

"Fighting the Good Fight" by Duncan Minty

A group of major players in the global insurance market have joined together under a United Nations programme to explore how insurance could make a lasting impact on some of the big environmental and social challenges facing the world. Called Insuring for Sustainability, the programme is looking at issues such as climate change, poverty and health.

This is not about how much insurers are giving to good causes or about how many trees their staff are planting. It is about how to deliver products and services that support sustainable development and how the environmental and social impacts of these businesses are managed through the underwriting, claims and investment processes.

The rationale for these insurers is simple, yet fundamental: the more sustainable a society, the more stable it becomes. Stable societies increase the likelihood that the funds insurers collect will be adequate to meet the claims needing to be paid because risks are more easily understood and economic conditions support steady investment returns. So that most powerful of motivators - self interest - is providing insurers with a strong reason to help tackle some of the big environmental, social and economic issues that underpin sustainable development.

Appetite for change

But the inherent simplicity and common sense of committing to such a programme are still a long way from actually making it happen. This group of global insurers - including Norwich Union, RSA and Lloyd's of London - have chosen a set of nine priorities and are busy working out how to scale up some interesting case studies into full-blown change programmes. This is great leadership stuff but the reality is that unless they bring a critical mass of insurers with them, their efforts alone will fail to generate the momentum needed to make a lasting and substantial impact.

These insurers recognise that misperceptions existing in the wider insurance community, surrounding the importance of environmental and social issues to long-term performance, are one of the main barriers to achieving that critical mass of supporters. The danger that looms is of too many insurers tinkering around the edges of one or two issues and paying little more than lip service to the overall agenda for change.

Yet if issues like climate change, poverty and health are really as important as these influential insurers say they are, shouldn't the insurance and pension buying public be kept informed about the goals that are being set and progress being made? And that requires more than just the odd press release about the things companies would like us to know about.

This represents a real challenge for the insurance industry, which doesn't have a great record on being transparent. This is surprising, given that disclosure of material facts is the cornerstone of all insurance contracts. Where would the industry be without utmost good faith?

A lot of attention is given to the insured's obligation to be transparent about what insurers see as material. Yet utmost good faith has a dimension that is often ignored - one that could be pivotal to the public's continued faith in the ability of the insurance industry to tackle these global concerns. When utmost good faith was written into the Marine Insurance Act 1906, the wording adopted clearly stated that it applied to both the insured and the insurer.

The reasons for this are lost in the mists of time, but it remains true that insurers are under a duty to disclose material facts about their side of the insurance contract, a duty that extends beyond normal terms of business.

So why has the insurer's obligation under the utmost good faith principle been given so little attention? To begin with, it all seems too complex; with so many different types of insureds, how can an insurer

decide what is material and what is not?

Most insureds are concerned about financial stability and insurers do publish annual financial reports. Yet so does every other publicly listed company, because they are all required to by company law. This hardly seems like going the extra distance in disclosure that utmost good faith requires.

Another reason, and perhaps the most pervasive, is the relative bargaining strengths of insured and insurer. It's not surprising that big corporate insurers stress the importance of disclosure by the individual insured; agendas are set by those holding the best cards.

However, the issues being addressed by the UN programme on insurance and sustainability cut through those two problems. It brings forward the big global issues that representatives of the worldwide public have identified as vital to our long-term well-being, with recognition at the top of the insurance industry that it is in their long-term interests - as well as those of their insureds - to do more to tackle them. Here are material issues that all those individual insureds, joined together through the UN, want insurers to report on. By so doing, there would be a step change in how insurers fulfill their utmost good faith obligations.

Helpful leverage

The leverage in reporting, produced by insurers attending to these obligations in this way, would be enormous. Increased reporting means greater external scrutiny and, with that, the pressures from a competitive market not to be seen as a laggard. The UN programme would achieve its critical mass of participating insurers and so gain the momentum to achieve a lasting and substantial impact on these big global issues. In other words, a big splash instead of an interesting ripple.

Of course, continuing misperceptions about the importance of these issues and the demands of everyday business will remain as barriers. To overcome them, two things could make a difference. First, the global insurers already involved should take their leadership a step further by issuing annual, audited reports detailing the progress they are making and the gains being achieved.

Second, governments, financial regulators and trade associations like the Association of British Insurers should send a strong signal to the market about making this happen. After all, it fits comfortably with their existing interest in a principles-based approach to disclosure about material risks.

Even better, there's no need for new legislation - it's already there in what the 1906 Marine Insurance Act has to say about utmost good faith.