

The twenty-first century: 9/11, GE Insurance Solutions and the financial crisis

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The terrorist attacks of 11 September 2001 produced what Swiss Re describes as the costliest insured man-made loss in the history of the industry. For Swiss Re the attacks had a special dimension, because the company was one of the insurers of the World Trade Center property itself. It had underwritten about 22 per cent of the property insurance programme arranged for the leaseholder Larry Silverstein, which had a total limit of 3.5 billion dollars. Silverstein, who had taken over the lease six weeks before the attacks, argued that the impact of two aircraft on two towers constituted two separate occurrences, which would have doubled the insurers' liability to about seven billion dollars.¹

The litigation became a classic of insurance law. On 29 September 2003 the United States Court of Appeals for the Second Circuit held that Swiss Re and several other insurers were bound by the policy form drafted by the broker Willis, the so-called WilProp form, which defined an occurrence as including a "series of occurrences". After a jury had found in 2004 that for these insurers the attacks constituted a single occurrence, the appeals court upheld this verdict in October 2006. Swiss Re's liability was thus limited to its share of a single limit, while other insurers bound on a different form were held liable for two occurrences. The case demonstrated how much can depend on the definition of an event or occurrence. The question of how losses are aggregated is one of the central issues of reinsurance law and returns in Section X of this chapter.²

In 2004 Swiss Re opened its London headquarters at 30 St Mary Axe, the tower designed by Foster and Partners that Londoners call "the Gherkin" and that became a symbol of the company's brand. In the following year Hurricane Katrina caused the highest loss from a natural catastrophe up to that date. Haueter gives the insured loss as 75 billion dollars, a loss that led

the industry to reassess its risk-absorbing capacity and its catastrophe models.³

The largest acquisition in Swiss Re's history followed soon afterwards. On 12 June 2006 the company completed the purchase of GE Insurance Solutions from the General Electric Company. The transaction included Employers Reinsurance Corporation together with GE Frankona in Germany and the United Kingdom and several smaller American carriers, with some 2,500 employees in 50 offices in 22 countries. GE received 5.4 billion dollars in cash and 33.3 million Swiss Re shares, which made it the holder of about nine per cent of Swiss Re's capital.⁴ At the time of the announcement in November 2005 the price had been reported as 6.8 billion dollars, the difference reflecting the movement of the Swiss Re share price and the way the consideration was counted.⁵

Only two years later, the financial crisis exposed a weakness that had nothing to do with underwriting. Swiss Re had built up positions in structured credit products and credit default swaps. When the markets for these instruments collapsed, the company suffered mark-to-market losses of about 5.9 billion francs in its legacy portfolios and losses of 2.0 billion francs on structured credit default swaps. For the year 2008 it reported a net loss of 864 million francs, compared with a profit of 4.2 billion in 2007. Shareholders' equity fell from 31.9 billion to 20.5 billion francs within a year.⁶ The chief executive Jacques Aigrain resigned in February 2009 and was succeeded by his deputy Stefan Lippe, who presented the results.⁷

The rescue came from Omaha. Warren Buffett's Berkshire Hathaway already had a close relationship with Swiss Re. Early in 2008 it had acquired a stake of about three per cent and entered into a quota share agreement under which it assumed 20 per cent of Swiss Re's entire property and casualty business for five years. On 5 February 2009 Swiss Re announced that Berkshire would invest a further three billion francs in a convertible perpetual capital instrument, subject to shareholder approval. The instrument carried a coupon of twelve per cent and was repaid early in 2011, after Berkshire had eased the conditions for early repayment.⁸⁹

The transaction illustrates the special logic of capital in reinsurance. The quota share of 2008 was itself a form of reinsurance: Swiss Re ceded a fifth of its non-life business to Berkshire and thereby reduced the capital it needed to hold. The convertible instrument of 2009 provided capital that counted as equity for the rating agencies and supervisors, without diluting existing shareholders immediately. Both instruments came from a company that combined large insurance operations with a vast investment portfolio and was therefore both a competitor and a natural partner. The

episode also shows why supervisors after 2008 paid increasing attention to the investment side of reinsurers, a theme that runs through the development of the Swiss Solvency Test discussed in Chapter IV of this Part.

Swiss Re recovered from the crisis within a few years. Its own history speaks of regaining its position in the top league of reinsurers. In 2011 the group adopted a new holding structure, with Swiss Re Ltd as parent company above the business units Reinsurance, Corporate Solutions and Admin Re, which served insurers, corporations and pension funds respectively. Christian Mumenthaler, who had joined the company in 1999, became Group CEO in July 2016. He was succeeded on 1 July 2024 by Andreas Berger, previously chief executive of Corporate Solutions, under the chairmanship of Jacques de Vaucleroy. On the Mythenquai the company opened in October 2017 a new office building, Swiss Re Next, designed by Diener & Diener, as a step towards a campus at which all employees working in Switzerland would eventually be brought together.¹⁰

1 Notes

1. Swiss Re, “The Swiss Re Journey”, <https://www.swissre.com/about-us/history.html>. “Swiss Re wins World Trade Center case”, [swissinfo.ch](https://www.swissinfo.ch/eng/demographics/swiss-re-wins-world-trade-center-case/5510012), 18 October 2006, <https://www.swissinfo.ch/eng/demographics/swiss-re-wins-world-trade-center-case/5510012>. ↩
2. “Court Rules Against Silverstein WTC Claim, Orders Jury Trial”, [Insurance Journal](https://www.insurancejournal.com/news/east/2003/09/29/32663.htm), 29 September 2003, <https://www.insurancejournal.com/news/east/2003/09/29/32663.htm>. “Swiss Re wins World Trade Center case”, [swissinfo.ch](https://www.swissinfo.ch/eng/demographics/swiss-re-wins-world-trade-center-case/5510012), <https://www.swissinfo.ch/eng/demographics/swiss-re-wins-world-trade-center-case/5510012>. ↩
3. Swiss Re, “The Swiss Re Journey”, <https://www.swissre.com/about-us/history.html>. Haueter, A History of Insurance, https://www.swissre.com/dam/jcr:33dbf3af-5be9-468d-a624-ed86ceda7ef8/150_history_of_insurance.2025-06-26-15-17-35.pdf; Swiss Re, “The Swiss Re Journey”, <https://www.swissre.com/about-us/history.html>. ↩
4. General Electric, “GE Completes Sale of Insurance Units to Swiss Re”, press release, 12 June 2006, <https://www.ge.com/news/press-releases/ge-completes-sale-insurance-units-swiss-re>. GE gives the

total consideration as 7.8 billion dollars in cash and securities plus the assumption of 1.7 billion dollars of debt. ↩

5. German Wikipedia, “Swiss Re”, https://de.wikipedia.org/wiki/Swiss_Re: “Im November 2005 erwarb Swiss Re für schätzungsweise 6,8 Milliarden US-Dollar die GE Insurance Solutions”. The figure also appears in contemporary press reports of 18 November 2005. ↩
6. Swiss Re, “Swiss Re reports net loss of CHF 864 million for the full year 2008”, press release, 19 February 2009, reproduced by swisspress.com, <https://www.swisspress.com/en/swiss-re-reports-net-loss-of-chf-864-million-for/472610>. ↩
7. German Wikipedia, “Swiss Re”, https://de.wikipedia.org/wiki/Swiss_Re, which states that Jacques Aigrain announced his resignation in mid-February 2009 and names Stefan Lippe as his successor. German Wikipedia, “Stefan Lippe”, https://de.wikipedia.org/wiki/Stefan_Lippe, dates Lippe’s appointment as chief executive to 12 February 2009. The press release of 19 February 2009 cited in the preceding footnote quotes Lippe as chief executive. ↩
8. Berkshire Hathaway Inc., Form 10-Q for the first quarter of 2009, SEC EDGAR, <https://www.sec.gov/Archives/edgar/data/0001067983/000119312509105560/d10q.htm>: on 23 March 2009 Berkshire acquired a 12% convertible perpetual capital instrument issued by Swiss Re at a cost and face amount of CHF 3 billion, redeemable by Swiss Re at 140 per cent of face value until 23 March 2011 and at 120 per cent thereafter. Berkshire Hathaway, 2010 shareholder letter (exhibit 99.1 to Form 8-K, 2011), <https://www.sec.gov/Archives/edgar/data/0001067983/000119312511049877/dex991.htm>: the Swiss Re note “was redeemed in the early days of 2011”. On Berkshire’s acceptance of a premium of 20 per cent for the early redemption, see RationalWalk, “Berkshire Hathaway scores major victory with Swiss Re investment”, <https://newsletter.rationalwalk.com/p/berkshire-hathaway-scores-major-victory-with-swiss-re-investment>. ↩
9. Pestalozzi, “Pestalozzi advised Berkshire Hathaway on its CHF 3bn convertible perpetual capital investment in Swiss Re”, <https://pestalozzilaw.com/en/insights/news/deals-and-cases/pestalozzi-advised-berkshire-hathaway-its-chf-3bn-convertible-perpetual-capital-investment-swiss-re/>. Pestalozzi acted as Swiss counsel to Berkshire Hathaway. “Buffett throws \$2.59 bn lifeline to Swiss Re”,

Business Standard, 5 February 2009, https://www.business-standard.com/article/companies/buffett-throws-2-59-bn-lifeline-to-swiss-re-109020500187_1.html. ↩

10. Swiss Re, “The Swiss Re Journey”, <https://www.swissre.com/about-us/history.html>. Swiss Re, “Swiss Re announces Group CEO transition”, press release, 3 April 2024, <https://www.swissre.com/media/press-release/pr-20240403-group-ceo-transition.html>. Swiss Re, “Swiss Re Next”, media release of 3 October 2017, https://www.swissre.com/dam/jcr:9f69eafb-475d-4feb-8d80-5d5306f59cc3/nr20171003_opening_swiss_re_next_de.pdf. ↩

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