

Advanced Forum on

# COMMERCIAL INSURANCE and REINSURANCE

Managing Risk and Enhancing Profitability in a Changing Market

June 15 – 16, 2009 | St. Andrew's Club and Conference Centre | 150 King Street West, Toronto



Commercial insurers and their clients who manage corporate risk will have an opportunity to network and to hear from leading insurance and risk experts who will address a wide range of critically important topics including:

- Understanding the rights and obligations of the policyholder and the primary and excess carriers in litigation and claims' settlement
- Choosing the best insurance policy to protect against claims arising out of the financial crisis
- The underwriter's perspective when receiving underwriting submissions from prospective buyers
- What are sophisticated buyers looking for in purchasing coverage?
- Potential adverse impact on coverage arising from restating financial statements for securities regulators
- Examining the regulator's position on risk and market conduct review
- Lessons learned from the BCE decision for boards contemplating entering into major business transactions

*and much more...*

Marketing Partner



## PROGRAM CO-CHAIRS

Jordan S. Solway  
*General Counsel and  
Vice-President Claims  
Munich Reinsurance Company  
of Canada*

Frank Palmay  
*Partner and Chair of Corporate  
& Insurance Practice  
Lang Michener LLP*

## KEYNOTE ADDRESSES

**After the Credit Crunch:  
Prospects for Banking, Regulation  
and Financial Markets**

Professor Laurence Booth  
*CIT Chair in Structured Finance  
Rotman School of Management  
University of Toronto*

**Economic Forecast Report:  
Crystal Ball Gazing into the  
Next Decade and Beyond**

Todd Hirsch  
*Senior Economist  
Alberta Treasury Branches (Edmonton)*

Dear Colleague,

With an avalanche of investor and consumer class actions, financial institutions' failures, hostile takeovers and turbulent capital markets in a global recession, how is the insurance industry coping? How can it take advantage of new opportunities in emerging markets and product lines? What are the latest underwriting, claims and coverage strategies to overcome gap issues and enhance profitability potential?

Purchasers are increasingly questioning their brokers on policies, coverage and price points. What should the director of insurance know when making purchasing decisions ?

By attending **Insight's** first ever **Advanced Forum on COMMERCIAL INSURANCE AND RE-INSURANCE**, you will get the most up to date information from leading experts to help you answer these and other burning questions.

We look forward to seeing you at the conference!



Jordan S. Solway  
*General Counsel and Vice-President Claims  
Munich Reinsurance Company of Canada*



Frank Palmay  
*Partner and Chair of Corporate &  
Insurance Practice  
Lang Michener LLP*

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## WHO SHOULD ATTEND

- Insurance Claims Managers
- Insurance Underwriters
- Insurance Adjusters
- Insurance Brokers
- In-House Counsel
- Corporate Risk Managers
- Executive Compensation Consultants
- Auditors, Accountants and Actuaries
- Corporate and Securities Lawyers
- Class Action and Insurance Defense Litigators
- Directors and Officers of Public Companies

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8:00 | 8:45

Registration and Continental Breakfast

8:45 | 8:50

Welcoming Remarks from Insight

8:50 | 9:00

Welcoming Remarks from the Co-Chairs

Jordan S. Solway

General Counsel and Vice-President Claims  
Munich Reinsurance Company of Canada

Frank Palmay

Partner and Chair of Corporate & Insurance Practice  
Lang Michener LLP

9:00 | 10:30

Examining Commercial Insurance and Reinsurance in Canada: Identifying the Hot Spots and Danger Zones

PANEL

Moderator and Panelist:

Robert W. McDowell

Partner  
Fasken Martineau LLP

Gordon Kerr

President and Chief Executive Officer  
Arch Insurance Company of Canada

Michael McLachlan

President, Berkley Canada Ltd.

Elan Pratzner

President and Chief Executive Officer  
Executive Risk Insurance Services Limited

Donald Ross

Partner  
Gowling Lafleur Henderson LLP

- Overview of the state of the commercial insurance market in Canada
- Current regulatory and legal developments
- What are the latest product lines and how are they designed to meet today's market realities?
  - D&O
  - Trustees Liability
  - E&O
  - Securities broker/dealer and registered representative E&O
  - Fiduciary
  - Crime
  - Environmental
  - Product liability and recall
  - Trade credit
  - Independent Review Committee
  - Privacy and network
  - Political risk, terrorism and crisis management
- The flight to quality: lessons learned from the financial crisis
- Spotting litigation trends
- Challenges facing commercial insurers and reinsurers in the Canadian marketplace

10:30 | 10:45

Networking Coffee Break

10:45 | 11:45

Executive Protection Update: Current Issues in the D&O Insurance Marketplace

Brian Rosenbaum

Director, Legal and Research Practice  
Financial Services Group  
Aon Reed Stenhouse Inc.

Mary Jane Stitt

Partner  
Blake, Cassels & Graydon LLP

Part A: Faulty Towers

- Potential disconnects in the construction of a "seamless" tower of insurance
- Understanding the rights and obligations of the policyholder and the primary and excess carriers in the conduct of litigation and when settling the lawsuit: applying the lessons learned from Hollinger
- Deconstructing favourable attachment language and shaving of limits provisions

Part B: Made in Canada D&O Liability – The Oppression Remedy

- Handmaiden to a Bill 198 lawsuit
- The BCE decision: Has the Supreme Court upped the ante and exposures for directors?
- D&O coverage issues

Part C: Current Issues for Procurement and Design of D&O Insurance Programs

- Development of appropriate policy definitions in light of differing statutory definitions
- Statutory liability coverage: are directors really protected?
- Structure of a D&O insurance program for a Canadian public company given unique liability exposures created by Bill 198
- Coverage for regulatory exposures
- Side A DIC policies: when is their use appropriate?

11:45 | 1:00

Insurance and Reinsurance Coverage Issues Arising out of the Financial Crisis

PANEL

Moderator and Panelist:

Frank Palmay

Partner and Chair of Corporate & Insurance Practice  
Lang Michener LLP

Jeffrey Leon

Partner  
Bennett Jones LLP

David Price

Senior Vice President  
Arch Insurance Company of Canada

Catherine Tyndale

Lawyer  
Nicholl Paskell-Mede LLP

- Identifying typically encountered causes of action and the parties
- Determining the best insurance policies available for claims arising out of the financial crisis
- Assessing damages awards and understanding criteria for measurement
- Grappling with coverage issues and how to resolve them in the face of financial institutions' trading losses and ultimate collapse
- What underwriters must know about their corporate customers' governance risk exposure
  - Effective strategies to make informed decisions under the business judgment rule
  - Continuous disclosure: distinguishing between primary and secondary market exposure
  - Communicating material changes to the investor market
  - Potential adverse impact on coverage arising from restating financial statements for securities regulators
  - Lessons learned from the BCE decision for boards contemplating entering into major business transactions
  - An overview of secondary market class actions including IMAX and CV Technologies

1:00 | 2:15

### Networking Luncheon

2:15 | 2:45

KEYNOTE ADDRESS

### After the Credit Crunch: Prospects for Banking, Regulation and Financial Markets

Professor Laurence Booth  
*CIT Chair in Structured Finance  
 Rotman School of Management  
 University of Toronto*

2:45 | 3:00

### Networking Refreshment Break

3:00 | 4:00

PANEL

### Creating, Selling and Delivering the Product from Underwriter to Buyer: Managing the Relationship Chain and the Role of the Broker

Jennifer Hill  
*Aon Financial Services Group, Vice President  
 Regional Executive Liability Manager – Public Companies  
 Aon Reed Stenhouse Inc.*

Aaron Konarsky  
*Director, Risk Management and Internal Controls/  
 Directeur, Gestion des risques et Contrôles internes  
 Canada Lands Company /Société immobilière du Canada*

- Exposure analysis
  - Risk financing and transfer alternatives
  - Contractual indemnities and warranties
- Financial and actuarial pricing
- Program design
  - What are sophisticated buyers looking for in purchasing coverage?
  - Finding the right mix of coverage, multiple lines and limits
  - When should the buyer forego insurance and self-insure or accept increased deductibles?

- Underwriting and placement
  - The underwriter's perspective when receiving underwriting submissions from prospective buyers
- Accounting and claims
- Obligations of the broker

4:00 | 5:00

PANEL

### New Insurance Products for IP and Technology Risk

Lindsay Panning  
*Executive Vice President, The Hull Group*

Andrew Steen  
*Underwriter, Chubb Insurance Company of Canada Ltd.*

Peter Wells  
*Partner, Lang Michener LLP*

- An overview of the latest products to insure against e-commerce, technology, media and breach of privacy risk: tailoring the product to the insured's needs
- Examining the underlying liabilities and potential risk triggers
- Managing coverage issues for security breaches such as identity theft and data leaks
- The role of the insurer in the conduct of litigation and settlement of IP infringement and misappropriation claims

5:00

### Conference Adjourns

TUESDAY | JUNE 16, 2009

8:30 | 9:00

### Continental Breakfast

9:00 | 9:15

### Co-Chairs' Opening Remarks

Jordan S. Solway  
*General Counsel and Vice-President Claims  
 Munich Reinsurance Company of Canada*

Frank Palmay  
*Partner and Chair of Corporate & Insurance Practice  
 Lang Michener LLP*

9:15 | 10:15

### Runoffs, Schemes of Arrangement and Insolvencies: What Approach is Best for Policyholders?

Jordan S. Solway  
*General Counsel and Vice-President Claims  
 Munich Reinsurance Company of Canada*

Kenneth R. Wylie  
*Partner  
 Sidley Austin LLP (Chicago)*

Recent worldwide economic events have impacted the global financial industry, including insurance and reinsurance. The use of solvent and insolvent schemes of arrangements represent an increasing trend by reinsurers to either run-off

their business in a particular area or to avoid formal liquidation proceedings. In light of the current economic climate, this trend will likely increase and it is important to understand the use of schemes and the issues associated with them both from a policyholder and reinsurer perspective.

- Cross-border insolvencies
- Different processes and consequences by jurisdiction
- Estimation of claims and cut-off of liability
- Does the current financial crisis alter one's view of "What is best for the Policyholders?"
- What is the right balance between policyholders, insurers and reinsurers?

10:15 | 10:30

### Networking Coffee Break

10:30 | 11:30

### Commercial Insurance Policy Drafting, Negotiation, Interpretation and Certainty

Mark LeSavage

*Vice President, Financial Services Group  
Aon Reed Stenhouse Inc.*

Murn Meyrick

*Senior Vice President and Corporate Counsel  
Executive Risk Insurance Services Limited*

- Genesis of an insurance policy: how are policies created?
- Who is involved?
- Importance of drafting and interpretation
- How and when can they be changed?
- Factors involved in negotiating the policy
- What impact does risk and litigation have on the end product?
- Keep your eye on the ball: what is the end goal?
- Certainty of coverage

11:30 | 12:00

### The Regulator's Perspective, Financial Services Commission of Ontario ("FSCO"): Ensuring Healthy Market Conduct in the Insurance Industry

Grant Swanson

*Executive Director, Licensing & Market Conduct  
Financial Services Commission of Ontario*

- How does a regulator address market conduct issues in difficult times?
- Connection between market conduct and solvency risk
- The meaning of "Risk"
- The importance of cross-sector connectedness

12:00 | 1:15

### Networking Luncheon

1:15 | 1:45

KEYNOTE ADDRESS

### Economic Forecast Report: Crystal Ball Gazing into the Next Decade and Beyond

Todd Hirsch

*Senior Economist  
Alberta Treasury Branches (Edmonton)*

1:45 | 2:45

### The Allocation Debate: Has the Ontario Court of Appeal Ended It in Hanis v. Teevan?

Mary Margaret Fox

*Partner  
Nicholl Paskell-Mede LLP*

William Scott

*Partner  
McCarthy Tétrault LLP*

- Overview of the law of allocation in Canada and its application under specific coverages
- Is equitable allocation dead under Canadian law?
- Can insurers negotiate specific allocation language?
- Structuring issues
- Impact of the appellate court's rejection of the "fairness" test and preference for the "strict contract interpretation" test in mixed claims coverage

2:45 | 3:00

### Networking Refreshment Break

3:00 | 4:00

### What Insurers Need to Know About Changes to Canada's Competition Act

#### Part A: Impact of Amendments to Insurers

James Musgrove

*Partner  
Lang Michener LLP*

- The new law on civil agreements amongst competitors
- Changes in price maintenance: what they mean for insurers
- Understanding the application of increased fines and penalties
- Assessing the impact of stricter misleading advertising rules
- Implications for insurers during the period of transition

#### Part B: The Competition Bureau's Enforcement Priorities – Where Are We Headed?

Duane Schippers

*Deputy Commissioner of Legislative and International Affairs  
Competition Bureau of Canada*

- An overview of the enforcement process
- Assessing developments and trends

4:00

### Co-Chairs' Closing Remarks and Conference Concludes

