

Compliance and Claims Issues for Foreign (Re)insurers Arising from the Chile Earthquake



M. Machua Millett

617.239.4764

MMillett@eapdlaw.com

April 12, 2010

Compliance and Claims Issues

Overview

- I. Claims Adjusting in Chile
- II. Relaxation of Usual Claims Rules
- III. Quake Cover?
- IV. Loss from Tremors vs. Tsunami
- V. Failure to Build to Code
- VI. Conflicts Between Duties to Insureds and Reinsurers
- VII. Business Interruption Issues
- VIII. Force Majeure

Claims Adjusting in Chile

- Basic rules for claims adjusting
- The role of the “liquidator”
- The role of foreign adjusters

Relaxation of Usual Claims Rules

- Relaxation of the usual claims period and methods of noticing claims
- Relaxation of the adjusting rules

Quake Cover?

- Typical quake cover in the Chilean market
- Quake claims made without cover

Loss from Tremors vs. Tsunami

- Covered Losses?
- Separate claims for subsequent tremors?
- Separate claims for tremors v. tsunami?

Failure to Build to Code

- Basis for rescission based upon application?
- Basis for denial of coverage?
- Public policy arguments?

Conflicts Between Duties to Insureds and Reinsurers

- Duty owed to insured to timely respond to claim
- Duty owed to reinsurer to permit claims control
- How is the conflict resolved?

Business Interruption Issues

- The specter of Northridge
- BI issues attributable to damage to insured assets
- BI issues attributable to damage to infrastructure

Force Majeure

- Does force majeure apply to the Chilean earthquake?
- If so, what is its impact on commercial contracts?
- If so, what is its impact on claims for purported loss?

Conclusion

- Very early in the process.
- Stay involved with the adjustment/claims process.
- Educate your people now before the rush.

Compliance and Claims Issues for Foreign (Re)insurers Arising from the Chile Earthquake



M. Machua Millett

617.239.4764

MMillett@eapdlaw.com

April 12, 2010