



FERMA
RISK MANAGEMENT
FORUM 2013

LIVING AND WORKING IN A RISKIER WORLD

INSPIRE - EDUCATE - INFLUENCE

29 September - 2 October 2013

Maastricht Exhibition & Congress Center

Environmental risks - Webinar



The results of a survey on environment risks among members of FERMA and the European public sector risk management association PRIMO will be among the topics presented to an expert webinar on Wednesday 26 June. All FERMA members are invited to take part. Details will be available on the FERMA website and via FERMA's social media.

This is the third in a series of collaborative research projects between Harvard Business Review Analytic Services, Zurich, FERMA and PRIMO. The participants in this webinar will be

- **Valerie Fogleman**, consultant at Stevens & Bolton and lecturer at Cardiff University
- **Carl Leeman**, chief risk officer, Katoen Natie and FERMA board member
- **Christopher Robertson**, head of environmental, Zurich

Leading risk culture changes



A webinar on Leading the Risk Culture Change, the second of the three topics tackled by the four partners, took place on 15 May.

The panel was:

- Linda Conrad, director of strategic business risk for Zurich
- Professor Paul Walker, Zurich Chair in enterprise risk management at St John's University
- Johan Willaert, corporate risk manager AGFA-Gavaert and FERMA board member

This webinar, which included the results of the FERMA-PRIMO survey on the subject, will be available on the FERMA website within about two weeks of the event.

Other topics discussed included changes in the risk industry over the past three years, embedding risk culture, measuring risk and strategic risk, and the relationship of the risk function to senior management.

Karel Van Hulle to address the Forum



Karel Van Hulle

Karel Van Hulle, head of the insurance and pensions unit of the European Commission from 2004 until February 2013, will be a keynote speaker at the FERMA Forum in Maastricht starting on 29 September. During this time, his main responsibility was the preparation of the new prudential regulation of insurance and reinsurance, Solvency II.

A lawyer by training, Professor Van Hulle joined DG Internal Market and Services in 1984 after serving eight years with the Belgian Banking Commission. He then held head of unit positions in accounting, auditing and financial reporting before moving to life and pensions. In this role, his areas of responsibility included life assurance, non-life insurance, reinsurance, motor insurance, insurance guarantee schemes and pension funds.

Having retired from the Commission in February, Professor Van Hulle is continuing his professional career as an academic. He is a member of the Jan Ronse Company Law Institute at the Law Faculty of the Catholic University of Leuven in Belgium and a member of the executive board of the International Centre for Insurance Regulation at the Goethe University in Frankfurt.

The chairman of the Forum technical committee FERMA board member Julia Graham, said: "We are delighted to welcome Karel Van Hulle as a keynote speaker to the Forum. Karel was instrumental in the introduction of the Solvency II Directive. Following his retirement, he continues to defend the European cause from influential academic positions where he can also pass on his experience to professional and young people. These objectives are in tune with FERMA's own, where we aim to represent our profession and to encourage young professionals."



Julia Graham

See inside for more Forum news.

Speakers announced for 3 June joint conference

Eminent jurists will join risk managers and claims experts from eight European countries for *European Insurance Law: When Theory Meets Practice*.

Organised jointly by FERMA and AIDA Europe, it will take place in Paris on 3 June. Click [here](#) to see who the speakers are and for more information.





Eminent jurists join risk managers to debate European insurance law



Here are the speakers for FERMA's first joint event with AIDA Europe: *European Insurance Law: When Theory Meets Practice* with the topics they will be discussing. The event will take place in Paris on 3 June.

Co-insurance: who owes what, when and to whom?

- [Christian Bouckaert](#), Senior Partner of SCP Brouckaert Ormen Passemar Sportes, France
- [Professor Herman Cousy](#), Professor of Law, Catholic University of Leuven, Belgium



Jo Willaert

- [Professor Alberto Monti](#), Institute for Advanced Study IUSS, Pavia, Italy
- [Jo Willaert](#), Corporate Risk Manager, Agfa-Gevaert, Belgium

Serial claims: When fiction trumps reality

- [David Kendall](#), Partner and Co-Chair of the International Insurance and Reinsurance Department, Edwards Wildman Palmer, UK
- [Professor Jérôme Kullmann](#), Director of the Institut des Assurances de Paris, France
- [Nicholas Rönneberg](#), Senior Executive Manager Claims Management, Munich Re, Germany
- [Frédérique Bannes](#), Head of the legal and claims department at Liberty Mutual Insurance Europe, France



Jérôme Kullmann

Embargo: The discordant music of European and national public orders



Harry Daugird

- [Harry Daugird](#), Senior Risk Advisor Risk Management Insurance, ABB, Germany
- [Christian Felderer](#), General Legal Counsel and Executive Vice President of SCOR Holding, Switzerland

- [Robert Walsh](#), Group Financial Crime Officer, AXA Group Legal and Compliance, United States
- [Professor Manfred Wandt](#), Director of the Insurance Law Institute, University of Frankfurt am Main, Germany

D&O: Phantasm on forbidden guarantees

- [Jorge Angell](#), Senior Partner, LC Rodrigo Abogados, Spain
- [Ottó Csurgó](#), Chief Executive Officer, CIG Pannonia EMABIT, Hungary
- [John Curran](#), Partner, DLA Piper, UK
- [Emmanuel Silvestre](#), Vice President - Specialty Casualty Underwriting Manager D&O/FI at Liberty International Underwriters, France

More details are available at

www.ferma.eu/events/aida-ferma-conference-2013/

The programme



Some product defects are obvious quickly; in others the fault may not manifest itself for months or even years with complicated liability and coverage issues that often result in legal disputes.

Serial claims and aggregate limits are, therefore, one of the four highly topical insurance law issues for discussion at the FERMA-AIDA Europe event.

FERMA executive manager, Florence Bindelle, who has re/insurance law background, said: "Whether FERMA members are directly involved with insurance or not, insurance law has implications for what they do, because a legal issue over a major loss can affect the company's balance sheet or the position of the directors".

For example, with the European Commission continuing to press for some form of European system of collective redress, the method of settling a string of liability claims across several jurisdictions could become more than academic interest. A general policy may give cover for losses resulting from a single cause over a period of time but there will be an aggregate limit to the payment. If claims are settled on a first come, first served basis, there may be no coverage left for later claims.

The three other topics which the conference will cover are:

1. **Co-insurance**, using several insurers to underwrite a single large risk or programme, is a subject of continuing discussion at European level as DG Competition is again questioning the practice.
2. **Embargoes** have become a common method of applying political pressure on countries in conflicts, but they throw up legal issues relating to commercial insurance especially for companies that already have trading relationships and contractual obligations where the sanctions apply.
3. **D&O insurance** now protects a very large number of European board members, but brokers and insurers say that some indemnities are not allowed, fines for example, or kidnap ransom payments. What does the law say?

Florence said: "We believe that our relationship with AIDA Europe will help us support our members, first providing knowledge and contacts through events like this one and in future representations to the European Commission on insurance law issues which affect them".

[Register Now](#)

Ladies Lunch speakers

Many speakers are now confirmed for other Forum sessions.



The Ladies in Risk Management Lunch will discuss the issues of women on boards. For this topic, there are two influential speakers:

Sanna Suvanto-Harsaa is Finnish and the chairman or a board member of more than 10 Nordic businesses, including SAS AB and the multi-national retailer Clas Ohlson. She has wide ownership experience, including listed companies, private equity, family companies and government owned.

FERMA board member Helle Friberg said: "Sanna has witnessed the Scandinavian governments' different approaches to the issue of women on boards and has observed with great interest the developments and trends in each country. This makes her an excellent speaker for the FERMA Ladies' Lunch".

Janet Legrand is senior partner and chairman of the board of the law firm DLA Piper International where she is a senior commercial litigator. She has a strong profile in complex cross-border asset recovery, and has represented major banks, central banks and governments.



Janet Legrand

She represented the Republic of Zambia in a series of high profile proceedings including the country's flagship anti-corruption case against its former president Frederick Chiluba and 19 other defendants in the English High Court.

Panels

The incoming president of Airmic, Chris McGloin of Invensys and Alexander Mahnke of Siemens, will be among the FERMA members setting out the challenges to brokers and insurers in the risk managers' panel.

In the presidential style insurance panel will present the following industry leaders will debate the questions from the risk managers' panel: Peter Hancock, AIG; Mike McGavick, XL Group; Axel Theis, AGCS Richard Ward, Lloyd's.

To learn more about them and other speakers as they are confirmed on the Forum website at www.ferma.eu/ferma-forum-2013/ and in the next issue of the newsletter.

Letter from Brussels



After a cold, grey winter in Europe, the FERMA team of Jorge Luzzi, Pierre Sonigo, Jo Willaert and me were delighted to head to Los Angeles for the annual meeting of the US Risk and Insurance Management Society (RIMS) – and the California sunshine. Board member Carl Leeman was with us in his role as president of the International Federation of European Risk Management Associations (IFRIMA).

Jorge and I took part in the session on risk management and insurance practices around the world where we presented the findings of the FERMA 2012 Benchmarking Survey. We were joined by former FERMA board member Franck Baron who is now risk and insurance manager with International SOS in Singapore. He is also the first chairman of the new Pan-Asian Risk & Insurance Management Association (PARMIA), which he helped to launch.

Jorge also spoke on the question of admitted insurance in Latin America with former FERMA president Maurizio Castelli, now with XL, and in the bi-lingual session on the experience of enterprise risk management in Latin America. Carl was one of the four risk managers speaking at the joint IFRIMA session, "Big blue marble", a forum on global risk management issues.

During several IFRIMA meetings the possibility of a global certification was extensively discussed, and the major associations, including FERMA, have agreed to work on global RM certification initiated by IFRIMA. (For more details, see next page)

In the meantime, members of the FERMA board will receive an update on the latest stage of our certification project from the working party at the general assembly on 20 June. They will then decide on the next stage.

Speaking of the Forum, every two years, FERMA reminds members that coming to the Forum is a great way to meet key players from the risk and insurance industry in one place. That is multiplied in the case of RIMS which has around 400 exhibitors, a large team from RIMS itself and thousands of delegates. I took advantage of the opportunity to talk with senior government affairs staff from RIMS so we have a platform for future discussions and networking with others in the industry.

It is also part of FERMA's strategy to have our voice heard with other stakeholders and EU representatives. During our recent meetings with EU Commission representatives, the International Oil and Gas Producers Association and the mining industry sector we had the opportunity to reinforce FERMA's position on relevant matters. These include the Environmental Liability Directive, Insurance Mediation Directive 2, coinsurance, and captives.

As I mentioned, the general assembly will take place on 20 June in Brussels. In keeping with the programme we started last year, we will have an outside speaker on European affairs. Our aim is to raise our knowledge of the processes in the EU to a higher level so that it forms the background of our major decisions. Together with FERMA's increasing relationships with other stakeholders, now including the insurance law association AIDA Europe, this will strengthen our ability to represent the interests of our members.



Florence Bindelle,
Executive Manager

Countdown to the Forum



Here is the latest update from FERMA project coordinator Veronique De Hertogh.

Since the last newsletter I have been fairly preoccupied with coordinating the opening of registrations for the Forum. The start has been great, and we already have more than 100 people registered. This means we are following the same development as in Stockholm and Prague in 2011 and 2009. We are using a new registration system this year, and its sophistication required some explanation that we have added on the website.

Maastricht is a lovely city but I'm sure most of our participants are still wondering how to get there. Planes, trains and cars are all transportation means that can be used to reach the oldest Dutch city. To help out, I have made an overview on the different possibilities that has now been posted on the travel page of our website. A quick reminder: don't forget to check the website on a regular basis at <http://www.ferma.eu/ferma-forum-2013/>.

One of the two keynote speakers, Karel Van Hulle, is booked, and we're waiting to confirm the second. Our aim is to find people who will give a different view on risk with an "off the beaten track" perspective. No, it's not going to be André Rieu, even though I'm sure his violin would have charmed the audience.

Another important job now that the registrations are open is to work with the national associations and local authorities to promote the Forum. A meeting has been planned in June with the City of Maastricht and the local chambers of commerce.

Since I only joined FERMA early this year, this will be my first Forum, but everyone tells me there's a wonderful atmosphere and I'm looking forward to cycling around!

Veronique De Hertogh

ACE European head to chair young risk professionals' breakfast

Andrew Kendrick, chairman of ACE European Group, will chair the young risk professionals' breakfast taking place on Wednesday morning, 1 October. It is open to any registered delegate under the age of 35. The theme will be careers in risk management: what are the best skills, how can a young risk manager get the ear of senior management, how easy is it to take a break to get an advanced qualification or start a family. These and many other questions will be open for discussion.



Andrew Kendrick

More for young risk professionals

The best ever opportunities to attend the Forum are available for young risk professionals this year.

- **Free registration for two business students** each from the Maastricht and Liège Universities.
- **A 50 percent discount** to attend the Forum for young risk professionals who aren't lucky enough to get a free place.
- **One-day registration** to get an introduction to the Forum, meet the members and take part in sessions they find most relevant.



IFRIMA to initiate global RM certification project



The International Federation of Risk Management Associations (IFRIMA) is to begin consideration of global certification of risk management skills and competence. Major members of IFRIMA, including FERMA, agreed to work together on the project when they met in April during the annual conference of US association RIMS.

Carl Leeman, IFRIMA president and a FERMA board member, said: "It is clear that many risk managers want some portable, internationally recognised confirmation of their skills and competence.



Carl Leeman

Our aim is to create an agreed international basis for certification. Regional and national associations will then be able to use this base to develop their own process knowing that they will receive global recognition. IFRIMA is the natural organisation to coordinate this project."

There will be a working group with representatives from all continents to develop a more elaborated scope for this project. Later on, every region or association will be able to customise and expand this basis to suit its own needs. The FERMA certification project, which is at a somewhat more advanced stage, would be part of the overall scheme.



IFRIMA directors from around the world at the RIMS 2012 Annual Conference in Philadelphia, USA, May, 2012

The consequences of net quoting in the Nordics – a lesson for other markets?



Erik Börjesson

The Nordic insurance market has adapted well to the shift from broker commissions to fees. By Erik Börjesson

Traditionally, the Nordic insurance market had relatively low broker involvement. Over the last 25 years however, brokers have increased their operations, and all the major broking houses now have operations in the Nordic countries.

This increase in broker activity changed the tradition of direct contact between the insurer and the insured. Their entrance led to huge opportunities for international insurers with no local representation.

Between 1990 and 2000, the brokers also began to focus more on mid-sized clients and SMEs. Local carriers became concerned, as not only did they lose market share but the roles of the parties and their remuneration came under the spotlight.

The main concern was how a broker could represent an insured when paid by the insurer. This is an obvious and natural question in the transparent Nordic business environment.

In early 2000, a number of Nordic local insurers stopped paying commissions to brokers, forcing the brokers to negotiate a fee for their services with the clients.

Subsequently, the regulators supported the initiative, and we now have the following situation:

- Finland – an absolute ban of commissions by law.
- Norway and Denmark – a ban on commissions with exception for “large risks” defined as major accounts, marine, energy, aviation and reinsurance.
- Sweden – a market agreement among carriers to not pay commissions. A regulatory ban was discussed but after consideration it appears that there will be a demand for full transparency.

Impact

One implication of the absolute ban on commissions in Finland has been that the broker-transacted share of all property-

casualty premiums has fallen from 14 per cent to 7 per cent over four years.

The other countries did not see the same change. When fee agreements were introduced, however, brokers’ revenues per client fell substantially with the introduction of net quoting. Service agreements were also extended.

To replace the lost income, competition increased, which resulted in even lower fees for the brokers. Next, brokers began to aggressively recruit teams from each other, which led to higher salary costs.

« The shift from commissions to fees worked well in general for the local insurance market, even if the brokers struggled to keep up profit levels »

The result was a downward spiral over several years as the new teams competed to win back their old portfolios by

decreasing fees and extending services levels.

Results for the big brokers decreased dramatically, but have since stabilised on lower levels. Overall, the local insurance market has protected the mid-sized and SME business from heavier broker involvement and also from competition from international carriers.

Finland’s absolute ban on commission has led to a significantly lower share of business transacted by brokers. We also see a consolidation of the insurance market with three carriers now handling approximately 90 per cent of the market and very limited success for the international carriers.

Other Nordic countries have developed differently. In summary we can see the following:

- Increased clarity on the roles of the parties and who they represent
- Lower fees than the original amount of commission
- Better defined service level agreements
- Lower profit margins for the brokers
- Higher staff turnover
- Establishment of agencies by intermediaries or sister organisations
- Brokers starting to build portfolios of

similar risks to use buying power

The shift from commissions to fees has worked well in general for the local insurance market, even if the brokers have struggled to keep up profit levels. One of the main advantages for the whole market is clarity over who the broker represents and more detailed service level agreements.

For the insured, it is important to follow this evolution carefully to secure a wide and lively competition and avoid consolidation. At the same time, companies should avoid overuse of the market situation to push fees too low as this can lead to poor service and less skilled consultants.

From a helicopter perspective, the most dynamic market conditions seem to be in Sweden. The parties are free to agree on how to remunerate a broker, but it is very transparent. This has solved the question of who the broker represents without decreasing competition.

Erik Börjesson is Lloyd’s Nordic Area Manager.

Fredrik Finnman



Fredrik Finnman

Group Risk & Insurance Manager at ASSA ABLOY
President of SWERMA

When introduced, net quoting was an important reform on the non-life market in Sweden. This provided for transparency and lowered costs for insurance buyers. Prior to the reform, the buyer often did not know the actual cost of the broker services. Apart from the risk of unreasonable commissions and margins for the brokers, one could question whether the broker actually represented the insured.

Brokers play an important role by opening up the international insurance market, thus increasing competition to the benefit of the buyers. They also provide for services that normally are not available within the insured’s organisation. Broker fees in Sweden are kept at a reasonable level today but it is also in the buyers’ interest that the margin provides for professional service and isn’t pushed too low.



New EU consultation on catastrophe insurance

FERMA is currently preparing its response to the consultation exercise now underway on the European Commission Green Paper on the Insurance of Natural and Man-Made Disasters. Stakeholders have until 30 June to express their views on certain proposals by the Commission.

On April 16, the Commission published the Green Paper ([click here](#)), which in the EU world, is a consultation type of document used by the European administration to invite relevant stakeholders (individuals and companies) to express their views. It's a preliminary step that could lead to a more formal document, a White Paper, where the Commission puts forward its final thoughts and conclusions on the topic.



This Green Paper is the logical and necessary step following the release last September by the Joint Research Centre (JRC), the in-house science service of the European Commission, of a full study on *Natural Catastrophes: Risk Relevance and Insurance Coverage in the EU* ([here](#)).

Based on data like the occurrence and the intensity of natural disasters during recent years in Europe, the Commission is now seeking to evaluate whether EU legislative action is necessary in the field of catastrophe insurance.

To go further in the consultation process, the document contains 21 questions related to the adequacy and the availability of appropriate insurance.

The Green Paper indicates the Commission's concern about storm surges, river and flash floods, wild forest fires, earthquakes, volcano eruptions, the impact of climate change and man-made disasters. These latter events can be caused by industrial accidents (for example, the 2010 oil spill in the Gulf of Mexico) or triggered by natural catastrophes ("natech", such as the Fukushima nuclear accident caused by the 2011 earthquake/tsunami in Japan).

Man-made disasters included

That man-made disasters are now included in the Commission review is the major innovation of this consultation. The Commission considers that both natural and man-made catastrophes are on the rise and that the capacity of the insurance sector to insure against them needs to be seriously assessed.

The Commission is making a link with the Environmental Liability Directive (ELD) and the Safety of Offshore Oil & Gas Directive as it targets "human-made disasters". The questionnaire asked if there are enough data to analyse industrial risks, how to design an appropriate financial security under the ELD or what innovative insurance mechanisms could be suitable for the offshore oil and gas industry.

FERMA, alongside major industrial stakeholders in Brussels, is very concerned about any mandatory insurance scheme that would not take into account the adaptability and flexibility required by the great diversity of industrial activities across the EU.

These concerns will be shared in the FERMA response to the Green Paper. The variety of business activities calls for innovative insurance solutions that don't fit with a rigid scheme applicable to everyone.

In a nutshell:

Green Paper

The Insurance of Natural and Man-Made Disasters
http://ec.europa.eu/internal_market/insurance/consumer/natural-catastrophes/index_en.htm#maincontentSec1

Consultation deadline: 30 June 2013

Another five important reasons to attend the FERMA Forum 2013

1. Listen to Professor Karel Van Hulle, former head of the insurance and pensions unit of the European Commission.
2. Challenge brokers and insurers in the panel sessions.
3. Discuss the role of women in risk management leadership.
4. Release your inner Dutch man (or woman). Get around on a bike.
5. Save up to 200€ on early bird discount and register before 1 July



Registration for the 2013 FERMA Forum in Maastricht is open:

<http://www.ferma.eu/ferma-forum-2013/register/>

European insurance contract law goes under the microscope

The first meeting of the European Commission's Expert Group on European Insurance Contract Law took place in April. The group consists of eight representatives from the insurance sector, four from business and consumer organisations and four from the legal professions and academics.

This initiative is a consequence of the proposal for a regulation on a Common European Sales Law (CESL), which would consist of an optional regime for cross-border trade transactions. The proposed text is now at the European Parliament, awaiting first reading. The Legal Affairs and Consumer Protection Committees are co-responsible. The draft report was released early March. (available [here](#)).

To fully understand the rationale behind this new expert group, it's important to note that the proposal for a regulation on a Common European Sales Law explicitly excludes financial services, insurance being one of them. In January, the Commission decided to consider whether there should be an insurance edition of the law, and appointed the specific expert group to work on the differences across the European Union in insurance contract laws.

Cross-border obstacles

The mission of the experts is to explore whether there are obstacles to cross-border insurance provision arising from contract law and, if so, in what classes of insurance. They are holding monthly meetings and are expected to release their report with conclusions by the end of 2013.

The experts will analyse if differences in contract laws throughout Europe are affecting the cross-border trade in insurance products. From a risk manager's perspective, the most important class of insurance likely to be considered is liability insurance, including professional, product and construction. Term life insurance and 3rd pillar pensions, travel and motor insurance are also expected to come under scrutiny.

This review is expected to cover pre-contractual obligations, contract formation, claims settlement, coverage triggers (i.e. claims-made versus occurrence based) and the impact of mandatory insurances.

Then depending on the experts' conclusions, the Commission will judge if further action is necessary. At this early stage, it is impossible to predict if the views of the expert group will lead to a CESL equivalent for insurance law in Europe.

Viviane Reding Vice-President of the European Commission and EU's Justice Commissioner stated: *"Differences in contract law may hinder cross-border trade for both small- and medium-sized companies and consumers buying across borders as well as for some insurance companies."*

From the opposite perspective, Insurance Europe, the European federation for the insurance industry and a member of the expert group, argued that contract law only has a minor impact on cross-border trade in insurance. It pointed out that there are other obstacles with a greater impact, such as cultural sensitivities and expectations, language or tax laws.

The second meeting scheduled on 15-16 May was expected to discuss the differences in national insurance contract laws arising from, for example, differences in the information requirements placed on the insurer, duties of disclosure for the policyholder and contract formation/termination.

FERMA will closely monitor the evolution of the discussions within the expert group until the final report.

More details [here](#).

In a nutshell

Common European Sales Law Expert Group on European Insurance Contract Law Due to report: end of 2013
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Michel Dennerly, Jorge Luzzi and Julia Graham



Michel Dennerly, Jorge Luzzi, Julia Graham and Ruediger Auras

General Assembly :

The FERMA General Assembly 2013 will take place on 20 June in Brussels, it brings together the board of FERMA and the presidents of the member associations.

A diner reception will take place on the evening of 19 June 2013 at the restaurant 'Le Nouveau Taste'.

FEDERATION OF EUROPEAN RISK MANAGEMENT ASSOCIATIONS - FERMA AISBL

This newsletter is produced by FERMA. If you have any questions concerning this Newsletter, please contact Florence Bindelle at FERMA on +32 2 761 94 32 – email: florence.bindelle@ferma.eu

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