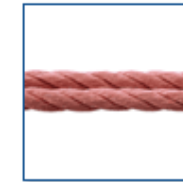




Insure



Reinsure



Really Sure

UK: LMX Spiral Claims - Landmark Decision

November 12, 2009 | [Print this page](#) | [Email this page](#)

The much anticipated judgment in Equitas v R&Q Reinsurance (Brandywine) was handed down yesterday in the English Commercial Court.

As reported here, Equitas (as assignee of the rights of Lloyd's syndicates) was attempting to establish R&Q's liability for more than 4,000 LMX spiral claims arising out of Kuwait Airways losses during the first Gulf war and the Exxon Valdez oil spill. Initially the LMX market had wrongly aggregated certain losses and had included irrecoverable losses in collection notes. Recognising that those losses had to be adjusted, but unable to reconstruct the LMX spiral to strip out the wrongly aggregated and irrecoverable elements, Equitas chose to prove the amounts R&Q was now liable to pay by reference to actuarial models.

The Court ruled in favour of Equitas. Mr Justice Gross said that, as matter of law, Equitas had to prove that the losses fell within the terms of the reinsurances underwritten by the ceding syndicates, but did not accept R&Q's argument that Equitas had to show how properly aggregated and recoverable losses would flow through the spiral. The judge held that proof was a matter of evidence and Equitas was entitled to rely on actuarial models to establish that on a balance of probabilities, the amounts claimed were due. He said "*I am persuaded that the models are both capable of making the transition from the general to the particular and do go on to provide a reasonable representation of reality*".

Presentation of Kuwait Airways and Exxon Valdez losses has been on hold pending Gross J's judgment, which will have a significant impact not only on the parties to the action, but other participants in the LMX spiral.