

ICAO Civil Aviation Legal Advisers Forum (CALAF/2) Muscat, Oman, 21<sup>st</sup> to 23<sup>rd</sup> February 2023

#### **Roland Kuesters**

Corporate Lawyer
Senior Legal Counsel Aviation & Space



Agenda





- 1. Principles and structure of aviation liability (re-)insurance
- 2. Three scenarios
  - Complete withdrawal
  - Downsizing of capacity
  - Reduction of limits
- 3. Conclusions

Munich RE

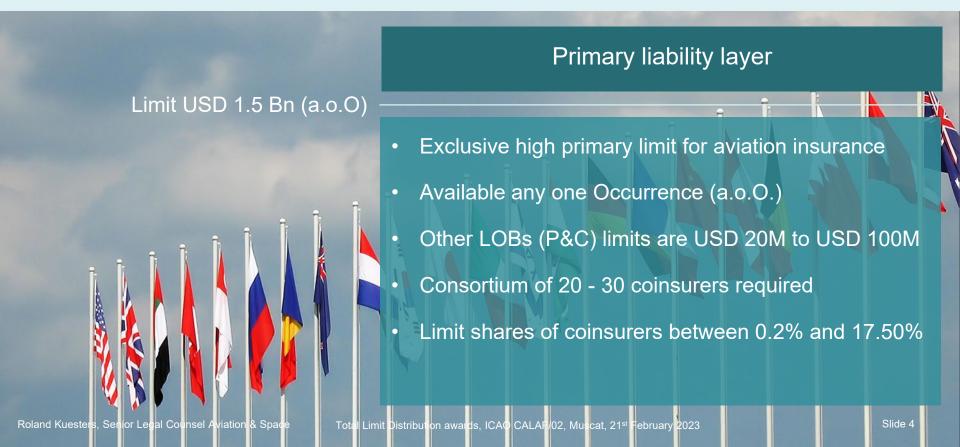
1. Principles and structure of aviation liability (re-)insurance



- To cover the **Legal Liabilities** of the Insured for Bodily Injury or Property **Damage** arising out of their entire operations
- The concept of aviation liability insurance is to compensate for damage caused by an aircraft accident
- Third-party liability insurance would change to an accident type lump-sum payment solution

1. Principles and structure of aviation liability (re-)insurance





# Total Limit Distribution awards Sample Aviation Reinsurance Program of USD 250M line





Three Scenarios – Data and Statistics



#### Number of fatal accidents

- Accident rate of 1 per 3.97 Mio. Flights (5 years moving average 2017-2021)\*
- Fatal accident rate of 15.3 (annual average 2010-2019)\*
- Fatal accident rate of 6
   (5Y annual average 2017-2021)\*\*
- Global passenger aircraft fleet 25.448\*

Estimated w/w annual airlines insurance market premium of USD 1.750,000,000\*
 Includes hull and liability premiums

Airline Premiums (w/w)

\*Source: Ascend by Cirium / \*\* ICAO Safety Report 2022

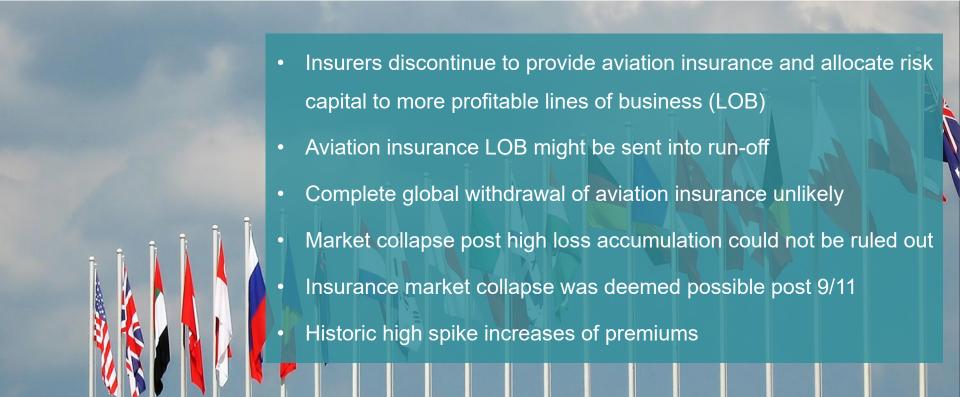
\*Source: Marsh Specialty

Senior Legal Counsel Aviation & Spa

Scenario one – (Re-)Insurers discontinue



Slide 7



Distribution awards, ICAO CALAF/02, Muscat, 21st February 2023

Scenario two - Reduction of capacity





- (Re-)insurers reduce their line sizes
- Higher retentions for insurers
- Airline insurance capacity could deflate below 100%
- Potential for insurance placement failures
- Mandatory insurance requirement could no longer be met
- Aircraft fleet groundings
- High increase of insurance premiums for air carriers
- Increased costs for passengers

Scenario three - Reduction of limits





- High primary limits would no longer be available
  - Primary limit rage of USD 20M 100M maximum
- Various excess layers required at high additional cost
- Legally (e.g. EC 785/2004) or contractually required minimum limits might no longer be available
- Mandatory liability insurance requirements could not be met
- Aircraft fleet groundings
- High spike increase of insurance premiums

#### 3. Conclusions



- Unprecedented impact on aviation liability (re-)insurance
- High primary liability limits will disappear
- Potential of airline insurance placement failures
- Historic high spike increase of insurance premiums
- Significant additional costs for air carriers, passengers and other stakeholders
- Detrimental effects would be completely disproportionate to the benefits
- Amendment would introduce an unequitable imbalance of interests



Civil Aviation Legal Advisers Forum (CALAF/2) Muscat, Oman, 21<sup>st</sup> to 23<sup>rd</sup> February 2023

#### **Roland Kuesters**

Corporate Lawyer
Senior Legal Counsel Aerospace

