



Insurance Insight

Insurance Industry News and Views from EBM

November-December 2009

Welcome message

Welcome to the November-December *Insurance Insight* and the last edition for 2009.

As most in the business community can attest to, this has been a year of unpredictable events and difficult operating conditions.

Following the tumultuous events of last year during which global equity markets plunged and the financial community was left devastated, there has thankfully been an improvement in economic conditions.

With the benefit of hindsight we can see that much of this calendar year has seen a return of business confidence and growth for the national economy. The ASX has enjoyed an extended period of positive growth as investors return to trade.



Broadly, we have also seen increases in retail activity, strengthening property markets and the welcome return of lending criteria from financial institutions.

As we look ahead to what 2010 will bring, we hope that predictions of further economic growth for Australia will carry through and help sustain the breadth and depth of our corporate industries.

Turning to this edition of *Insurance Insight*, we examine the recent actions of shareholders around the country and look at how their anger of executive remuneration has rocked some of the most influential company boards.

We also look at the future of occupational health and safety legislation in Australia, the potential impacts of development in the nation's coastal communities and we look back on the year that was.

If you have any thoughts or ideas about articles you would like to see covered in *Insurance Insight*, please email your suggestions to marketing@ebminsurace.com.au. If you would prefer to opt-out of receiving future newsletters simply click on the link at the bottom of this email.

From all of us at EBM, we hope you and your family have a safe and happy festive season and look forward to working with you in the New Year.

Jeff Adams
Managing Director
EBM Insurance Brokers

Remuneration rethink as executive salaries come under microscope

In the wake of the financial crisis and subsequent fallout across global economies, company boards and executives have become popular targets of shareholder anger as investors react against those they see as responsible.

The past 12 months has seen a dramatic rise in shareholder actions against company executives and corporate boards. Chief among the protest chants has been dissatisfaction of executive bonuses and remuneration packages put forward by companies.

According to research by the Federal Government's Productivity Commission into Australia's largest 100 companies, executive pay has grown by more than 250% in real terms since 1993.¹

For the top 20 CEOs in this country, pay averages almost \$10 million, or 150 times the average weekly earning of Australian workers.

The 2009 Annual General Meeting season has been marked by numerous and very public backlashes against company boards and their proposed remuneration packages.

It has been reported that as many as a quarter of Australia's top 200 companies who have already held their AGMs suffered protest votes from more than 25% of investors.

Garnering most attention this year have been five boards – those of Qantas, United Group, Transurban, Riversdale Mining and Crane Group – who have each had very public shareholder reactions to their board's proposed salary packages.

Already forced into a review of remuneration strategies by this public outcry, company boards now face the prospect of further regulation to their salary packages from the Federal Government.

Releasing its report into executive pay on 30 September 2009, the Productivity Commission mapped out its proposed new rules that it believed would “improve accountability of boards, remove conflicts of interest and enhance shareholder engagement on remuneration”.

Addressing growing community anger about skyrocketing pay packets, the inquiry's chairman, Gary Banks, said while executive pay in Australia has increased with the success of local companies but there have been episodes of excess and poor pay practices.

To combat these poor practices, the Commission proposed changes to the Corporations Act and ASX listing rules, including:

- barring executives from sitting on remuneration committees;
- requiring that remuneration consultants report to boards independently of management; and
- prohibiting directors and executives voting their shares and any undirected proxies on remuneration issues.



¹ Australian Productivity Commission, Executive remuneration in Australia, September 2009.

These changes have received mixed reactions from Australia's corporate community, particularly the controversial "two-strikes" rule. This would see boards whose remuneration reports receive "no" votes of more than 25% required to report back on whether shareholders' concerns have been addressed. If the remuneration report garners a second significant "no" vote the next year, all board members could face re-election.

The Productivity Commission will release its final report to Government by 19 December.

OHS responsibilities to be shared under new rules

The landscape of occupational health and safety (OHS) regulations in Australia is slated to change dramatically with the Federal Government pushing for the implementation of widespread reforms.

Of most importance to Australian businesses, the Government seeks to harmonise OHS laws by introducing a single, national system to replace the State and Territory-based systems that currently operate.

Following the release of draft legislation to harmonise OHS laws in September 2009, questions have been raised as to who may be held accountable in the event of a workplace accident.

The Federal Government has been working since 2008 to draft national OHS regulations and currently the draft legislation consists of a principal act – the Safe Work Act – and model codes of conduct that each State would enact.

However, with a key plank of the recommendations being to spread the responsibility for the safety of workers over more company officers than before, commentators have questioned whether company directors could be held accountable in the future.

Commenting on the draft legislation, Stephanie Nicol of Gadens Lawyers notes that:

“The model laws take the focus off traditional employment and contractor relationships and instead place responsibility for occupational health and safety on a number of parties. The primary safety duty rests with persons who conduct a business or undertaking (whether alone or with others, and whether or not that business or undertaking is conducted for a profit) so it is anticipated that this will cover a broader range of persons and entities than most current laws.”²

Currently in some jurisdictions, company directors can be held responsible if the company in which they hold the office contravenes OHS laws. However the proposed Act will place OHS responsibility on “officers”, not just company directors.

Although the term “officer” is broadly defined, it would encompass all persons who make, or participate in making, decisions that affect a substantial part of the company. Therefore a broader class of people will be responsible for the safety of workers under the proposed legislation.

² Gadens Lawyers, *OHS – call it harmonisation or nationalisation but either way a change is in the air*, Stephanie Nicol, November 2009.



While the proposed changes have drawn support, as well as criticism, in their attempt to nationalise OHS regulations, all commentators have agreed that more emphasis should be put on addressing workplace safety.

Over 135 000 Australians are seriously injured at work every year and more than 260 die as a result of work-related injuries. The economic cost is substantial too. According to the latest compiled data, the total economic cost of work-related injuries and illnesses to the Australian economy for the 2005–2006 financial year is estimated at \$57.5 billion.³

Recognising the opportunity to help clients deal with this complex area of business management, EBM has established a comprehensive workers compensation injury management coordination service from which that all clients can benefit.

Amanda Vella has joined EBM's Perth office to provide expert advice relating to workers compensation injury claims.

EBM General Manager Ward Dedman said OHS is an increasingly complex area meaning many business operators don't have the time or resources to fully devote to the area.

"The area of Occupational Health and Safety is already a very complex set of laws and with planned changes being mooted, there is increased pressure on companies to stay abreast of the current regulations," Mr Dedman said.

"Recognising this, EBM created a specialised advisory service where clients can seek advice on matters relating to workers compensation claims and receive valuable assistance in creating injury management strategies and much more."

Other areas in which EBM is able to provide advice include:

- assistance with the review and evaluation of injury management systems, including regular claims reviews;
- document and case building to manage disputes;
- coordination of the claims management process;
- assistance with assessing medical reports, injury management issues and identification of claims that require a second medical opinion; and
- attendance of case conferences, settlement conferences, arbitration and other meetings.

EBM can now also assist clients in creating workable injury strategies which can include relevant training sessions on workers compensation, injury management and claims management issues.

For more information about this service, call 1300 INSURE (1300 467 873).

³ Safe Work Australia, Model OHS Legislation, September 2009.

Coastal development becomes too risky

A new climate change report has raised serious questions about the long-term viability of the development and re-development of coastal buildings and infrastructure on Australia's coastline.

With some 80% of the Australian population living in the coastal zone, the report calls for new governance arrangements for Australia's coastal zone and makes recommendations to improve management of climate change and environmental impacts on the coast.

The findings are part of the report: *Managing our coastal zone in a changing climate: the time to act is now* from the House Standing Committee on Climate Change, Water, Environment and the Arts.



Amongst its findings, the report also recognised the importance of the insurance industry in assisting individuals to recover from weather related damage, as well as the need to review land use practices and building codes.

Although the report was handed down just weeks ago, there have already been numerous signs of climate change considerations affecting planning.

In October 2009, Victoria's planning tribunal supported moves to stop the construction of two coastal homes that would have fronted the South Gippsland Highway on the Mornington Peninsula because of the dangers of rising sea levels.

But this is hardly an isolated case.

In its submission to the House Standing Committee, the Insurance Council of Australia noted that more than 425,000 Australian addresses are located in areas less than four metres above mean sea level and within 3km of the current shoreline, putting them at great risk of flooding.⁴

Against this background, the House Standing Committee was particularly interested in identifying any emerging gaps in insurance coverage for the coastal zone. In a worrying sign it noted that around 23% of Australian households (1.8 million) are currently without building or contents insurance, with those located in coastal areas at critical risk.⁵

EBM Managing Director Alan Bishop said the statistics of underinsurance are particularly concerning in light of the devastation that unforeseen climactic events can have.

⁴ House Standing Committee on Climate Change, Water, Environment and the Arts, *Managing our coastal zone in a changing climate: the time to act*, Key emerging issues: insurance, planning and legal matters relating to the coastal zone.

⁵ House Standing Committee on Climate Change, Water, Environment and the Arts, *Managing our coastal zone in a changing climate: the time to act*, Key emerging issues: insurance, planning and legal matters relating to the coastal zone.

“While there is often very little that businesses and homeowners can do to avoid damage from extreme weather conditions completely, controlling the level of damage suffered and how you recover from such events is within the power of individuals,” Mr Bishop said.

“But its not just homeowners that are at risk of being either unprepared or underinsured for such events.

“Regardless of the size of a business, there are some fundamental procedures that must be in place to protect the integrity of a company in the event of extreme weather events,” Mr Bishop said.

“Planning for such events often entails asking specific questions such as who is responsible to ensure the business continues to function, what assets, supplies and resources are critical and most importantly, is the business properly insured?”

Mr Bishop said experienced insurance professionals can assist businesses qualify their insurance needs and select the most appropriate protection. This will involve consideration of a range of factors including:

- The insuring of critical assets that may be damaged.
- Assessing the adequacy of business interruption cover that can include the insurance of costs associated with retaining staff, the costs involved if a critical supplier is damaged and the impact on cash flow if customers can no longer access your business due to road closures or other obstacles.

EBM has offices throughout Australia and can assist businesses plan for and implement insurance strategies to protect them from unforeseen events. Call 1300 INSURE (1300 467 873) for your nearest office.

2009 – A year in review

What a year it's been.

The Global Financial Crisis (or GFC as it is now becoming known) is well over 12 months old but still the reverberations are still being clearly felt. This year has been marked most significantly by the recovery efforts that have continued to make reparations for the economic damage that was done.

From financial stimulus packages, first home owner boosts through to federal budgets and emissions trading schemes, the year has seen challenges and opportunities for Australia's business community.

Here we look at some of the major events of the past year and see how they've had an impact on the national economy.

First Home Owners Boost: As any first homebuyer in the country will attest to, the Federal Government expanded incentive program has seen a major change to the national housing market.

Taken up by thousands of first-time buyers, the boost was eventually extended past its original expiration date of 30 June 2009 to 31 December 2009, though it halved after 30 September 2009.

Cheered by the development and building sectors, the incentive has had positive effects on the national property market with the proportion of first-homebuyers seeking building approvals – as high as 26.9% -



proved to be the highest it has been since the Australian Bureau of Statistics began compiling figures in 1991.

The Federal Budget: The release of the Rudd Government Federal Budget contained a number of very important incentives to small and medium-sized businesses that were seen as recognition of their importance to the Australian economy.

The key initiative for small businesses was an increase to the Small Business and General Business Tax Break for eligible assets. Businesses can now claim a 50% tax deduction for qualifying assets, on top of the normal tax deduction related to the asset.

As well as a number of other provisions like those to capital gains tax relief, the tax incentives for small businesses were substantially changed this year, because, in Federal Treasurer Wayne Swan's words "small businesses are the backbone of the Australian economy, employing around half of all private sector workers."

Gorgon gas coming on line: In September, the Gorgon Project was officially launched as Australia's single biggest resource project.

With an estimated resource base of more than 40 trillion cubic feet of gas and a nominal development life of around 60 years, the value of the project has been put at \$43 billion.

The Project currently employs around 1400 people but is expected to increase this number significantly as first construction and engineering programs are brought on line.

Melbourne Cup stops the nation: The race that stops the nation returned again with Shocking taking victory in the Spring Racing Carnival's most important race.

A bookie's favourite, there were quickly stories of extravagant wins for lucky quinella and trifecta wins spilling into the thousands.

Broadly though the TAB reported that betting records were smashed during the 2009 Spring Racing Carnival - proving that even in difficult times, a bet on the horses is still a required luxury.

Tabcorp revealed that NSW and Victorian punters wagered more than \$1.57 billion across the 50 official days of the 2009 spring racing carnival. In NSW alone, TAB betting on the three racing codes from September 30 to November 18, 2009 reached \$839.59 million (up 6.3% on last year) - an all-time record.

Rates back up: The consequences of increased homebuyer confidence were realised when the Reserve Bank lifted official interest rates at its October and November meetings.

The actions of the central bank had obvious impacts on Australian borrowers, with commentators predicting a tightening of family budgets would now follow.

What also emerged was a clear sign that the national economy had responded well to stimulation with more optimistic predictions now being made.

So while the two rate rises were not welcomed by mortgage holders, the action by the Reserve Bank did herald the return of economic growth and the resilience of the national economy.

Contact us

EBM Insurance Brokers, with offices in New South Wales, Victoria, Queensland and Western Australia, delivers local expertise combined with the national resources of one of Australia's largest insurance broking companies.

Email us at ebm@ebminsurace.com.au or contact a local broker who can help you determine your insurance needs. Call 1300 INSURE (1300 467 873) for your nearest office:

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Important note: Our advice is provided for your general information and does not take into account your individual needs, you should read the respective insurers product disclosure statement which we can provide upon request before taking out cover.



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