Insurance & Reinsurance

Insurance of Terrorism Risks in the Indian Market

March 31 2009

Introduction

Indian insurers have reported a marked increase in the demand for terrorism cover in the 2009 renewal season. The renewal season is in March each year and for some insurers can account for 30% of annual premium income. The demand is naturally being linked to concerns following the Mumbai attacks of November 2008.

The insurance of terrorism risks in the Indian market is undertaken through a pool system. The Market Terrorism Pool has been in existence since April 1 2002 and was India's response to the significant increase in premium rates following the attack on the World Trade Centre on September 11 2001.

Basic Structure and Membership

The Market Terrorism Pool is a domestic pool organized by India's reinsurer, General Insurance Corporation Re (GIC Re), under Regulation 8 of the Insurance Regulatory Development Authority (General Insurance - Reinsurance) Regulations 2002. One of its aims is to maximize the retention of insurance business within India.

The pool enables pool members (ie, Indian insurers) to write terrorism risks on an individual basis using the combined capacity of all pool members plus GIC Re. Under the existing version of the Terrorism Pool Agreement, the pool is effective for only certain classes of risk.

There is a mandatory cession of terrorism risks falling within the class to the pool. Each member retains a share of the risks that it cedes to the pool and participates in the risks ceded by all other pool members. In addition to its own share of the pool risks, a member is obliged to take up its proportionate share of the risks of another member that is unable to fulfil its obligations.

An individual member's retention of a ceded risk and that member's share of all other risks written to the pool are pre-determined for a particular year, which runs from April 1 to March 31 and is reviewed annually.

Unlike some other agreements between general insurers in India, participation in the Terrorism Pool Agreement is voluntary, but almost all general insurers participate. New members can join mid-year if the other members and GIC Re agree. Upon joining, the new member can immediately access the pool's underwriting capacity, but can participate in the other risks ceded to the pool only "from the nearest convenient date", which is decided by the other members and GIC Re. Membership can be cancelled with at least three months' prior written notice.

Classes of Risk

Classes of risk are listed in the Terrorism Pool Agreement, but the Pool Underwriting Committee can specify other classes of business. The Pool Underwriting Committee, which is constituted by the pool members, is also responsible for setting rates, terms, conditions and maximum limits of liability for terrorism risks that can be assumed by the pool.

Premium

The pool receives 90% of the original premium on a ceded risk. An individual member must submit quarterly accounts of relevant business written and pay within 90 days thereafter. Interest is levied on outstanding payments.

Administration and Claims

GIC Re is the pool manager and has a share in risks ceded to the pool. GIC Re takes 1% of the original premium as its management and administration charge. GIC Re is also responsible for reinsuring the pool at members' cost.

Where the claims at a single location are in excess of Rs20 billion, all claims are to be processed in consultation with GIC Re. In other cases members can handle claims within the claims limit. This differs from member to member: for members whose share is less than 10% of the pool the limit is Rs100 million, and for members whose share is greater than 10% of the pool the limit is Rs500 million. Claims above the claims limit are to be handled by GIC Re. In consultation with the Pool Underwriting Committee, GIC Re may "advise on the appointment of adjusters" and "control all negotiations, adjustments and settlements in connection with the loss".

Other pool members must follow the settlements.

Dispute Resolution

The Terrorism Pool Agreement contains an arbitration clause which provides for disputes to be referred to two arbitrators (even though the Arbitration and Conciliation Act 1996 requires an odd number of arbitrators to be specified).

2009 Renewal Season

The pool came into existence because the Indian market felt that the increase in rates offered following September 11 2001 were inappropriate for the threat perceived in the Indian market. Through a pool system it could grant terrorism cover at more affordable rates for those who wanted it.
This renewal season will see a sharp increase in terrorism risks written through the pool. On February 11 2009 GIC Re informed pool members that premium rates would increase by 36% to 53%. There have been complaints that the pool does not offer wide enough terms (eg, no single cover for multiple locations) or offer high enough sums insured (the upper limit is Rs75 billion, which is more than enough for most parties).

These increases and other restrictions have resulted in some domestic purchasers asking their reinsurers to provide terrorism cover outside of the pool. However, as the pool requires a mandatory cession, it is assumed that:

- there will be pressure for the Terrorism Pool Agreement to be revised so as to allow some leeway;
- some pool members will leave; or
- overseas reinsurance will be effective only for higher sums insured.

For further information on this topic please contact Neeraj Tuli at Tuli & Co by telephone +91 11 2464 0906, fax +91 2464 0904 or email n.tuli@tuli.biz

www.tuli.biz

Originally edited by, and first published on, www.internationallawoffice.com