

The Willis Index

Willis

Environmental Newsletter

The Environmental Insurance and Risk Management Quarterly

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Insurance in Property and Corporate Transactions

The difficulties in evaluating and managing environmental risks can present major obstacles to property and corporate transactions. Concerns over potential environmental liabilities can jeopardise the entire deal if the risks are not adequately understood, addressed and managed. Environmental Insurance can provide a solution, helping to unlock deals that would otherwise have stalled. But how often is the use of environmental insurance considered in transactions and what factors dictate whether it is procured? To find out, Willis surveyed some 600 legal practitioners within the property and corporate sectors, including environmental lawyers.

Despite the broad base of opinion sought, the majority of respondents indicated that environmental issues represented concerns in up to half of transactions, illustrating that not only are environmental issues routinely considered, but that they have the potential to impact transactions in many cases.

Uptake of Environmental Insurance

It is clear from responses that a wide range of factors dictate whether insurance is procured, as shown below. Lack of awareness of Environmental Insurance products was **not** highlighted as a major reason, suggesting that the availability and potential role of Environmental Insurance is well understood. In addition, the limited pollution cover afforded by general liability and property insurances appears to be acknowledged, as such policies were typically not relied upon in transactions in preference to specialist Environmental Insurance.

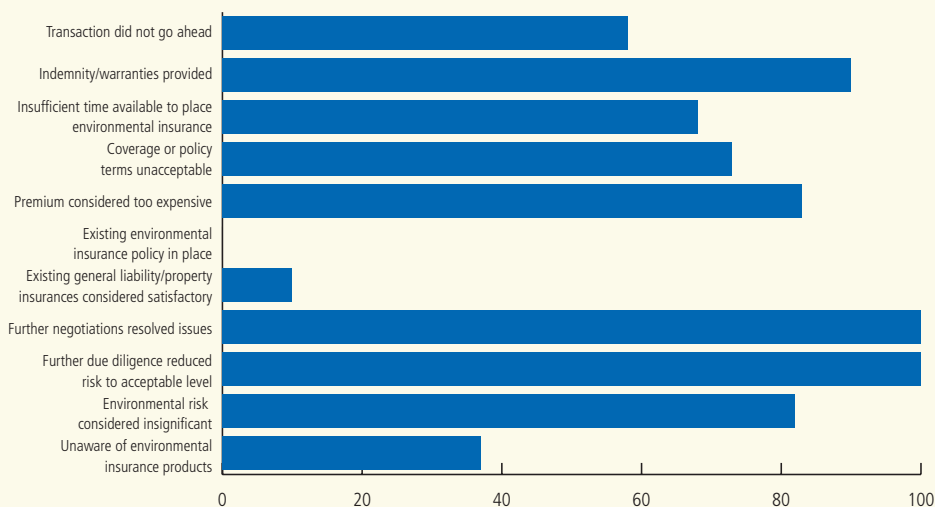
The unpredictability of property and corporate transactions was evident in responses, with over half of respondents indicating that the transaction for which Environmental Insurance was considered did not proceed.

The Willis Index is a quarterly publication reporting on the relevant issues affecting the insurance industry and the impact they have upon our clients.

Our quarterly review provides analysis of the Environmental Insurance Market, assisting buyers and their advisors on available solutions.

Regular features include updates on the market conditions, case studies, technical analysis of coverage specifics and special features highlighting significant changes in regulation, insurance market news and forthcoming events and seminars.

Uptake of Environmental Insurance



Percentage of responses indicating "always/nearly always" or "commonly" as a factor for **not** procuring environmental insurance.

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Insurance in Property and Corporate Transactions – continued

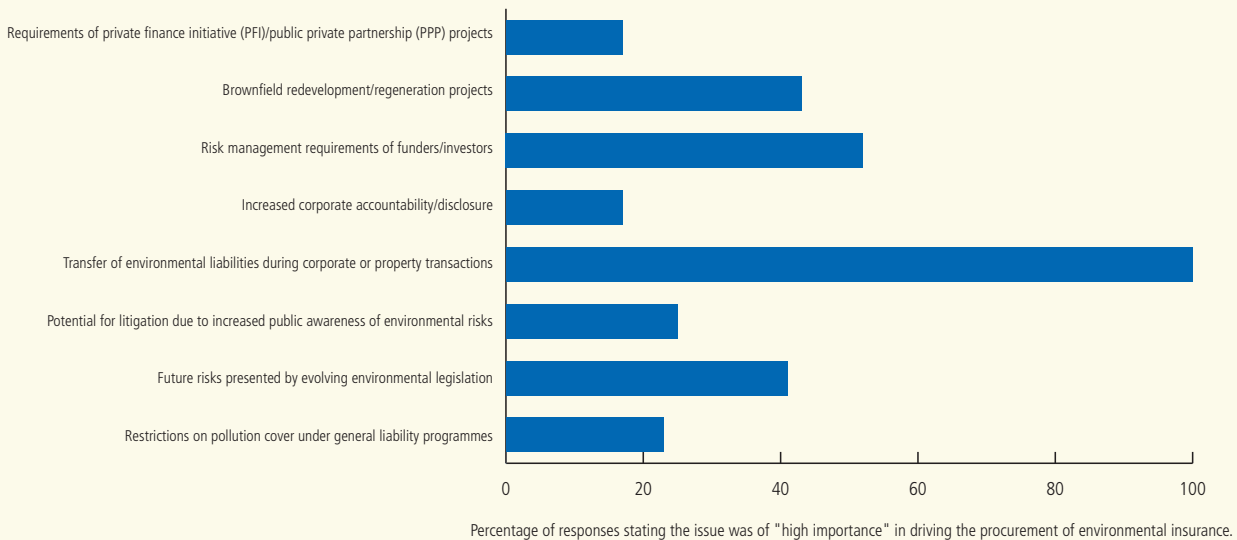
Transaction negotiations appear to be effective in many cases at resolving environmental concerns, perhaps in conjunction with a reduction in perceived risk through further due diligence being undertaken, and/or by the provision of indemnities or warranties by one party. The majority of responses indicate that all of these reasons commonly played a key role. It is interesting to note, however, that the role of Environmental Insurance in supporting environmental indemnities and warranties was recognised, with over half of the respondents indicating that this occurred in the majority of cases.

There will inevitably be situations where Environmental Insurance may add little perceived value to transactions, either because the policy coverage is not appropriate or the premium is considered too expensive. Both these reasons were cited as common factors as to why Environmental Insurance is not procured, highlighting the need to use specialist brokers to negotiate policy wording and ensure competitive premiums. At Willis, we have seen a dramatic decrease in premium levels recently, even within the past few months, suggesting that such responses may not be entirely reflective of the current market conditions.



Artist impression of the "Willis Building" currently under construction in the City of London, due for completion late 2007.

Main drivers for Environmental Insurance

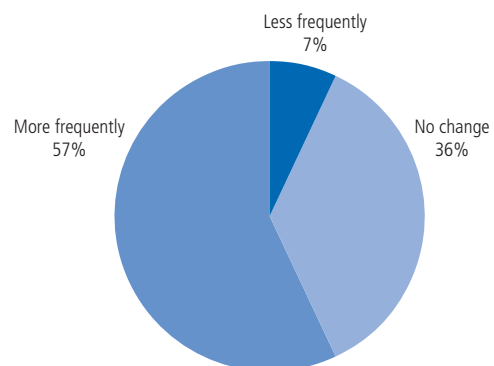


Main drivers for Environmental Insurance

Merger and acquisition activity is clearly a major driver for Environmental Insurance, however the requirements of funders or investors can also be significant (see above). Concerns over the risks which may arise from or be imposed by future and evolving legislation, as well as the risks presented by brownfield redevelopment projects, were also thought to be key drivers for the uptake of Environmental Insurance.

At Willis, we have seen a year-on-year increase in enquiries in the Environmental Insurance sector. This trend is born out by the survey, with over half of respondents having considered the use of Environmental Insurance more frequently during 2005 than in recent years (see right). In the words of Paul Davies of Macfarlanes, "**Environmental Insurance is here to stay**".

Frequency with which the use of Environmental Insurance was considered during 2005 compared to recent years



Results shown as percent of responses indicating that Environmental Insurance was considered with more, less, or the same frequency in 2005 compared to recent years.

Market Review 2005

Willis has published the "Environmental Insurance Market Review 2005", providing a unique and valuable insight into the global Environmental Insurance Market, including:

- an update on market conditions
- an overview of recent product developments
- an insight into how these products are being applied, including case studies
- a review of developing trends.

Since the first Market Review was published in 2002, the Environmental Insurance Market has undergone significant growth. The London Market is now host to more environmental insurers than at any other time, offering increased flexibility and innovative approaches to environmental risk and liability issues. Our Market Review 2005 therefore provides a timely update.

Insurance can be a key risk management tool for a wide range of companies and organisations. However, the pollution cover typically provided by general liability policies provides very little, if indeed any, cover for environmental liabilities. For example, a public liability policy may provide cover for a third party loss arising from "sudden and accidental" events only but will not cover "gradual" pollution or first party statutory clean-up costs. Businesses are increasingly turning to specialist Environmental Insurance

policies to address the gaps and uncertainties inherent in general liability policies, and to help unlock deals which have stalled due to concerns over potential environmental liabilities.

The Environmental Insurance Market has seen continued growth during 2005, with many insurers expanding their underwriting capabilities in the UK and continental Europe. With the collaboration of our USA colleagues, we have also provided commentary in the Review on current developments in the North American Environmental Insurance Market.

Recent years have seen increased innovation in Environmental Insurance solutions, including coverage for risks associated with PFI and PPP projects, pension trust portfolios, contingency exposures and higher environmental risk exposures. Of course, Environmental Insurance continues to play a crucial role in the management of environmental risks associated with mergers and acquisitions. The Review provides detail on the principal applications together with associated case studies.

Overall, 2005 has seen an increasing awareness of environmental risk issues amongst Clients. Also, greater competition in the Environmental Insurance Market has encouraged more innovative approaches and new products. This in turn has increased the popularity of Environmental Insurance as a solution to environmental liabilities.

Please contact us if you would like a copy of the Environmental Insurance Market Review 2005, or alternatively visit www.willis.com/environmental to download a copy.

Environmental Insurance Market Review 2005



Willis

Meet the Team



Fiona Gray **MSc, BSc (Hons)**

Fiona began her career in the Construction Industry before moving to Environmental Consultancy managing due diligence projects.

Fiona's role at Willis has entailed a combined technical and commercial approach

to devising risk management and insurance strategies for Clients.

Fiona has been involved in providing strategic and local level advice to Clients from a range of industry sectors, including waste management, heavy manufacturing, technology, construction and government. Fiona is also a part time lecturer at Brunel University, lecturing on Waste and Land Management (MSc level).

Case Study

Silicosis Claims – an Environmental Insurance Solution

In recent years, there has been a dramatic increase in the number of silica related bodily injury claims. The reason? Long term exposure of employees within the mining, construction and many other industrial sectors to crystalline silica, leading to silicosis and related diseases. The upsurge in cases, fuelled by changes in legislation in some parts of the US, has been so marked that some liken the situation to asbestos claims in the 1980s. In reaction to this trend, many liability insurers have imposed silica exclusions on policies. A Willis Client, a global company manufacturing a range of silica based products for use in various industries, had suffered such an exclusion since 2003.

Our Client was in advanced negotiations with a potential purchaser, who had raised concerns over the absence of cover for silica claims, particularly as our Client had been cited in a number of claims in the US. Although our client had put forward a strong defence, the cases had yet to be determined, and therefore potentially represented substantial uninsured losses.

We worked closely with our Client and the selected environmental insurer to structure a policy that would respond to the Client's exposure to silica claims, including the cases in which they had already been cited. As well as covering claims arising from future exposure, cover was backdated to when the silica exclusion was imposed. The insurance gave the purchaser continuity of cover and the certainty that they and the target business would be protected from any successful silica claims, and enabled the vendor to maximise the sale price without the need to provide an indemnity.

Breaking News

Insurer ACE enters London Market

ACE European Group Limited has launched its new Environmental Risk capability in the London market. ACE is able to offer a comprehensive and flexible range of environmental products. Now with full underwriting authority in the UK, ACE is a global insurance company, which is already an established player within the North American Environmental Insurance Market. The arrival of ACE Environmental Risk in London further demonstrates the continued growth of the sector in the UK, and will further increase competition and client choice.



Willis is one of the World's leading risk management and insurance intermediaries. We have 15,800 professionals in over 300 offices around the World.

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