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INSURSIGHTS

A focus on the insurance market

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SPACs have been around for many years, but never before has the subject has been talked about as much as it is today. But what is a SPAC? A Special Purpose Acquisition Company or SPAC is a shell corporation that is established to take companies public. In a first step, SPACs raise capital through an IPO for the purpose of acquiring an existing operating company. Subsequently, the publicly traded SPAC can merge with or be acquired by the operating company and become a listed company in lieu of executing its own IPO. This is a preferred way for many experienced management teams and sponsors to take companies public. The alternative route to the stock market is also interesting for startups. On the downside, the pace at which SPACs target acquisitions and complete deals exposes them to shareholder and regulatory scrutiny and potential lawsuits. Directors and officers of a SPAC face a direct risk to their personal assets as the funds held in SPAC trusts cannot be used to indemnify them. Therefore, suitable D&O insurance policies are sought. However, due to the circumstances such insurances are costly, which is why captive solutions are often considered. However, the design of a captive for a SPAC must be carefully considered. For example, the different lifecycle already poses a major challenge. SPACs exist usually only for about two years, whereas captives are longer-term plays. They are designed to be economically efficient for a company that has operating profits and will be in business for many years. Funding is another factor that makes a SPAC less suitable for a captive, as the money is held in trust and not available for other activities. Nevertheless, there are captives in the market that have been created for a short time span, e.g. for joint ventures. In the case of a captive for a D&O insurance in connection with SPACs, a PCC solution would be appropriate.

Brexit: Solvency II equivalence

Since 1st January 2021, EU law is no longer applicable to the UK, including the Solvency II Directive. UK (and Gibraltar) insurance undertakings became third-country undertakings. To avoid losing significant business in the EU, Solvency II equivalence continues to be a goal for the UK. Since without equivalence, the EU can essentially alter their rules at any time and make access to the EU more difficult. There would be special circumstances, if equivalence were not granted since the UK has already had to comply with the provisions of Solvency II as a former EU member. It is at least reassuring to know that multilateral Memorandum of Understandings between the national authorities of the EEA with competencies in insurance as well as EIOPA on the one hand and the UK authorities (Bank of England in its capacity as the Prudential Regulation Authority and the Financial Conduct Authority) on the other hand were already agreed to ensure cooperation in the fields of supervision, for mutual assistance and regular exchange of information.

Cyber risk on the top list

Without any doubt, one of the most emerging risks today is cyber exposure. The reasons are manifold: hacker attacks by malware (ransomware, viruses, etc.), physical attacks (e.g. manipulation of data), human or technical failure. Particularly errors and omissions exposures stemming from digital transformation initiatives or the potential vulnerabilities from (the shift to) remote working increased cyber risk. The FBI informed recently that it is investigating about 100 different types of ransomware. Accordingly, claim frequency and severity inevitably lead to rising insurance premiums. But a majority of mid- and large-sized organizations disregard the business threats posed by cyber-attacks. Companies are predominantly addressing cyber risk reactively, without formulating risk management practices and technologies. But cyber is also a major challenge for insurers who have to cope with rapid growth in exposure without adequate risk control and cybercriminals, who have exploited malware and cyber vulnerabilities faster than companies that may have been late in protecting themselves.

GO THE EXTRA MILE The Summer Olympics Games in Tokyo could be canceled as the pressure around holding the games amid the COVID-19 pandemic mounts. This would drive the largest-ever event cancelation insurance claim, with up to $3 billion in estimated losses. Covid will continue to keep us busy in the future… for sure.