

PII for Chartered Surveyors

Mark Southwell RICS Risk and Insurance Manager

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Introduction

- Independent professional body
- Advancing global standards in land, property and construction
- Founded in 1868, granted Royal Charter in 1881 by Queen Victoria

"To maintain and promote the usefulness of the profession for the public advantage"

Introduction

- Around 100,000 qualified members
 - FRICS, MRICS, AssocRICS
- Over 50,000 trainees and students
- 140 Countries
- Set and regulate high standards of competence and integrity
- Authoritative advice on key issues for business, society and governments

Regulation background (PII)

- 10 000 UK Regulated Firms
- Compulsory PII requirement
- Listed Insurer framework
 - Minimum policy wording
 - Participation agreement
 - ARP

- Property market crash 2007
 - Secondary lender claims
 - Confetti letters leading to crippling costs and availability
 - Contract Terms with Lenders
 - Unfair (?), Unreasonable (?), Unsustainable (✓)

- Are they really negligence claims?
- Contributory Negligence
- Assignment of valuations for securitisation/syndication purposes
 - Does the insured realise?
 - http://www.rics.org/site/scripts/documents_info.aspx?documentID=1206

- Is the worst over?
 - Interest rate rise
 - Further repossessions
 - High street lenders 'gearing up'
 - Nearly out of time for claims

PROBABLY NOT!

- The future
 - Fair and proportionate contract terms
 - Limitation clauses (to single party, % of value/multiple of fee)
 - ADR fast and 'cheap' keep costs down
 - Reasonable fee for activity
 - Valuation Registration Scheme (VRS)
 - Potential restriction in Minimum Terms

What is VRS?

- A regulatory monitoring scheme for members carrying out valuation to Red Book standards
- 30 April 2011
 - Mandatory for all UK Chartered Surveyors undertaking Red Book Valuations
 - 10,500 individuals

Benefits (1)

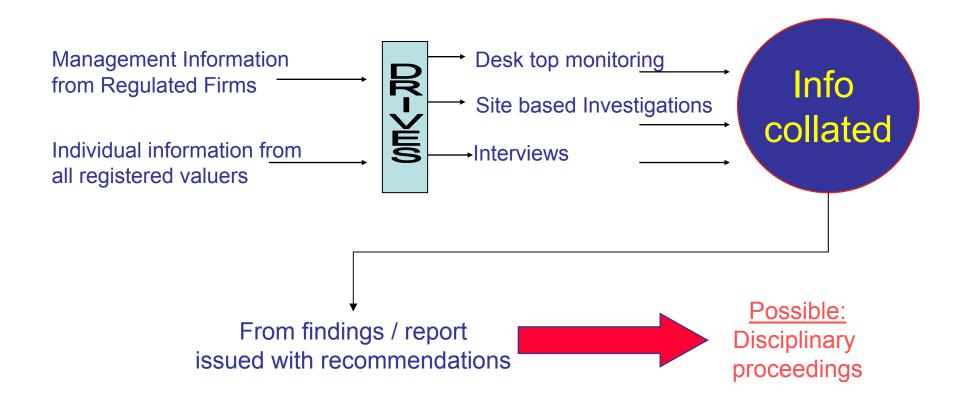
- Raise standards and competence amongst members
- Ensure RICS valuers remain global gold standard
- Monitor output improve quality

Benefits (2)

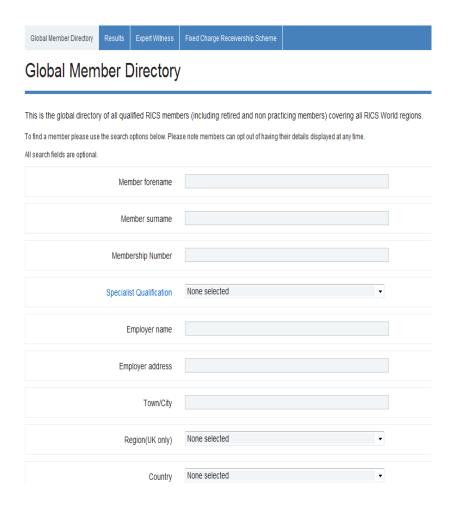
- Mitigate risks of statutory intervention
- Reduced fraud risk through increased monitoring (more information and more information sharing)
- Enhanced regulation protects and improves perception of valuers

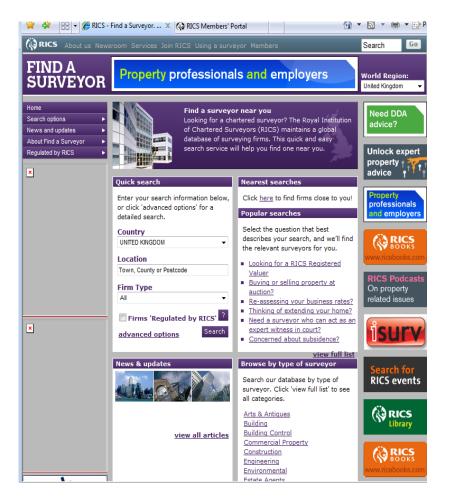
VRS – Risk controls

<u>Information feeds</u> — <u>Monitoring</u>



Public registers





PI coverage

- Minimum terms (effective 01 April 2011)
 - Exclusion 21.5
 - Clarifies the position that if the valuation was undertaken after 30 April 2011 it must be...

"...undertaken or supervised by a RICS Registered Valuer..."

- Background
 - Set up in 1996
 - To provide temporary cover
 - To prevent PI market being 'regulators'
 - Managed by Windsor Partners Ltd
 - Aggregated limit (Maximum £1 million)
 - No run-off, premium must be paid up front, no 'right' of entry but via application
 - 36 months maximum
 - We can (and do) say 'No'

- 55 Firms have entered since creation
 - 8 currently in the Pool (at the time of preparing these slides)!
- Firms no longer in the Pool
 - 30% subject to investigation/disciplinary
 - 15% in for the maximum period then forced to resign/retire
 - 55% 'rehabilitated' and got cover outside of ARP

- NOT designed to:
 - 'incubate' toxic or incompetent Firms
 - After initial 12 months coverage, subsequent periods at discretion of ARP Panel
 - be an easy option or competitor
 - Premium rates are penal, rigorous entry criteria
 - be dumping ground for claims

- Claims (1999 2008)
 - Historically very low
 - 10 years since creation claims payment only £72,428

HOWEVER.....

- Claims (2008 1st July 2011)
 - Total claims incurred is £3.3 million
 - Approx premium income for the same period £690,000
- Reason/analysis
 - Mainly residential valuation claims
 - Mainly regional firms
 - "Traditional" small surveying firms involved in the property boom of mid 2000's via panel arrangement

- Future improvements
 - RICS to continue 'healthy' open dialogue directly with insurance market
- Potentially
 - More stringent entry criteria
 - If they can't be rehabilitated then they are closed down after 1st 12 months
 - Robust risk assessment at point of entry
 - Lowering the limit of cover (or perhaps limiting the scope of cover in someway)

Global Regulation

- 'Voluntary' Regulation in Europe and Asia
 - Available since November 2010
- Publicly advertise Firms commitment to strict code of conduct
- Use of logo and strap-line
 - Regulated by RICS

Global Regulation

- Compulsory PII?
- Requirement:
 - "...covered by adequate and appropriate PII..."
- But having particular regard to:
 - "...the terms upon which insurance or other indemnity is available locally..."
- Minimal buying appetite from local practitioners

Summary

- 'tail' is still biting
 - Potentially not out of the woods just yet
- Contract terms review
 - Stronger stance with lenders
- Valuer Registration Scheme
 - Increasing competence and monitoring
- ARP
 - Review

THANK YOU

Mark Southwell
Risk and Compliance Manager
T +44 (0)20 7695 1625
E msouthwell@rics.org