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**2013** THE **HOSPITALITY LAW**  
**CONFERENCE**  
FOCUSING ON LEGAL, SAFETY & SECURITY SOLUTIONS

FEBRUARY 11-13, 2013 • HOUSTON, TEXAS

# HOT TOPICS AND TRENDS IN INSURANCE COVERAGE

# PRESENTERS

## DICKSTEINSHAPIRO<sub>LLP</sub>



### John E. Heintz

- A veteran in the fields of corporate insurance coverage and complex litigation with more than 30 years of experience.
- Has won numerous landmark appellate cases in state and federal courts.
- Has recovered billions of dollars in coverage for his clients.



### Kenneth Berline Trotter

- Has handled substantial commercial litigation matters, including breach of contract, product liability, and fraud claims.
- Devotes a significant portion of his practice to the representation of policyholders in complex insurance disputes.
- Representations include state/federal court litigation, arbitrations, and mediations.

# ABOUT DICKSTEIN SHAPIRO

Dickstein Shapiro LLP, founded in 1953, is internationally recognized for its work with clients, from start-ups to *Fortune* 500 corporations. The firm provides strategic counsel and develops multidisciplinary legal solutions by leveraging its core strengths—litigation, regulatory, transactions, and advocacy—to successfully advance clients' business interests. The firm has offices in Los Angeles, New York, Orange County, Silicon Valley, Stamford, and Washington, DC. For more information, please visit [dicksteinshapiro.com](http://dicksteinshapiro.com).

# OVERVIEW

- Catastrophic events of the new millennium have highlighted the increasing risks the hospitality industry faces and the challenges of obtaining and recovering insurance for those risks:
  - 9/11;
  - hurricanes in Florida and Hurricanes Katrina, Ike, and Sandy;
  - earthquake and tsunamis in Japan and Thailand;
  - terrorism at the Oberoi in Mumbai;
  - the Arab spring and its impact on terrorism in Egypt and elsewhere;
  - cyber attacks on the industry data systems; and
  - wage-hour class actions.

# OVERVIEW

- Many businesses affected by these events were surprised to find that their insurance programs did not cover significant aspects of their losses.
- Many businesses were stunned by how difficult it was to secure the full extent of what their policies did cover.

# THE LESSON OF THE UNITED/US AIR 9/11 COVERAGE CLAIM

- United and US Air suffered identical types of losses when Reagan National Airport in DC was ordered closed on 9/11.
- One was covered but the other was not because of nuanced differences in policy language governing coverage for losses caused by an order of civil authority.

# THE LESSON OF THE UNITED/US AIR 9/11 COVERAGE CLAIM

1. Risk management requires persistent “black sky” thinking about your risks and the adequacy of your insurance policies.
2. Use these past events to ask:
  - What if my company had been affected?
  - Would we have been covered?
3. Obtain and evaluate policy language before you bind coverage.

# THE LESSON OF THE UNITED/US AIR 9/11 COVERAGE CLAIM

4. When you suffer a loss, start with the assumption that you're covered unless the insurer can convince you that you're not.
5. Don't blindly accept conventional wisdom about what is and isn't (or can't be) covered.
6. Recognize that you're entitled to the broadest extent of coverage that any reasonable reading of your policy provides.



# INSURANCE COVERAGE FOR SUPERSTORM SANDY

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# SUPERSTORM SANDY'S IMPACT

- Widespread property damage from wind, tidal surges, and wind-driven rain, with the worst damage due to tidal surges.
- Travel disruption as airports, trains, and subway systems were shut down, bridges and tunnels ordered closed, and roads flooded.
- Evacuations due to orders by civil authorities.
- Major service interruptions to power, water, television, and the Internet.

# INSURANCE COVERAGE FOR PROPERTY DAMAGE AND ECONOMIC LOSSES

- **First-party property policies, which often include time element coverages, may provide coverage for:**
  - **direct damage to or loss of property;**
  - **financial losses arising from an inability to conduct business (either at all or at the same levels as before);**
  - **extra expenses incurred in dealing with the effects of property loss; and**
  - **costs incurred in establishing the extent of any losses.**

# FIRST-PARTY PROPERTY COVERAGE OVERVIEW

- Protects a policyholder's place of operations and inventory.
- “All Risk” policies: cover losses to real property caused by any peril not expressly excluded.
- “Named Peril” policies: cover only those perils expressly listed, such as fire and explosion.

# TIME ELEMENT COVERAGE OVERVIEW

- **Many First-Party Property policies also provide some or all of the following Time Element coverages:**
  - **Business Interruption (Business Income)**
    - to your own business
  - **Contingent Business Interruption**
    - due to interruption of key suppliers and/or customers
  - **Service Interruption**
  - **Order of Civil Authority**
  - **Ingress/Egress**
  - **Extra Expense**

# INSURER DEFENSES TO COVERAGE

- Insurers may assert that coverage is limited by application of a deductible.
- Additionally, insurers may assert that claims arising out of the storm are barred by exclusions or limitations on coverage for:
  - Flood
  - Named Windstorm
  - Mold

# DEDUCTIBLES

## ■ Named Windstorm Deductibles

- Important determination whether “Sandy” was “Sandy” for all of its impact.

## ■ Hurricane Deductibles

- New York, New Jersey, Connecticut, and Pennsylvania have declared that no hurricane deductibles should apply.
- Unclear application between commercial and homeowners.

## ■ Deductibles and Limits

- Lower deductibles may be advantageous, but categorizing the event may also impute a lower policy sub-limit.

# INSURER DEFENSES – FLOOD

- **Some property policy forms exclude coverage for “flood,” such as:**
  - **“Flood” means rising water, surface water, waves, tidal water, tidal wave or tsunami; rising, overflowing or any breach of streams, rivers, lakes, reservoirs, or other bodies of water; or spray from any of the foregoing, all whether driven by wind or not.**

See Liberty Mutual Specimen Property Policy, revised April 24, 2009.

- **Businesses may purchase flood insurance.**



# INSURER DEFENSES – WINDSTORM

- Some property insurance policies may exclude or reduce coverage for loss or damage caused by a named windstorm.
- The availability of coverage may depend on the package of coverage purchased.

# POLICYHOLDER RESPONSES – CAUSATION

- In some cases, more than one cause may have contributed to an insured's loss.
- If an insurer invokes an exclusion, the first step will be to determine whether the exclusion applies to any contributing cause of the insured's loss.
- If no cause of an insured's loss is excluded, then the need for a causation analysis is moot.
- If, however, an exclusion applies to a contributing cause of the insured's loss, a causation analysis must be performed to determine the scope of covered loss.
- Causation tests vary by state.

# POLICYHOLDER RESPONSES – CAUSATION

- Causation tests include:
  - “Efficient proximate cause”
  - “Concurrent cause”
- Some policies contain:
  - Anti-concurrent causation clauses

# EVENT CANCELLATION INSURANCE

- **Event Cancellation coverage generally provides:**
  - “The Company . . . will indemnify the Insured against their Net Ascertained Loss up to but not exceeding the Limit of Indemnity solely and directly in consequence of:
    - The necessary Cancellation, Abandonment, Postponement, Curtailment, or Relocation in whole or in part of any Insured Event(s)
    - The failure of any Speaker(s) to appear except as excluded below . . . .”

See Zurich Specimen Policy.

- **Similarly, insureds may seek loss of attraction coverage.**

# INSURANCE COVERAGE FOR CYBER RISKS

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# CYBER RISKS AND LIABILITIES: WILLIS GROUP HOLDINGS REPORT

- **38% of all cyber attacks were aimed at hotels, resorts, and tour companies.**
- **Insurance claims for data theft worldwide jumped 56% in 2011.**
- **The biggest jump in attacks involved the hospitality industry.**

# FIRST PARTY LOSSES



# THIRD-PARTY LIABILITIES: CLASS ACTIONS FOR DATA THEFT

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 16  
 17 UNITED STATES DISTRICT COURT  
 18 NORTHERN DISTRICT OF CALIFORNIA  
 San Francisco Division  
 19 KRISTOPHER JOHNS, on Behalf of Himself and for the Benefit of All with the Common  
 20 or General Interest, Any Persons Injured, and  
 All Others Similarly Situated,  
 21 Plaintiff,  
 22 vs.  
 23 SONY COMPUTER ENTERTAINMENT  
 24 AMERICA LLC, a Delaware Limited  
 Liability Company; SONY NETWORK  
 25 ENTERTAINMENT INTERNATIONAL  
 LLC, a Delaware Limited Liability Company,  
 26 Defendants.  
 27  
 28

Case No:	
<u>CLASS ACTION</u>	
NATIONWIDE CLASS ACTION AND REPRESENTATIVE ACTION COMPLAINT FOR (1) VIOLATION OF BUSINESS & PROFESSIONS CODE §17200; (2) VIOLATION OF BUSINESS & PROFESSIONS CODE §17500, FALSE OR MISLEADING STATEMENTS; (3) BREACH OF SONG-BEVERLY CONSUMER WARRANTY ACT; AND (4) VIOLATION OF THE CONSUMER LEGAL REMEDIES ACT; (5) BREACH OF EXPRESS CONTRACT; (6) BREACH OF IMPLIED CONTRACT; (7) VIOLATIONS OF SECURITY REQUIREMENTS FOR CUSTOMER RECORDS, CIVIL CODE §§	

CLASS ACTION COMPLAINT - 4 -



# THIRD-PARTY LIABILITIES: GOVERNMENT INVESTIGATIONS AND CLAIMS

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- Governmental entities such as the Federal Trade Commission (“FTC”) and state attorneys general have aggressively pursued companies for alleged failures to maintain reasonable security measures to protect consumers’ sensitive data under a variety of consumer protection acts.

# THIRD-PARTY LIABILITIES: GOVERNMENT INVESTIGATIONS AND CLAIMS

- For example, the FTC alleged:
  - that a hotel's failure to maintain reasonable security allowed intruders to obtain unauthorized access to computer networks; and
  - that the hotel's security failures led to widespread fraudulent charges on consumers' accounts, and the export of thousands of consumers' payment card account information to a domain registered overseas.

# THIRD-PARTY LIABILITIES: GOVERNMENT INVESTIGATIONS AND CLAIMS

- **State attorneys general have also been pursuing cyber-related claims.**
  - **In 2009, TJX Companies, Inc. agreed to pay \$9.75 million to 41 attorneys general as part of a settlement that followed an investigation concerning the retailer's data security practices.**

# CYBER RISKS AND LIABILITIES: COSTS

- A company may incur significant legal expenses to defend itself against lawsuits and investigations even if the allegations or claims are unfounded or groundless.
- A company may incur significant liability in resolving claims.

# CYBER RISKS AND LIABILITIES: COSTS

- One study found that legal fees accounted for most of the \$3.7 million average cost per data breach that occurred between 2009 and 2011.

*Source:*

NetDiligence, *Cyber Liability & Data Breach Insurance Claims: A Study of Actual Payouts for Covered Data Breaches* at 4 (Oct. 2012), <http://www.netdiligence.com/files/CyberClaimsStudy-2012sh.pdf>.

# CYBER SECURITY: AN INTERNATIONAL ISSUE

- **One observer believes:**
  - **“Today, cybercrime has become an organized underground economy reaping vast financial rewards using sophisticated software tools that threaten users and information infrastructures in all countries.”**

*Source:*

Sami Al Basheer Al Morshid, Opening Remarks, Regional Cybersecurity Forum (Feb. 18, 2008), <http://www.itu.int/ITU-D/cyb/events/2008/doha/docs/opening-remarks-itu-al-basheer-feb-08-english.pdf>.

# CYBER INSURANCE POLICIES



# CYBER INSURANCE POLICIES – COVERAGE POINTERS

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What should you look for?





# NEW CYBER INSURANCE POLICIES – OVERALL QUESTIONS

- Source of risk?
- Limits of coverage?
- Policy “triggers”?
- Cause of liability?
- Contractual liability coverage?
- Covered damages?
- Coverage for the cloud, third parties?

# CYBER INSURANCE POLICIES – GET INVOLVED!

- Risk Manager(s)
- Legal
- IT
- Privacy  
Manager(s)



- Operational  
Manager(s)

# ANALYZE AGREEMENTS

- Review agreements with vendors and contracting partners for terms:
  - requiring the purchase of “cyber insurance”;
  - requiring additional insured status relating to cyber risks;
  - requiring indemnification relating to cyber risks; and
  - limiting liability relating to cyber risks.

# TRADITIONAL FORMS OF INSURANCE COVERAGE

- In addition to cyber insurance, coverage for a cyber event may be available under other types of policies:
  - CGL
  - Crime
  - E&O
  - D&O
  - First-party
  - Kidnap, ransom, and extortion
  - Professional liability

# CYBER RISKS – CONCLUSION

- Evaluate the first-party and third-party risks at issue.
- Consider whether the cyber program is tailored to the potential risks.
- Keep in mind “overlapping” coverage both when purchasing coverage and after an incident.

# INSURANCE COVERAGE FOR POLITICAL RISK



# Political Risk 2012

This map is based on Maplecroft's Political Risk (Dynamic) Index which assesses risks that may experience sudden or rapid change due to direct government action or due to action by sub-state or other politically-motivated groups. It is comprised of five categories of risk indices: governance framework, political violence, business and macroeconomics, forced regime change risk and resource nationalism.

The Political Risk (Dynamic) Index is part of Maplecroft's Political Risk Atlas 2012. The atlas provides a comprehensive appraisal of risk areas including conflict, terrorism, the rule of law as well as the regulatory and business environment. It also focuses on emerging risk areas and structural challenges (The Political Risk (Structural) Index) affecting political stability such as resource security, societal resilience and infrastructure readiness. The atlas with its indices, maps and scorecards helps businesses to assess, quantify and compare political risks and develop strategies to mitigate them.

For more information: see [www.maplecroft.com](http://www.maplecroft.com) or contact [info@maplecroft.com](mailto:info@maplecroft.com)

## Syria

The risk of civil war in Syria remains significant throughout 2012, if the conflict between the Bashar al-Assad regime and protesters in alliance with the Free Syrian Army, a group of defected Syrian soldiers, remains unresolved. Given the lack of trust in the regime, and the absence of concessions, the protest movement will continue to press for Assad's removal. Although the UN has stopped counting the rising death toll, in December 2011 it estimated there had been over 5,000 civilian deaths.

2011 Score: 4.12 | 2012 Score: 3.28 | Trend: ↘

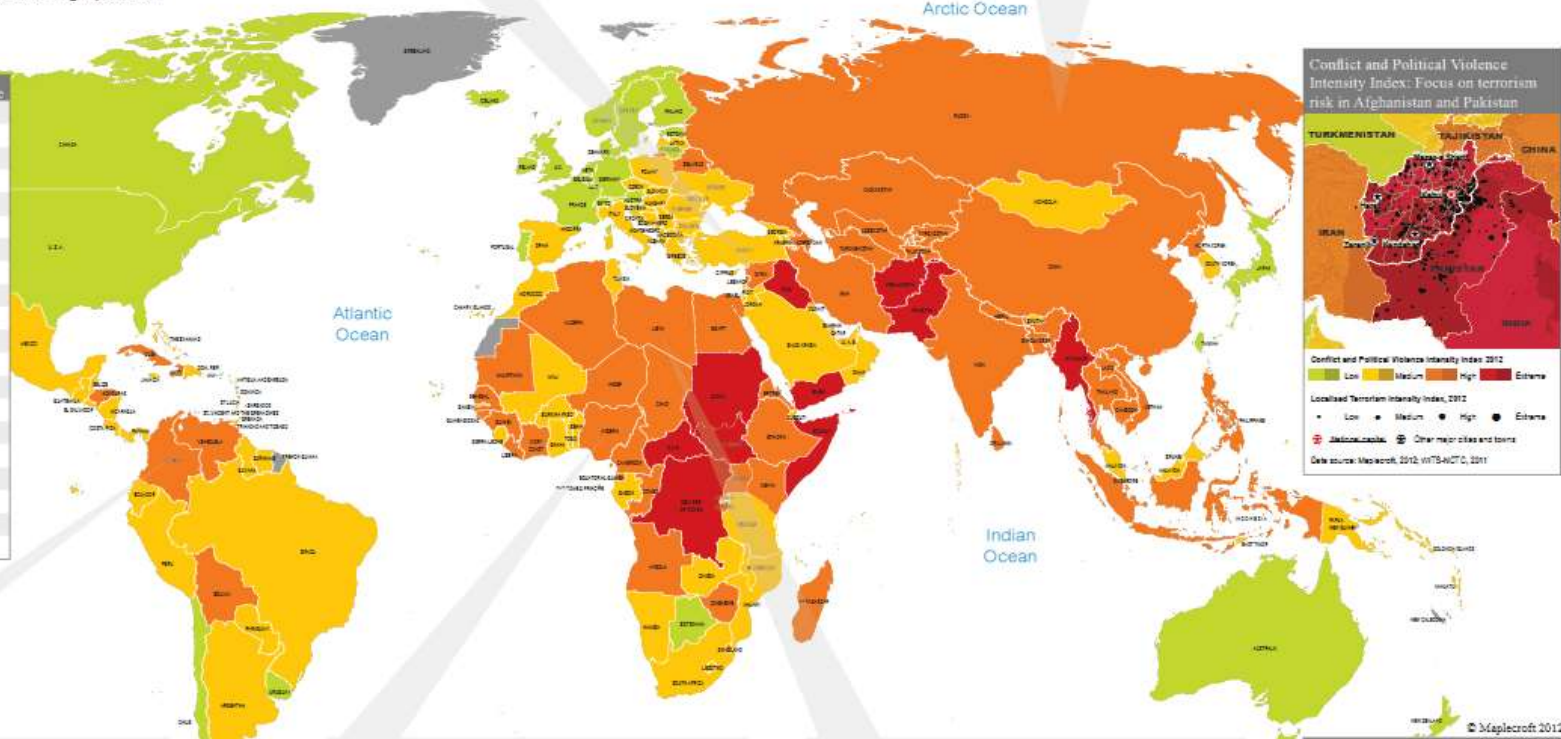
## Russia

Post-election protests starting in December 2011 showed a weakening of the ruling party's grip on Russian society. Despite this, the opposition seems unlikely to gather momentum unless major instances of electoral fraud come to light. Following infrastructure damage and civilian casualties during terrorist attacks in 2010 and 2011, security risks for major Russian urban centres remain elevated. Dynamic political risks nonetheless show an overall improvement in 2012, including the legal and regulatory environment.

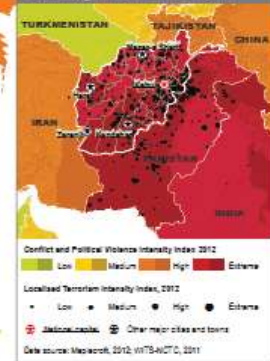
2011 Score: 2.37 | 2012 Score: 3.06 | Trend: ↗

## Top 20 most at risk countries

Rank	Country	Rating	2012 Score
1	Somalia	extreme	0.82
2	Myanmar	extreme	1.67
3	DR Congo	extreme	1.80
4	Afghanistan	extreme	1.82
5	Sudan	extreme	1.87
6	South Sudan	extreme	2.08
7	Iraq	extreme	2.33
8	Yemen	extreme	2.44
9	Pakistan	extreme	2.49
10	C.A.R.	extreme	2.49
11	Nigeria	high	2.82
12	Iran	high	2.83
13	North Korea	high	2.83
14	Libya	high	2.99
15	Côte d'Ivoire	high	3.00
16	Russia	high	3.06
17	Zimbabwe	high	3.10
18	P.O.T.	high	3.17
19	Chad	high	3.22
20	Syria	high	3.28



## Conflict and Political Violence Intensity Index: Focus on terrorism risk in Afghanistan and Pakistan



Conflict and Political Violence Intensity Index 2012  
 Legend:  
 Low (>7.50 - 10.00)  
 Medium (>6.00 - 7.50)  
 High (>2.50 - 5.00)  
 Extreme (0.00 - 2.50)  
 Legend:  
 • Low • Medium • High • Extreme  
 ⊕ Jeddah/Makkah ⊕ Other major cities and towns  
 Data source: Maplecroft, 2012; UN/IS-ICTD, 2011

## Colombia

After sustained improvement between 2002 and 2010, security levels in Colombia have deteriorated amidst increasing attacks by the Revolutionary Armed Forces of Colombia (FARC). Nevertheless, security forces scored a major victory in November 2011 by killing FARC commander-in-chief, Guillermo León Sáenz, alias "Alfonso Cano". Although at its weakest in years, FARC has previously proven its ability to overcome leadership losses and its actions throughout 2012 will pose a serious risk to investments.

2011 Score: 4.17 | 2012 Score: 4.33 | Trend: ↗

## Nigeria

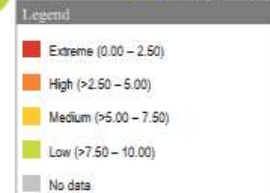
Terrorism, ethnic violence and religious tensions will continue, and even escalate, during 2012. Boko Haram, an Islamist terrorist organisation, has conducted frequent attacks since 2009. The intensity of these attacks has increased significantly during early 2012 and threatens the stability of large areas of northern and central Nigeria. The major challenge for President Goodluck Jonathan in 2012 will be to achieve economic reform while maintaining political stability.

2011 Score: 2.73 | 2012 Score: 2.82 | Trend: ↗

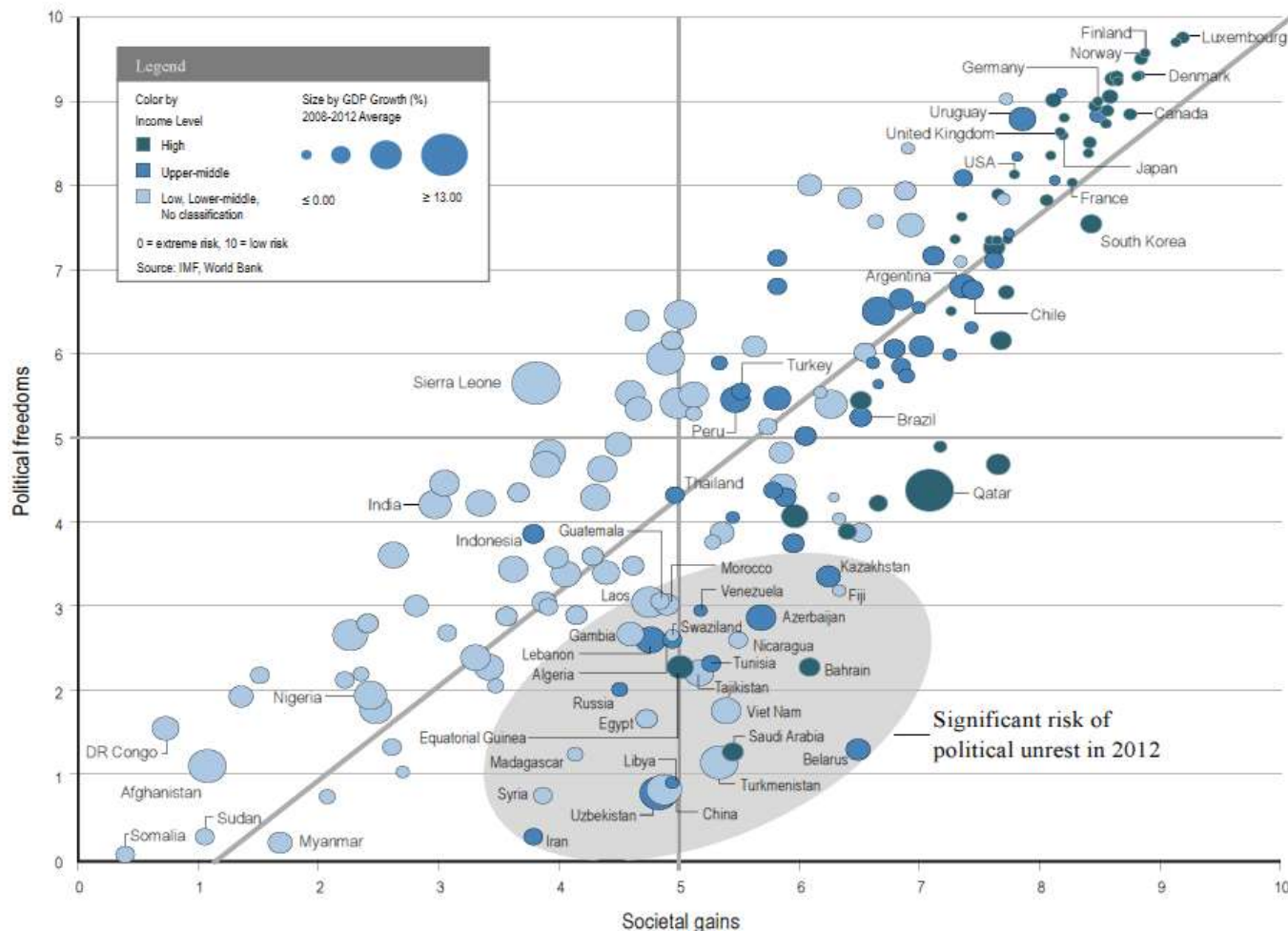
## Libya

The potential for conflict to erupt between regional and tribal groups in Libya is high for 2012. Tribal protests have already been sparked by the controversial appointment of a new cabinet which excluded key groups. In addition, wider violence has continued across Libya throughout January as rival militias, tribes and Gaddafi loyalists battled for power and influence, despite attempts by the central government to assert control and to disarm Libya's various armed factions.

2011 Score: 4.27 | 2012 Score: 2.99 | Trend: ↘



# Political risk hotspots 2012



## Political risks hotspots 2012:

This chart allows business to compare a country's relative level of societal gains (e.g. its level of development, digital inclusion and willingness and ability to absorb short-term shocks), as measured by Maplecroft's Societal Resilience Index, against its level of political and civil freedoms, as measured by Maplecroft's Complicity with Oppressive Regimes Index.

- The chart highlights that the core Arab Spring countries Libya, Egypt, Syria and Bahrain and Tunisia have in common very poor political freedoms (extreme risk) but relatively better social gains (medium risk) – and that they show a break from the normal relationships where societal resilience and complicity with oppressive regimes is reasonably correlated. This is reflected in the confidence of educated youth to protest about the lack of fulfilling jobs and the poor distribution of the economic benefits of business investment.
- The circled area on the map identifies countries potentially at risk given they exhibit similar profiles to those countries that are experiencing Arab Spring related unrest. They are characterized by, for example, a large middle class, a disenchanted and educated youth, serious corruption and lack of good governance.
- This suggests that other countries potentially vulnerable to unrest in 2012, should policy reform not be forthcoming, include: Algeria, Belarus, Fiji, Iran, Madagascar, Nicaragua, Saudi Arabia, Turkmenistan, Uzbekistan and Viet Nam.

The view is not all about risk however. Many economies are experiencing fast growth and an improvement in their legal and regulatory environment for business. This includes many high-growth economies, for example: Indonesia, Mexico, Peru and South Korea. Other key investment opportunities for 2012 include Chile, Mongolia, Myanmar and Uruguay. In addition after four years of decline, the overall growth environments of the BRICs is improving, particularly Russia.

*"In a time of unprecedented geopolitical turmoil, political risk analysis has become essential for investors," states Jim O'Neill, Chairman of Goldman Sachs Asset Management "Maplecroft's annual evaluation of political risk not only identifies hotspots of instability, but shows investors which economies exhibit the hallmarks of future economic growth by revealing positive change over time. It appears that the BRIC economies might have turned the corner in that regard."*

The above chart plots societal gains (Societal Resilience Index 2012, a composite index measuring a society's development in terms of its level of education, its success in tackling poverty, its level of human rights compliance and digital inclusion) against political freedoms (Complicity with Oppressive Regimes Index 2012, an index that shows the extent to which governments respect fundamental freedoms, and limit civil and political rights).

Maplecroft produces over 150 indices covering a wide range of political, economic, social and environmental issues. By plotting these indices against each other, and over time, Maplecroft is able to produce analysis that can help business to understand risks and opportunities at a country, regional and thematic level. These charts also help business to make sense of breaking political and economic developments, putting them in the best possible position to exploit emerging national and regional trends.



# POLITICAL RISK INSURANCE

**What is a political risk?**

**The obvious:**

- **Acts of terrorism, civil unrest, riots**
- **Examples: terrorist attack at the Oberoi and Taj in Mumbai, Arab Spring**

# POLITICAL RISK INSURANCE

## The less obvious:

- Actions of foreign governments to expropriate or confiscate assets, or to abrogate contracts or hinder the ability of a business to make a reasonable return
- Examples: seizure of certain petroleum assets in Venezuela; licensing of hotel casinos in Macau

# POLITICAL RISK INSURANCE

## What is political risk insurance?

- Most policies exclude acts of war and terrorism – Mumbai
- Many policies cover civil unrest
  - Example: demonstrations against austerity measures in Greece
- Most policies provide some coverage for some acts of foreign governments depriving a company of business assets or limiting its ability to make a fair return on its investment

# POLITICAL RISK INSURANCE

**Political Risk Insurance providers may be:**

- **Public or “Official”**

- Example: MIGA with the World Bank or OPIC with the U.S. government

- **Private**

- Example: Zurich or Lloyds

# POLITICAL RISK INSURANCE

## Public or “Official” Providers Offer:

- Stable providers with great depth of knowledge
- Longer policy periods
- Form policies

# POLITICAL RISK INSURANCE

## Private Providers Offer:

- Confidential policy terms
- Greater flexibility or a greater ability to negotiate terms

# POLITICAL RISK INSURANCE

## Important Limitations

- MIGA requires that the investing company be a “member country” and the investment be in a “member country”
- OPIC requires that an insured be a US company and obtain approval of the insurance from the foreign country

# POLITICAL RISK INSURANCE

## Important Exclusions and Limitations

- Many policies have restrictive notice requirements asking the insured to give notice of “any occurrence likely to give rise to a claim”
- Political risk policies may also contain “due diligence” clauses
- Even some political risk policies may include exclusions for terrorism or war



# INSURANCE COVERAGE FOR WAGE-HOUR CLAIMS

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# EMPLOYMENT PRACTICES LIABILITY (“EPL”) INSURANCE – SCOPE OF COVERAGE

- EPL insurance may provide coverage for:
  - claims alleging sexual harassment, discrimination, or wrongful termination; and
  - claims described as “employment-related torts,” “employment practice violations,” or similar catch-all terms.

# EPL INSURANCE: SCOPE OF COVERAGE

- Includes claims alleging “misrepresentation,” “negligent supervision,” or the “failure to adopt adequate work place or employment policies and procedures.”

# EPL INSURANCE: SCOPE OF COVERAGE

- EPL insurance provides coverage for claims arising out of the employment relationship and typically obligates an insurer to pay all “loss” resulting from an employment-related claim.

# EPL INSURANCE: SCOPE OF COVERAGE FOR LOSS

- This includes the payment of:
  - all damages;
  - judgments;
  - settlements;
  - prejudgment interest;
  - post-judgment interest; and
  - defense costs.

# WAGE-HOUR LAWSUITS

- The number of new wage-hour class action lawsuits has increased dramatically in recent years.
- More than 7,000 federal wage-hour lawsuits were filed in 2011, both a record and a 400 percent increase since 2000.
- Many cases often involve companies in the hospitality industry.

# WAGE-HOUR LAWSUITS

- Suits involve claims under state labor laws and, to a lesser extent, the Fair Labor Standards Act (“FLSA”).
- These suits pose a serious risk, involving:
  - millions of dollars in liability; and
  - significant legal fees.

# WAGE-HOUR LAWSUITS: TRIGGERING EPL POLICIES

- Wage-hour lawsuits commonly allege claims falling within the scope of EPL coverage provisions.
- Many wage-hour plaintiffs assert classic employment-related claims such as wrongful termination as retaliation for employee complaints about inadequate overtime pay, meal breaks, or rest periods.



# WAGE-HOUR LAWSUITS: OBSTACLES TO COVERAGE UNDER EPL POLICIES

- Some EPL policies contain an exclusion for violations of the FLSA or “*similar*” provisions of any federal, state, or local law (referred to as the “FLSA exclusion”).

# WAGE-HOUR LAWSUITS: OBSTACLES TO COVERAGE UNDER EPL POLICIES

- Insureds may still be entitled to coverage for wage-hour lawsuits if they can demonstrate, for example, that:
  - any wage-hour claims were brought under distinct state labor laws; or
  - the complaint alleges covered state law claims in addition to uncovered FLSA claims.

# EPL POLICIES – CONSIDERATIONS WHEN PURCHASING POLICIES

## ■ Compare policy forms and exclusions:

- Does the policy bar coverage for claims alleging violations of the FLSA or *similar provisions* of any federal, state, or local law?
- Does the policy bar coverage for claims alleging violations of the FLSA or *any other law concerning wage and hour practices*?
- Other exclusionary language or limitation?



# EPL INSURANCE – CONCLUSION

- EPL insurance can provide businesses with critical protection against the substantial costs and liabilities associated with wage-hour lawsuits.
- Policyholders should carefully examine any FLSA exclusion when buying EPL insurance coverage.
- The key to obtaining coverage may turn on whether the FLSA exclusion bars coverage for employee claims based on state law.