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Global Risks 2014

Key risks identified in the [World Economic Forum's Insight Report, Global Risks 2014](#) include fiscal crises in key economies (in first place). Eurozone nations are at particularly high risk of fiscal crisis because they cannot devalue their currencies.

Failure of a major financial mechanism/institution is in ninth place: '[five] years after the collapse of Lehman Brothers, with its system-wide impacts, the failure of a major financial mechanism or institution also features among the risks that the respondents are most concerned about, as uncertainty about the quality of many banks' assets remains'.

The report includes an interesting interconnections map showing how risks, sometimes seemingly disparate, may be linked, directly or indirectly. It also addresses emerging market risks: in the coming years their economic performance is likely to diverge.

We have advised firms on terms of business, including provisions addressing Eurozone-related risk. We have also advised on steps to protect against bank failure.

Anti-Money Laundering - £7.6 million fine focuses minds

The £7.6 million fine on Standard Bank, imposed by the Financial Conduct Authority (FCA) and which would have been £10.9 million but for the early settlement discount, is significant as it is the first relating to inadequate checks on corporate clients for links to money-laundering. All 48 files checked as a sample by the FCA had connections with PEPs (Politically Exposed Persons).

The FCA considered this particularly serious because Standard Bank provided loans and other services to a significant number of corporate customers who emanated from or operated in jurisdictions which have been identified by industry recognised sources as posing a higher risk of money-laundering.

We have seen a significant increase in issues arising in higher risk jurisdictions in the course of advising law firm clients, and this will increase further as firms engage more with clients in emerging economies. We have also observed, when auditing law firms' procedures, that few identify clients as high risk on matter inception, even when it is obviously so, and those that do, then fail to implement enhanced procedures for managing that risk.

The Standard Bank case was purely system failure, and no money laundering was alleged to have taken place.

Sue Mawdsley will be delivering a number of Law Society training seminars around the country. She is also speaking at the Managing Partner 10th AML compliance for law firms conference 2014 on 26 February 2014. Details on the [Events page](#) of our website.

We advise many leading US and UK firms on anti-money laundering, counter terrorist finance and, increasingly, sanctions issues – dealing with production orders, legal professional privilege, policies and system reviews and audits.

Large claims

There have been several professional liability claims over £100 million reported in the press in recent months, and we are aware of others. Most large claims may be down to pure oversight (if there is any breach), but we are aware of one involving more odious circumstances.

There are also more claims on management liability policies, and firms should be particularly cautious about signing the proposal form, as the risk of policy coverage issues is significantly higher than on professional indemnity policies.

We are advising many firms on policy coverage issues, and on claims in excess of the policy limit.



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10 years of Legal Risk newsletters – thought leading on risk

Legal Risk is a thought-leading, practising law firm specialising in professional regulation and professional indemnity, not another tick box compliance consultant.

Our January 2004 edition, entitled Risk Forecast 2004, included the following selection.

Recent international corporate failures continued to provide both the fear of litigation for advisers and opportunity for litigators – and that was before Lehman.

Litigation – we mentioned discussions between the government and insurance industry on ways to reduce the cost of personal injury claims, possibly removing lawyers from lower value employers liability claims, which may result in reduced need for legal services or limits on fee recovery. There can be little doubt we were on target.

Finance – we noted that solicitors continued to pay inadequate attention to financial information – since then we have seen the demise of Halliwells, Cobbetts, Dewey & LeBoeuf to name but three.

We commented that discrimination claims continue, with a multi-million pound claim against partners of a city firm for lost prospects of promotion to equity partnership. High profile claims continue to occupy the press.

We commented that the Clementi review, then in progress, was bound to have a significant impact. It continues to do so, with the advances in law firm regulation and the advent of Alternative Business Structures (“ABSs”).

We also noted that viruses would continue to bug the profession. Cyber risk is now high on the agenda, as noted below.



Events

Frank Maher will be speaking at the Association of Professional Responsibility Lawyers' conference in Las Vegas, 27-29 March 2013.

Francis Dingwall will be chairing the 7th Compliance for Law Firms conference on 2-3 April 2013.

Sue Mawdsley will be speaking at various anti money laundering events – see [page 1](#).

For further details see [here](#).

For further information on any of the above, please contact info@legalrisk.co.uk

Failures of tick box compliance

While checklists have uses, we always strive to help our clients achieve ‘thinking compliance’, with procedures and training that reflect the fact that we are practising lawyers. An example of unthinking behaviour leading to non-compliance was reported in the New York Times of 9 January 2014, under the headline ‘JPMorgan Lost Madoff in a Blizzard of Paper’ –

“In March 2009,” we are told in a “statement of facts” agreed to by the bank and prosecutors, the Madoff relationship manager “received a form letter from JPMC’s compliance function asking him to certify the client relationship again.”

Evidently, whoever sent out that letter did not read it after a computer generated it. Or perhaps that person had somehow missed the report that Mr. Madoff had been arrested on Dec. 11, 2008. That would not have been easy. In the month after the arrest, The New York Times printed 15 front-page articles on the Madoff fraud, and it received exhaustive coverage everywhere else as well.

JP Morgan agreed to an eye-watering \$13 billion fine.

SRA to consult on rated insurer requirement

The Solicitors Regulation Authority is to consult on whether to impose a requirement for law firm insurers to have a rating from a rating agency. No other UK profession is so dependent on unrated insurance, a consequence, at least in part, of the extraordinary breadth of cover. Firms should plan on the assumption that they will have to insurer with a rated insurer on next renewal. The groundwork starts now: by the time they reach the proposal form stage, it may be too late to do anything.

We have assisted many firms with their insurance issues.

Cyber risk

Our March 2013 Risk Update mentioned the hacking of seven law firms in connection with an unsuccessful \$40 billion bid by BHP Billiton. A taskforce led by the Institute of Chartered Accountants in England & Wales has published a paper entitled [Cyber-Security in Corporate Finance](#). This report helps identify risk issues, asking questions such as whether the parties will handle information securely, and ‘Are you considering a transaction involving, for example, assets of strategic importance to a particular country?’

Firms should consider whether to buy cyber insurance. While professional indemnity policies will generally cover clients’ claims, the policy will help by covering the firm’s own losses and assist in tackling the issue when an incident occurs.

RISK UPDATE