

CLIMATE CHANGE IN THE BOARD ROOM

Global climate change is quickly becoming an agenda item in board rooms across the country. Organizations of all kinds are seeing the need to assess their exposures and potential liabilities related to increasingly severe weather and the possibility of rising seas. The risks are enormous. In a recent report, Swiss Re compared the recent flow of climate change lawsuits to those that led dozens of companies in asbestos industries to file for bankruptcy, and predicted that “climate change-related liability will develop more quickly than asbestos-related claims.”¹ Willis chairman Joe Plumeri recently called climate change “the number one risk of the 21st century.”²

Significantly, the Securities and Exchange Commission (SEC) is also getting into the act. While stressing that they are neither creating new reporting requirements for public companies nor taking a stand on the issue of climate change itself, officials have asserted that public companies should warn investors of any serious risks that climate change might pose to their businesses.³ The Commission had previously required companies to reveal possible financial or legal impacts from a variety of environmental challenges, but it has never *specifically* cited climate change.

The SEC’s “interpretive guidance” is intended to urge companies that could be helped or hurt by climate-related lawsuits, business opportunities or legislation to promptly disclose such possibilities. For example, banks or insurance companies that invest in coastal property that could be affected by storms or rising sea levels should disclose these risks. Companies should consider whether any new law or international treaty limiting carbon dioxide emissions might increase operating costs and prompt a disclosure requirement.



“Climate change refers to any distinct change in measures of climate lasting for a longer period of time. In other words, “climate change” means major changes in temperature, rainfall, snow, or wind patterns lasting for decades or longer.”

– The U.S. Environmental Protection Agency, Frequently Asked Questions about Global Warming and Climate Change

EXECUTIVE RISKS IMPLICATIONS

Litigation is just beginning, and to date, few if any suits have named corporate executives, but discussions are already taking place as to how specific Executive Risks insurance policies might respond. The good news: no wholesale climate change exclusions have appeared to date. **The not-so-good news: most Directors & Officers (D&O), Fiduciary and Errors & Omissions (E&O) policies include broadly written pollution exclusions and exclusions dealing with bodily injury or property damages. These might serve to limit coverage in climate change claims.**

WHAT TO DO NOW

Step one in responding to this global issue is to understand your potential exposures. You can work with an Executive Risks professional adviser to stress test your Executive Risks placements and other Liability programs. At Willis, we take a multidisciplinary approach, with our Environmental Practice sharing the lead role. Typically, we start by helping map out the impact that climate change could have on your business and then breaking the exposures down into insurable and non-insurable risks.

The insurance marketplace is beginning to assemble options that specifically address climate change. One global carrier introduced a new insuring agreement in 2009 for their D&O policy that provided some explicit coverage for certain climate change-related activities. More coverage developments can be expected. Progress has also been made by E&O carriers on behalf of clients who work in the climate change field and seek the broadest coverage for risks associated with emerging greenhouse gas services and technologies.

Once you've assessed your exposure to climate change, you should begin discussing your initiatives with your Executive Risks insurers. In some industries such discussions are taking place frequently, while others lag. Launching a dialogue is an opportunity to distinguish your risk. As your key carriers are usually major trading partners, bringing them into the fold may well pay dividends.

While scientists do not agree on the implications and effects likely to result from climate change, today's executives have to plan for the unknown and communicate their actions and assessments to their regulators and stakeholders. These imperatives will only become greater as time goes on.

"All across the world, in every kind of environment and region known to man, increasingly dangerous weather patterns and devastating storms are abruptly putting an end to the long-running debate over whether or not climate change is real. Not only is it real, it's here, and its effects are giving rise to a frighteningly new global phenomenon: the man-made natural disaster."

**– Barack Obama
April 3, 2006 speech in Chicago, IL,
"Energy Independence and the Safety of Our Planet"**

Willis has been actively engaged in helping clients understand the challenges presented by climate change and to prepare their businesses for managing associated risks and opportunities. We created the Willis Research Network, the world's largest research partnership between academia and the insurance industry, to evaluate the frequency, severity and impact of extreme events and to help on a local and global scale to manage these risks.

For more information, please see these publications from our Environmental Practice:

- "The Changing Climate on Climate Change – Report from Copenhagen", *Environmental Risk Newsletter*, January 2010
- "The Floodgates are Opening: Three Branches of U.S. Government Address Greenhouse Gas Emissions", *Environmental Risk Newsletter*, November 2009
- "Global Environmental Liability Management: Worldwide Environmental Insurance Solutions," *Environmental Risk Newsletter*, May 2008
- "Feeling the Heat: How Greenhouse Gas Emissions Standards and Trading Systems Are Creating Risks and Opportunities Around the Globe", *Environmental Risk*, November 2007

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¹ <http://blogs.wsj.com/law/2010/01/27/is-climate-change-litigation-the-new-asbestos/tab/print/>

² http://www.willis.com/documents/publications/General_Publications/Joe_Plumeri_Speech-Town_Hall_LA_12-08-09.pdf

³ <http://www.sec.gov/rules/interp/2010/33-9106.pdf>