



Trade Credit & Political Risk Insurance

FCIA Claims Perspective On 2009

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Claims experience in 2009 cannot be disentangled from the worldwide crisis that commenced in 2007, nor the lingering overdues and reschedulings dating back to the same period. Therefore, loss experience in 2009 resulted from the aftershocks rumbling through many more sectors of the economy with a worldwide impact. It was the countries with less stable banking systems that announced bank failures and weaker companies with unstable balance sheets that collapsed.

Banks in the Ukraine and Kazakhstan are under restructurings leading to hundreds of millions of dollars in credit insurance claims for insurers in the U.S., U. K. and Euro zone. Government agencies, banks and credit insurers are negotiating long-term workouts in these countries and may have to accept substantial "haircuts" the term now in vogue in lieu of "write-offs". The default by Dubai World, a government owned company with major interests in real estate developments, will likely be another generator of large losses for bondholders and banks and inevitably credit insurance claims as well. A shut down of nearly all government projects in Dubai reverberated throughout the Mid East touching prominent construction companies regardless of location.

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We received several claims on buyers in Turkey including an insolvency claim following collapse of Verim Plastik, the leading agricultural & horticultural films producer for Europe with manufacturing operations in Turkey and Spain. As for the inevitable rise in defaults and insolvencies following major economic turmoil, claims were up across the board for credit insurers in 2009. The number of claims filed with FCIA was up about 50% in comparison to 2008 and the amount of claims paid rose dramatically as well. However new claim filings peaked in the first quarter of 2009 and have dropped off significantly since then. A recurrent phenomenon - and repeated topic in our annual review - is the sudden collapse of a seemingly creditworthy concern, sometimes dominant in its sector, often publicly traded, always alarming. In 2009, one of these outliers was a publicly traded telecommunications supplier in Hong Kong now on the verge of liquidation owing in excess of US\$100 million to more than a dozen lenders.

Prior years' losses and reschedulings kept us busy on the recovery front with positive results in many markets including notable successes in Mexico, Guatemala and Panama. Knowledge of the market, refusal to accept facile promises and understanding the buyer, its business, business plans and motivations all contributed to effective recovery efforts.

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Reschedulings are often the best way to collect, but not in every situation. A debtor that refuses to let us look at the books or seeks to prefer certain creditors may not be a reliable partner for a term workout. When a restructuring is agreed, legal re-documentation with guarantees, security, and default consequences is the preferred course of action. A second default should result in automatic legal consequences for the debtor. The importance of professional collection counsel cannot be overstated; our long term relationships have proved their worth year in and year out.

We have experience in attaching assets outside the buyer's home turf leading to noteworthy collections.

The New York Court of Appeals, New York's highest court, issued a decision in 2009 which, if not earth moving is certain to be money moving. The Court allowed a judgment creditor to enforce a judgment against assets of a judgment debtor being held by a Bermuda bank even though the assets and the bank were in Bermuda and the debtor was in New York (Koehler v. Bank of Bermuda Ltd, 12 N.Y. 3d 533 (2009), 911 N.E.825 (N.Y. 2009)). The Court reasoned that the bank is doing business in New York and New York law permits turnover of a judgment debtor's property held by a third party with no territorial limitation. Many international banks have offices or reps in New York qualifying them as doing business there, hence the outcry against this decision, which makes them collection vehicles to obtain assets held in other countries. We have experience in attaching assets outside the buyer's home turf leading to noteworthy collections. FCIA has been building on 30 years of collection experience and 25 year plus relationships with collection counsel in many markets, sharing our experience, accumulated knowledge and unmatched contacts with our insureds.

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