10 Things Insurance Companies Should Be Thinking about in 2024

January 10, 2024

The insurance industry can reflect on 2023 as a year impacted by significant regulatory change in the United States, Bermuda and across other important insurance markets, with a range of "macro" risks, such as climate change, social inflation, the impact of AI, the changing interest rate environment and the emergence of cyber risks, hanging over the industry. And yet, insurance and reinsurance companies continued to produce strong results, execute complex transactions and expand into new areas of growth. We believe that 2024 promises to be yet another active year across the insurance and reinsurance sectors. In this note, we highlight the key issues that we believe will be of primary concern for our insurance industry clients and friends.

REGULATORY DEVELOPMENTS

- *Cyber Risks*. Last year saw a landmark new cyber regulation for public companies from the SEC and an update to the New York Department of Financial Services' cybersecurity rule. This year will see further developments on this regulatory frontier. The SEC has proposals on new cyber rules for registered investment advisors and broker-dealers, which we expect to be finalized in the spring. With this universe of new rules in place, we anticipate cyber examinations to increase and aggressive enforcement actions by regulators, following in the footsteps of the SEC Enforcement Division last year.

- *Artificial Intelligence*. Almost no topic received more press in 2023 than the countless issues arising from the growth of artificial intelligence. The insurance industry was no exception. For example, in September of 2023, the Colorado Division of Insurance released its Final Governance and Risk Management Framework Requirements for Life Insurers' Use of External Consumer Data and Information Sources, Algorithms, and Predictive Models. We will continue to see regulators trying to keep up with technological change, understand its implications for policyholders, and develop a regulatory regime that appropriately balances policyholder protections with the need for innovation in the industry.

- *Private Equity as a Force in the Life and Annuity Insurance Sector*. The publication of the IMF's Global Financial Stability Note at the end of 2023, and the response from the Bermuda Monetary Authority, were the latest chapters in a story that dominated much of the regulatory dialogue in 2023—regulators in the United States, Europe and Bermuda seeking to understand the implications of "private equity influenced" life and annuity insurance and reinsurance companies. This is an ongoing important, transformational change in the industry. While we expect private equity firms and other sources of private capital to continue to invest in the insurance industry, both in life and annuity businesses and, on an increasing basis, in P&C insurers and reinsurers, we also expect to see a heightened level of regulatory discussion around the role of private capital in the industry.

- *DOL Proposal*. The Department of Labor (the "DOL") recently unveiled its long-awaited proposal to revise the definition of an investment advice fiduciary under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), and the corresponding prohibited transaction provisions of the Internal Revenue Code. This proposed rule would, if adopted, substantially expand the occasions upon which a recommendation to someone responsible for the investment of the assets of an employee benefit plan or individual retirement account will make a person a fiduciary. The rule would affect, among others, broker-dealers and insurance companies and could affect any other financial services businesses that market investment products to U.S.-based retirement plans and IRAs. We expect there to be intense dialogue around this proposal, as numerous comments were received by the DOL at the end of the year.

- *Global Minimum Taxes*. 2024 will be the first year in which legislation implementing the Organisation for Economic Co-operation and Development's "Pillar 2" global minimum tax regime begins to take effect in jurisdictions such as the United Kingdom, and other jurisdictions can be expected to continue to implement their own Pillar 2 rules. In addition, at the end of 2023, the government of Bermuda enacted its own corporate minimum tax for multinational groups operating in Bermuda that will take effect in 2025 (or later for certain groups). We expect these continuing developments to have significant consequences for group structuring and transaction pricing.

M&A AND OTHER CORPORATE TRANSACTIONS

- *Legal Entity Transactions*. Much of the M&A activity in 2023 centered on sizeable reinsurance transactions in the annuity sector. We also saw, towards the end of the year, an important transaction involving long-term care liabilities. While we expect these reinsurance transactions to continue, we also believe that 2024 holds the prospect of increasing activity in the sale of legal entities and whole businesses as the strategic need to execute those transactions is aided by greater stability in the capital markets. We expect this to be an active year for M&A across the P&C, life and annuity and reinsurance sectors.

- *Sidecar Reinsurance Transactions*. The last two years have seen intense activity in the sidecar market, as life insurance companies have set up off-shore (and now on-shore) entities to bring in third-party capital and alleviate balance sheet strain. These deals allow for efficient deployment of capital, especially by private equity and other alternative sources of capital with significant “dry powder,” and create room for the ceding/sponsoring companies to grow their businesses organically. We expect these deals will continue apace in 2024, with the only limitation being the possible oversaturation of the market.

- *Asset Management Transactions*. We expect that many insurance companies will continue to consider building their asset management capabilities through inorganic growth, particularly in the life and annuity sector. There are several tools for accomplishing this expansion, including acquiring managers and entering into investment management agreements (IMAs) with third-party asset managers. We expect to see a continuing number of these transactions in 2024.

- *Initial Public Offerings*. In the fourth quarter of 2023, we began to see some thawing of the IPO market, with a few Bermuda-based (re)insurers accessing the capital markets. We expect that trend to continue into the first half of 2024 as early stage investors seek to monetize their positions in start-up (re)insurers and the P&C renewal market remains hard.

- *Cross-Border Reinsurance*. We have begun to see increased interest in reinsurance transactions between Japanese and South Korean ceding companies and Bermuda-based reinsurers, including reinsurers affiliated with U.S. asset management firms. We believe these transactions have the potential to be an important solution for the economic problems facing the ceding companies’ back books, while also being attractive to prudently managed reinsurance vehicles.

INTEREST RATE ENVIRONMENT AND INFLATION

All insurance companies have some exposure to changing interest rates. For years, the life insurance sector was burdened by the low interest rate environment, making it difficult to realize attractive levels of profitability with their traditional business models.

That environment changed in 2023, and interest rate-exposed businesses needed to adjust to an environment of relatively full employment, inflation and higher interest rates. This shift created both challenges and opportunities across the insurance sector, which we expect to continue into 2024, with some uncertainty as to the future level of interest rates.

CLIMATE CHANGE

The property insurance industry is most evidently and directly exposed to the effects of climate change, but its impact can be seen across sectors in everything from investment portfolios to disclosure requirements. We expect that climate change will continue to be an important topic of discussion in boardrooms, with investors and with policyholders, as companies make choices about what coverages will be made available to consumers living in fire- or flood-prone areas. From a disclosure perspective, California adopted multiple new disclosure regulations in late 2023 and the SEC regulatory agenda indicates that the SEC's long-awaited climate change disclosure rules may be adopted in April 2024.

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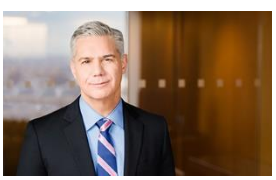
Please do not hesitate to contact us with any questions.



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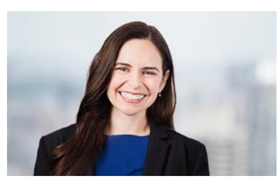

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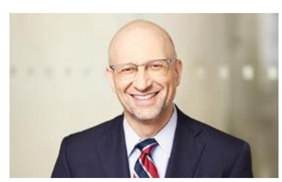

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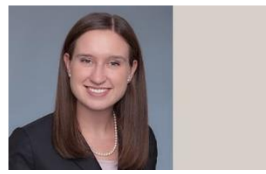

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