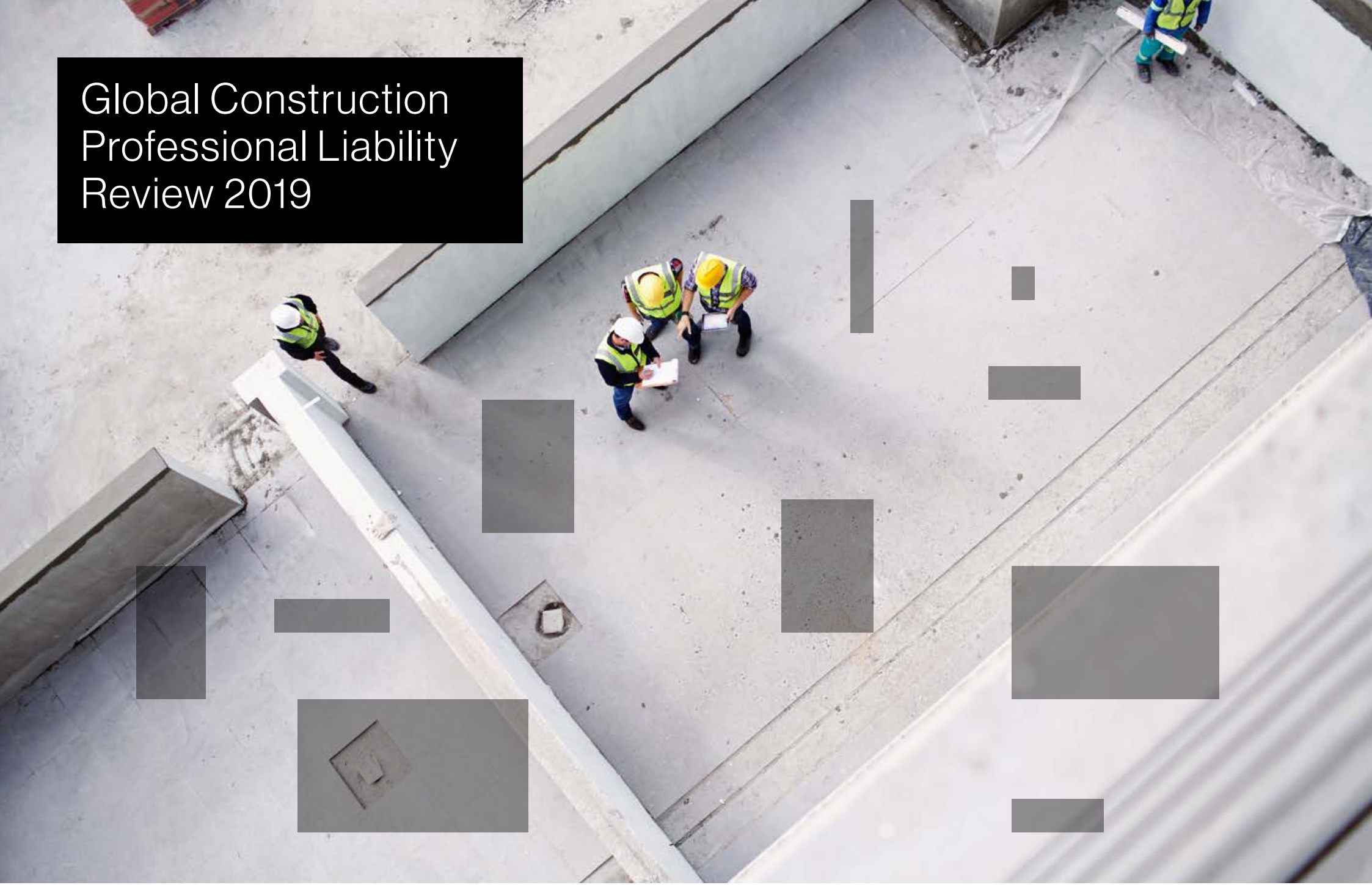
Global Construction Professional Liability Review 2019



Willis Towers Watson

Global Construction Professional Liability Review
Key Market Analysis

Introduction

Professional Liability markets around the world have shifted dramatically over the last twelve months, with no sector harder hit than Construction.

With a massive spike in claims activity and increased scrutiny from regulators driving a contraction in capacity, reductions in the scope of available protection and material increases in retentions and premiums, it has never been more important to consider all available options when developing and implementing your risk financing strategy.

To assist our clients in planning for these challenges, Willis Towers Watson is publishing our view of the Global Professional Indemnity market. This report outlines specific trends and there are notable differences between regions.

However, a few keys to managing in this time of uncertainty are universal regardless of geography:

- Time is critical. Engage with markets well in advance of renewals and expect significantly more questions and data requirements from insurers, including in person presentations to underwriters.
- Align expectations with internal and external customers. Costs may increase significantly and making sure risk financing costs, including insurance, are appropriate will be critical.
- Capacity restrictions will require engaging additional insurers and likely program restructuring; so work with our Willis Towers Watson Professional Indemnity brokers to identify all potential market partners and develop program alternatives.

We have gathered together the insights of our Global team in this summary to highlight the changing market conditions and some of the ways that Willis Towers Watson can help clients to best navigate these challenging times.

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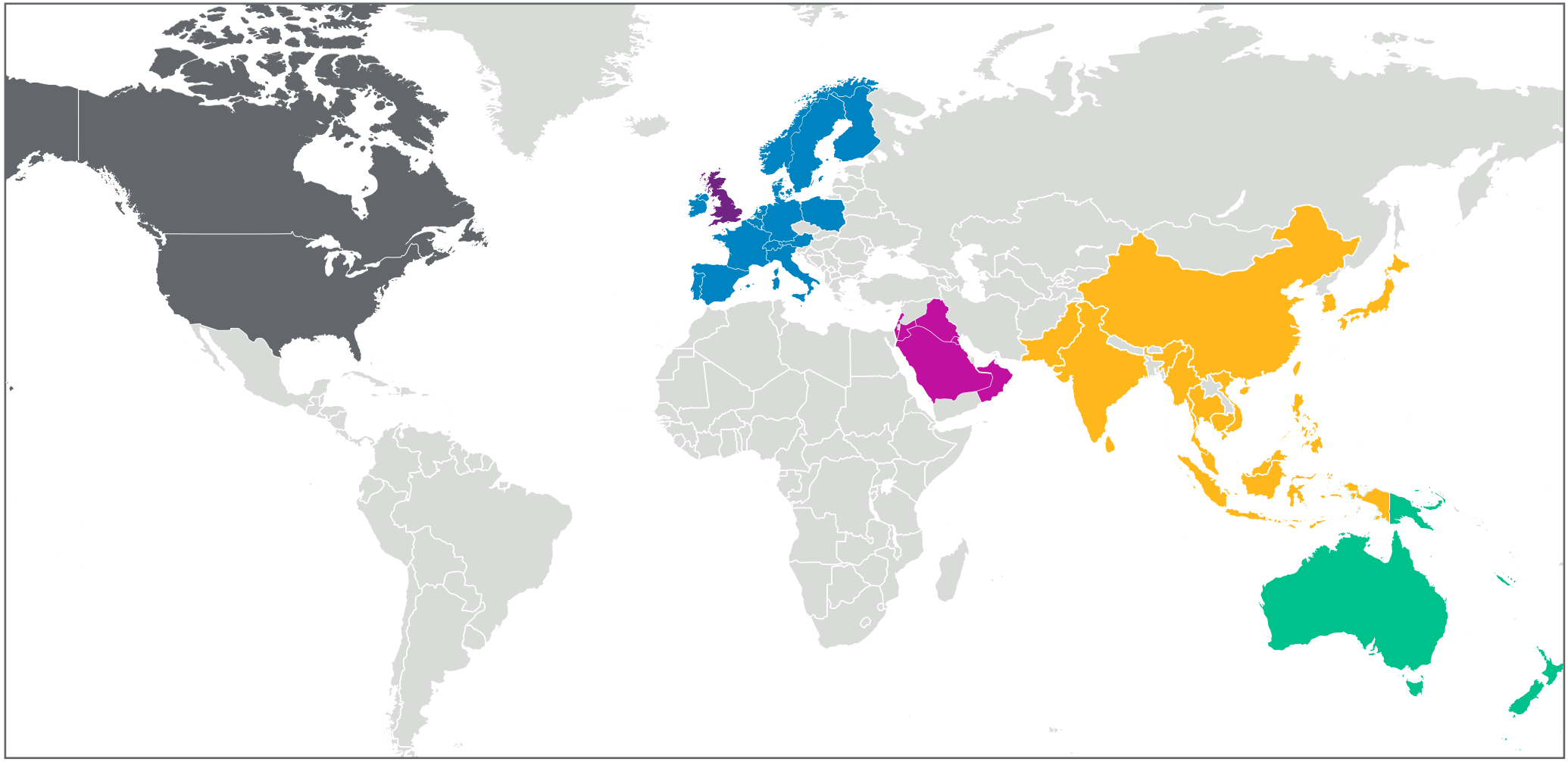
Key Market Analysis



Global Construction Professional Liability Review
Key Market Analysis

Great Britain

Capacity:

- USD130m capacity lost in the last 18 months, representing approx. 25%[1] of the available capacity
- Capacity reductions of 30% to 50% for active carriers
- Subscription (quota share) placements increasingly necessary
- Carriers paying much more attention to ventilation of programmes

Rating: +100% ▲

Coverage:

- Aggregate limits of indemnity (a move away from any one claim)
- Higher retention levels
- Narrowing of cover (e.g. broader fire safety limitations)

Claims Environment:

- Large losses in the areas of energy from waste, biomass and renewable energy
- Claims negotiations more complex and lengthy

Steps to Mitigate:

- Early face to face engagement with the client and carriers
- Clear understanding of risks to the business and how these are managed/reduced (e.g. supply chain risk)
- Restructuring the programme and creative broking (e.g. deferred reinstatement options)

1 Internal data from Willis Towers Watson

Contact:

Bryan Ellis
bryan.ellis@willistowerswatson.com
T: +44 20 3124 7226

Adam Power
adam.power@willistowerswatson.com
T: +44 20 3124 6180

Gary Caley
gary.caley@willistowerswatson.com
T: +44 20 3124 6878

Other regions:

Western Europe | Australasia | North America | Asia | Middle East

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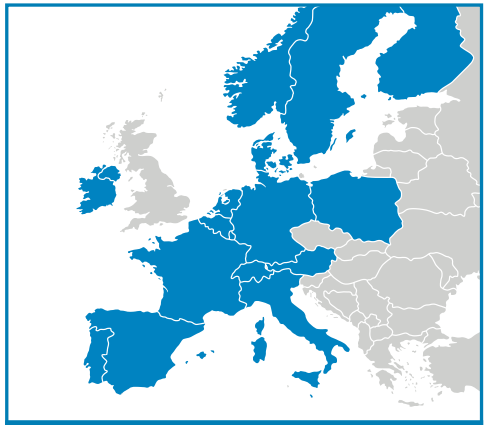

Western Europe

Western Europe Region

Capacity:

- EUR30m - EUR50m of capacity lost as a result of merger and acquisition activity (e.g. Catlin / AXA / XL)
- More attention to ventilation of programmes
- HDI & Zurich stopped with construction professional liability
- The outlook is for more carriers to stop writing construction liability business

Rating: +5 to 10% ▲

- Expecting substantial increases in the near future

Coverage:

- Decreasing Extended Reporting Periods (ERP) max. overall coverage limited to 10 years
- Higher retention levels

Claims Environment:

- Huge losses in the areas of infrastructure and sea locks, some claims are valued in excess of EUR100m

Steps to Mitigate:

- Early face to face engagement with the client and carriers
- Clear understanding of risks to the business and how these are reduced (e.g. supply chain risk)
- Restructuring the programme and creative broking (e.g. deferred reinstatement options)

Contact:

Kevin van 't Wout
kevin.vantwout@willistowerswatson.com
T: +31 6 53301467

Other regions:

Australasia | North America | Asia | Middle East | Great Britain

Global Construction Professional Liability Review
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Australasia

Australasia Region

Capacity:

- Significant domestic capacity lost in last 18-24 months.
- Combination of complete market withdrawals (latest being AGCS) and insurers reducing line size on risks.
- AUD20m lines previously commonplace – whilst some insurers still able to put out these limits they do so selectively and look to ventilate. AUD10m and less more common.
- **Project specific** – withdrawal of capacity having same impact. AUD100m+ limits were previously available now challenging to put limits in excess of AUD50m in place.

Rating: +30 to 100% ▲

Significant rates on line now being seen to the extent that there is a question mark over whether it makes more sense economically to self-insure.

Coverage:

- Higher retention levels.
- Aggregate limits of indemnity with a reinstatement.
- Policy cover is being restricted with insurers less willing to support broker wordings.
- Breadth of cover still broad compared with other territories. Broad civil liability insuring clauses with extensions available in respect of indemnity/hold harmless contract provision and fitness for purpose.
- Quotes subject to significantly more underwriting information.
- Insurers apply their own sweeping cladding exclusions on renewals - less flexible than the fire safety provision seen in London.

Claims Environment:

High profile cladding issues at Lacrosse Apartments (VIC) and Spencer Street (VIC). Decision in Lacrosse found the contractor responsible to owners via building warranties but all passed through to sub-consultants (fire engineer and certifier). The contingent risk to contractors (in event of failure of consultant PI) established. Beyond cladding recent cracking identified in high rise apartment blocks (Opal Tower and Mascot Tower) mean high-rise residential is in focus.

Steps to Mitigate:

Early engagement to manage expectations on renewal outcomes. Face to face meetings with insurers to address particular concerns and highlight risk/contract management positives.

Contact:

Simon Carter
simon.carter@willistowerswatson.com
T: +61 3 8681 9796

Other regions:

North America | Asia | Middle East | Great Britain | Western Europe

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North America

North America Region

Capacity:

Around USD440m of capacity for practice professional, reducing to USD340m for project placements.

Rating: +0 to 5% ▲

- Expecting substantial increases in the near future.
- Some insurers appear to be substantially hardening their approach to specific client types, such as larger, claims exposed accounts.

Coverage:

- Aggregate coverage only. Some carriers still actively pushing coverage breadth - for example providing coverage for 'pure' workmanship claims, for certain construction trades.

Claims Environment:

- Evidence of an uptick in losses from 'prior to handover' Design & Build issues in particular. But otherwise no patterns to report.

Steps to Mitigate:

- The market is not driving the approach to carriers yet, but sensible insureds are taking advantage of the benign conditions to consider purchasing higher limits and minimizing retentions.

Contact:

Andrew Bowyer
andrew.bowyer@willistowerswatson.com
T: +1 312-288-7123

Keith Jurss
keith.jurss@willistowerswatson.com
T: +1 312-288-7263

Dennis Baez
dennis.baez@willistowerswatson.com
T: +1 212-915-7691

Jaclyn Johnson
jaclyn.johnson@willistowerswatson.com
T: +1 319-759-3371

Other regions:

Asia | Middle East | Great Britain | Western Europe | Australasia

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Asia Region

Capacity:

- Market capacity of around USD100 million
- Higher appetite for policy duration of < 10 years
- Carriers are reducing their lines on Primary and prefer to ventilate capacities
- Experiencing a cautious approach by most markets with stricter underwriting disciplines
- Fewer markets are open for Global Fac but can consider follow capacity on higher excess on case by case basis

Rating: **+10 to 15%** ▲

Increases dependent upon the type of project, loss history and location. Singapore projects are still competitively priced versus other South East Asian countries.

Coverage:

- Higher retention levels
- Coverage is usually diluted to adjust to lower retention
- Explicit exclusion around cladding and cyber

Claims Environment:

Claim environment is relatively benign. Couple of large losses in South East Asia in MRT project and a Hotel project in HK. There is an increase in disputes though which may manifest into formal claims in due course.

Steps to Mitigate:

Early engagement with markets, detailed submissions and regular communication around changing market conditions.

Contact:

Namit Mahajan
namit.mahajan@willistowerswatson.com
T: + 65 6958 2764

Other regions:

Middle East | Great Britain | Western Europe | Australasia | North America

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Key Market Analysis

Middle East

Middle East Region

Capacity:

- Still a good amount of capacity in the direct markets (especially in the UAE) and in the regional reinsurance market.
- Up to USD75m per risk. There has been a reduction in the amount of capacity in the past 18 months however with some international reinsurers either withdrawing from project liability or reducing their capacity.
- The local markets, mainly in the UAE, are still able to underwrite the majority of construction-liability submissions that they see.

Rating: +0 to 10% ▲

Increases dependent upon the risk profile and the carriers involved. Project professional liability rates are still less than 2% rate on line in most cases.

Coverage:

- Coverage provided is still standard, with negligence based insuring clauses and a number of exclusions.
- Innovation and expansion of wordings and coverage is not frequent.
- Most liability policies are written on an aggregate basis – there is very little appetite from carriers or demand for Any One Claim limits.

Claims Environment:

- Still fairly benign. We see or hear of claims notifications in the market but at a much lower volume than other parts of the world.

Steps to Mitigate:

- Understanding of carrier appetites and whether a placement will be insurance (i.e in-country) or reinsurance driven is key.
- Restrictive insurance regulations mean that local insurers must be involved in the transaction in some capacity.
- On projects there are still obligations concerning liability insurance that contractors must adhere to – some of which are not available in the market or on project-specific policies (such as an Any One Claim limit).
- Important to engage at an early stage of the project to be able to discuss necessary requirements.

Contact:

James Johnston
james.johnston@willistowerswatson.com
T: +971 4429 4768

Other regions:

Great Britain | Western Europe | Australasia | North America | Asia

All ratings reflect the rates applied by insurers and are in comparison to last year (2018)

About Willis Towers Watson

Willis Towers Watson (NASDAQ: WLTW) is a leading global advisory, broking and solutions company that helps clients around the world turn risk into a path for growth. With roots dating to 1828, Willis Towers Watson has 45,000 employees serving more than 140 countries and markets. We design and deliver solutions that manage risk, optimise benefits, cultivate talent, and expand the power of capital to protect and strengthen institutions and individuals. Our unique perspective allows us to see the critical intersections between talent, assets and ideas – the dynamic formula that drives business performance. Together, we unlock potential. Learn more at willistowerswatson.com.

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