue or defend their claim.

The 'choice' when forum shopping is the result of jurisdictions being prepared to adjudicate claims arising elsewhere on the basis of a variety of pretexts, including the fact that some of the litigants have a 'link' with the jurisdiction in question. Such shopping can take place within a country (as with choice of state in the US), within a continent (as might happen across EU state borders) or across continents (between, say, the US and the EU).

Evidence from US asbestos litigation shows that payouts can vary systematically across different jurisdictions. For example, compared to Pennsylvania, litigating an 'equivalent' case in five other states increases payouts by between $800,000 and $3.8m. Other strategic advantages of forum shopping can include access to faster or slower outcomes and to particular remedies that may not be available elsewhere.

A number of recent cases illustrate the nature of the risk to business. One is the outcome of Sarbanes-Oxley, which makes US companies legally liable when their non-US based subsidiaries fail to comply with US law. Another is the Air Philippines flight 541 crash in Davao eight years ago, which spawned a class action that earned a $165m compensation package. The remarkable feature of this case is that none of the claimants were American, and neither were the plane owner or insurers, yet the latter were still sued in the US on the basis of a US leaseholder's involvement in the case. This suggests that it is difficult for businesses to predict where litigation may arise – and decisions designed to avoid litigation in some jurisdictions may not be effective.

Most recently, the action concerning British Airways and Virgin Atlantic on airline price fixing represents a remarkable development. Two non-US companies were sued in a US class action over alleged price fixing, resulting in a multi-million dollar settlement. The airlines have sought to cover all passengers with this settlement (even ones whose flights were not linked to the US). If successful, this will have the benefit of heading off copycat claims elsewhere, thereby saving the companies from the protracted costs and uncertainties of litigation across the world. In order to succeed, they will need courts elsewhere to recognise the settlement. If the airlines can succeed, it puts a new spin on the extraterritoriality of US law that is typically seen in terms of US jurisdictions being willing to accept non-US claims. It provides an opportunity for businesses to minimise the protracted costs and unpredictability of future liabilities by dealing with them pre-emptively.

It is interesting that the common feature of these examples is the US. The reasons are a combination of supply and demand. On the supply side, US courts operate a reasonably flexible definition of what constitutes a sufficient link to the US for the purposes of pursuing a claim. On the demand side, there is the attraction of class actions (which, as we have seen, is helped by the cost rules, jury trials and punitive damages) as well as the presence of contingency fees.

It is difficult to police such intercontinental forum shopping; if jurisdictions allow it then litigants are free to exercise genuine choice. We might expect the position within a continent such as Europe, to be more regulated. In principle, this is the case, with the Brussels Convention establishing the basis for a harmonised approach to jurisdictional recognition across Europe. Despite this, there remains the potential for forum shopping in Europe. For example, in some cases, different European jurisdictions use different rules when defining what they are prepared to accept as evidence; or they take different approaches to the preservation of that evidence, over how it can be obtained; and they adopt different systems of enforcing judgements and allocating costs. This means, for example, that a case may be strong in one EU state and weak in another, so that bringing it in the first instance proves advantageous to one party and detrimental to the other party.

"US COURTS OPERATE A REASONABLY FLEXIBLE DEFINITION OF WHAT CONSTITUTES A SUFFICIENT LINK TO THE US FOR THE PURPOSES OF PURSUING A CLAIM."

EVIDENCE FROM US ASBESTOS LITIGATION SHOWS THAT PAYOUTS CAN VARY SYSTEMATICALLY ACROSS DIFFERENT JURISDICTIONS

IT IS DIFFICULT TO POLICE INTERCONTINENTAL FORUM SHOPPING; IF JURISDICTIONS ALLOW IT THEN LITIGANTS ARE FREE TO EXERCISE GENUINE CHOICE


ONES

In many types of European case it is necessary to demonstrate some link with the location of the forum in question. This will not always be possible, but an increasingly global market makes links more likely. In particular, many jurisdictions will hear a case if the claimant or defendant can establish a 'sufficient link' with the jurisdiction. Clearly, this is an area of some uncertainty and can cause significant difficulties in multi-party cases, where the various parties could choose different jurisdictions to hear the case.

Despite regulatory attempts at harmonisation, the EU has not managed to stave off the potential for forum shopping: the harmonisation of a rule does not guarantee compliance when underlying legal systems differ.

The situation has recently been complicated further, by the European Union Advocate General's opinion in the ongoing *Front Comor* case. The Front Comor is a ship that collided with an oil jetty in Syracuse, resulting in an 'anti-suit injunction', to prevent some elements of the case from being heard under Italian rather then English law. The case was referred to the European Court of Justice for a ruling on whether such an injunction (a long-standing defence against forum shopping when English courts are specified in a contract) should be upheld in this case. The Advocate General's opinion opposes deployment of anti-suit injunctions, effectively limiting a party's ability to have the claim adjudicated in England, even when that is specified as part of any anticipated arbitration under the contract. If upheld, the result is to expand the scope for EU forum shopping, even in cases where jurisdiction appears to be clearly spelled out.

The *Front Comor* case has clear implications for European business, because it relaxes a long-standing constraint on forum shopping. Thus, potential litigants may need to 'race' to their preferred forum in order to secure its jurisdiction. This will be a new experience for many businesses and requires awareness and planning.

In principle, any company with an international dimension to its business could find itself being sued at any of its global locations. The obvious risk management strategy is to become familiar with the various forums. A useful way to minimise the burden is to identify key markets in terms of sales, but also in terms of where the strongest ties with other elements of the supply chain are based. Another strategy may be to take particular notice of the legal rules in EU accession countries. Here, the pattern of business may not be so well established and may, therefore, be open to more risk. Similarly, anecdotal evidence suggests that some smaller member states are quicker to offer remedies that could be attractive to forum shoppers.

Finally, but importantly, developments in forum shopping mean that firms should keep their directors' and officers' insurance polices under review. Companies should ensure that they cover actions brought in other countries, including new entrants to the EU.

SUMMARY

- Despite regulatory attempts at harmonisation, forum shopping can still arise in the EU. Companies need to start to familiarise themselves with how member jurisdictions are developing, and monitor developments closely to help them understand the impact on their business and manage any changing risks.
- The risk of being sued in the US for companies based elsewhere is high, even where the details of the claim have little apparent connection to that jurisdiction. EU companies need to understand and prepare for this risk. Meanwhile, some companies may find benefit in seeking to resolve large-scale disputes in the US in order to pre-empt action elsewhere.

IN PRINCIPLE, ANY COMPANY WITH AN INTERNATIONAL DIMENSION TO ITS BUSINESS COULD FIND ITSELF BEING SUED AT ANY OF ITS GLOBAL LOCATIONS

CONCLUSIONS

1 THREE IMPORTANT RECENT DEVELOPMENTS ARE TAKING PLACE IN EUROPEAN AND US LITIGATION RISK: THIRD PARTY FUNDING, CLASS ACTIONS AND FORUM SHOPPING

Each is gaining momentum in the US and the EU, because they address a common, and widespread, set of issues: a desire to spread legal risks (not least those relating to costs), a wish to maximise advantage during litigation and the fact that increasingly global activity widens a business' legal risk (or opportunities) and the pool of capital from which it can fund these.

2 THESE DEVELOPMENTS CHANGE THE RISK OF LITIGATION FACED BY BUSINESSES, OFTEN BY INCREASING IT, ALTHOUGH THEY ALSO INCREASE THE OPPORTUNITIES AVAILABLE TO A FIRM PURSUING A LEGAL CLAIM

Additional uncertainty arises in Europe, where a degree of forum shopping can make it harder to predict where businesses may face litigation, and over what. Recent EU accessions may exacerbate this situation.

3 THINGS ARE CHANGING FAST AND BUSINESSES MUST BE INFORMED ABOUT THE RISKS INHERENT IN THEIR OWN ACTIVITY

Business leaders should ask questions such as, what cases have they been involved in during the past? What likely exposure do they have in different EU jurisdictions? To what extent are they receiving complaints from customers (these can be a signal of future claims)? While some larger businesses will have high-level legal advice readily available, others will not. Fortunately, simple strategies can help, such as taking steps to ensure that individuals or departments are monitoring developments and that information produced around the company is collated and studied systematically.

4 THERE ARE MANY RESOURCES AVAILABLE TO HELP MONITOR THE LEGAL ENVIRONMENT

In such a widespread and fast moving area, the task of becoming familiar with the basics may seem demanding but valuable data has recently become available. In addition, legally oriented research centres can be useful sources of information and contacts. The legal press is invaluable in general and in specialist areas, and increasingly can be accessed via the internet. A number of law firms also produce valuable briefings for their clients. Finally, there is a growing number of conferences on key issues organised by firms seeking to promote their profile in these developing markets. Traditional academic sources also provide invaluable insight through events and journals.

5 BUSINESS CAN CONTRIBUTE TO OUR WIDER UNDERSTANDING OF HOW THE LEGAL SYSTEM IS DEVELOPING AND PERFORMING

Businesses can engage with and participate in research, perhaps through the provision of data, benefiting other firms whose own exposure or experience generates too little data for meaningful analysis. Overall, more informed debate can only increase the ability of business to manage risk, which is in everyone's interests.

ABOUT THE 360 RISK PROJECT

Today's risk environment is changing and evolving more rapidly than ever before. At Lloyd's, understanding and anticipating major risk trends is what we have been doing for 300 years.

Lloyd's 360 risk project was created with one aim: to generate discussion on how to manage risk in today's business environment. By tapping into the concentrated expertise and knowledge within the Lloyd's market, and bringing together the views of experts from the insurance industry and the wider business, political and academic worlds, we want to stimulate practical, thought-provoking discussion about the risk issues that matter, from climate change and terrorism through to corporate liability.

Lloyd's 360 risk project will not give all the answers, but it will provide a forum for us to debate the steps we need to take to better manage risk.

To find out more about the 360 risk project and download the reports described below, visit www.lloyds.com/360. To request printed versions email 360@lloyds.com

ADAPT OR BUST

Explores what climate change could mean in our lifetime in four areas of particular relevance to the insurance industry: sea level rise, melting ice caps, flood and drought.

HOME-GROWN TERRORISM - WHAT DOES IT MEAN FOR BUSINESS?

Identifies the practical steps which companies must undertake to mitigate and manage the risk of home-grown terrorism.

WHAT NEXT ON CLIMATE CHANGE?

Highlights the key issues raised during the 360 Live Debate on Climate Change and provides an update on how Lloyd's is addressing the issue of climate change.

TERRORISM IN ASIA - WHAT DOES IT MEAN FOR BUSINESS?

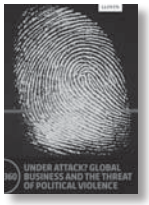
Examines the current terrorist threat in Asia, and how it impacts on business.

RAPID CLIMATE CHANGE

Addresses the issues and impact of climate change and the steps the insurance industry might take to prepare for the increasing volatility of the climate.

DIRECTORS IN THE DOCK - IS BUSINESS FACING A LIABILITY CRISIS?

Explores the growing litigation issues businesses are facing today.



UNDER ATTACK? GLOBAL BUSINESS AND THE THREAT OF POLITICAL VIOLENCE

Provides a corporate perspective on political violence and examines how geopolitical risk can impact business.

COASTAL COMMUNITIES AND CLIMATE CHANGE - MAINTAINING FUTURE INSURABILITY

Coastal communities are at risk from rising sea levels due to climate change. This report looks at how insurability in these regions can be maintained in the future.

Since merchants first met to insure their ships at Edward Lloyd's coffee shop over 300 years ago, nearly every aspect of the way we do business has changed. But one constant is the bold confidence proclaimed by our motto, reflected in both our unique appetite for risk and our worldwide reputation for settling valid claims.

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