

# Geopolitics and Professional Indemnity

Tom Chivers | QBE Re | Robinson College, Cambridge | 4th July 2023



# We'll talk about...

- The premiership's most-hated club (who could it be?)
- Chaos Theory (don't worry, it's brief)
- Some really dangerous people
- Brexit (uh oh...)
- A Motown legend
- And other things...

# But we'll also mention...

- Some definitions
- Geopolitical risks that affect Professional Indemnity, such as:
  - Global recession
  - Brexit
  - War, and Russia's invasion of Ukraine
  - China
  - Climate change
- *How* these risks can affect PI, such as by way of:
  - Sanctions
  - Inflation
- What PI underwriters can do (apart from panic)

Above: RBS Wealth Management, 11 Jan 2023

# So first, wotizzit?

- **Concise OED:** *The study of a country's politics as determined by its geographical features*
- **Encyclopaedia Britannica:** *analysis of the geographic influences on power relationships in international relations*
- **S&P:** some of the likeliest and most impactful geopolitical risks of 2023 are:
  - Russia-NATO tensions
  - Cyber attacks
  - De-globalization
  - US-China strategic competition
  - Climate risk
  - Covid-19 fallout and future pandemics
  - Sovereign debt crisis
  - Energy security

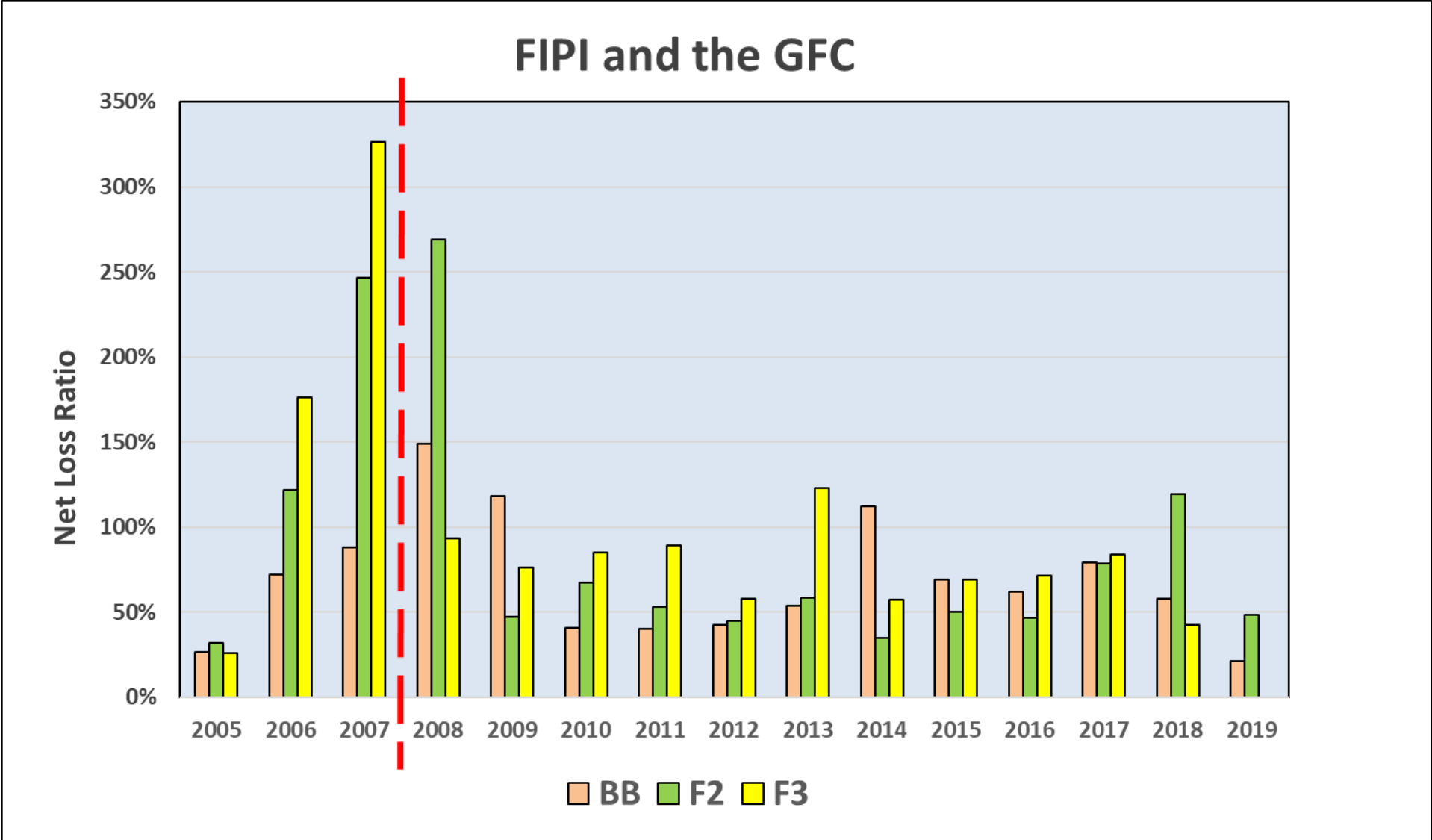
## Second, upside-down Chaos Theory

- The Butterfly Effect. *Lorenz, E. (1972) Predictability: does the flap of a butterfly's wings in Brazil set off a tornado in Texas?*
- What was Ed really talking about?
  - An attempt to find order in apparently disordered data
  - A small change in initial conditions can, over time, lead to vast differences in output
- But what about the other way round?
- Can (large) geopolitical events affect (small) PI policies?
- Is there a relationship? Can we predict it?

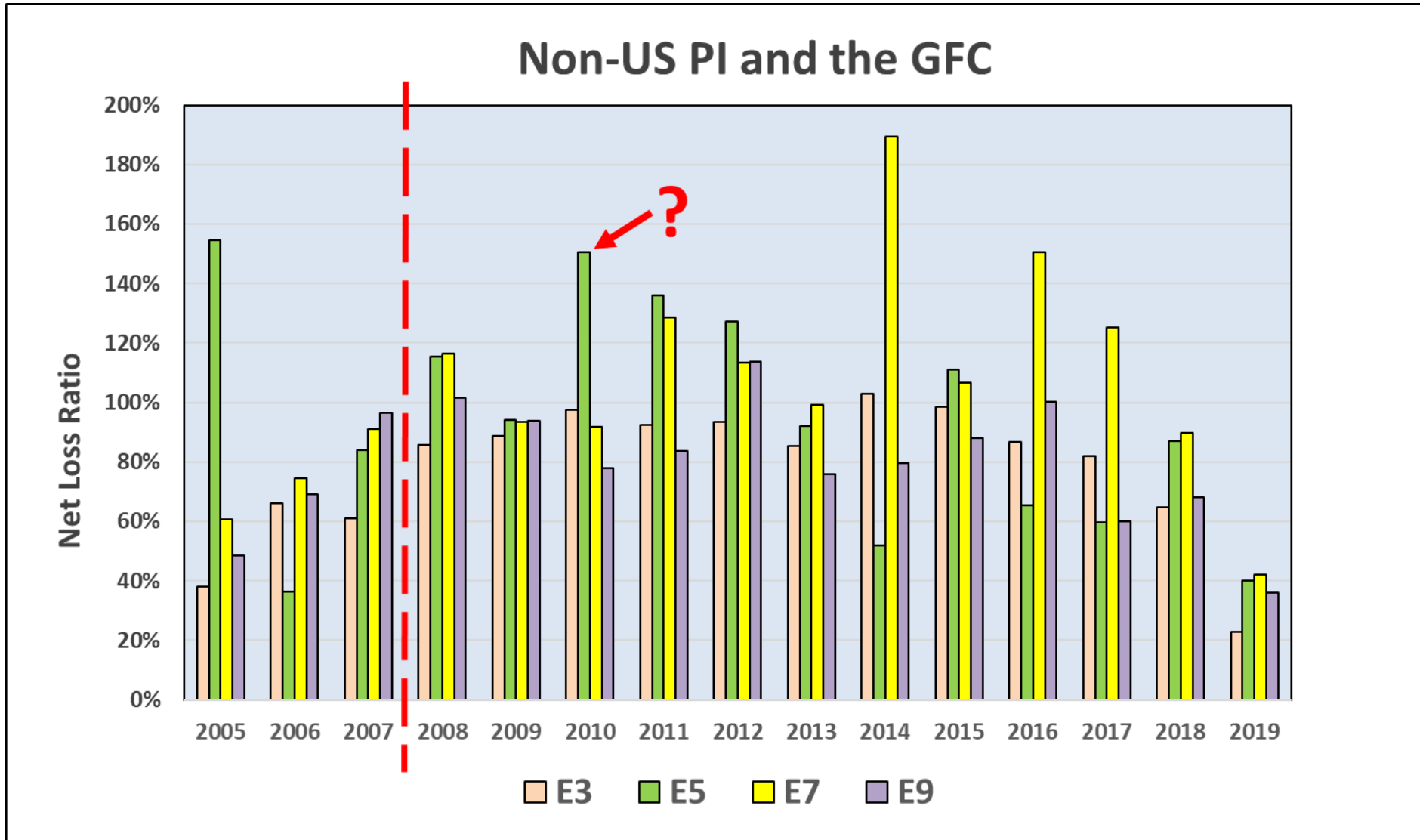
# Global recession?

- Is global recession a geopolitical risk?
- Can we predict cause and effect? Yes (probably)
- PI and global recession = people losing money
- Correlation between recession and claims
  - Solicitors / conveyancers
  - Surveyors
  - Accountants and auditors
  - Mis-selling and investment advice (wealth managers, IFAs)
  - Madoff-type scandal uncovered?
- Do *current* conditions set the scene for a rise in loss ratios?

# Global calamity = high loss ratios

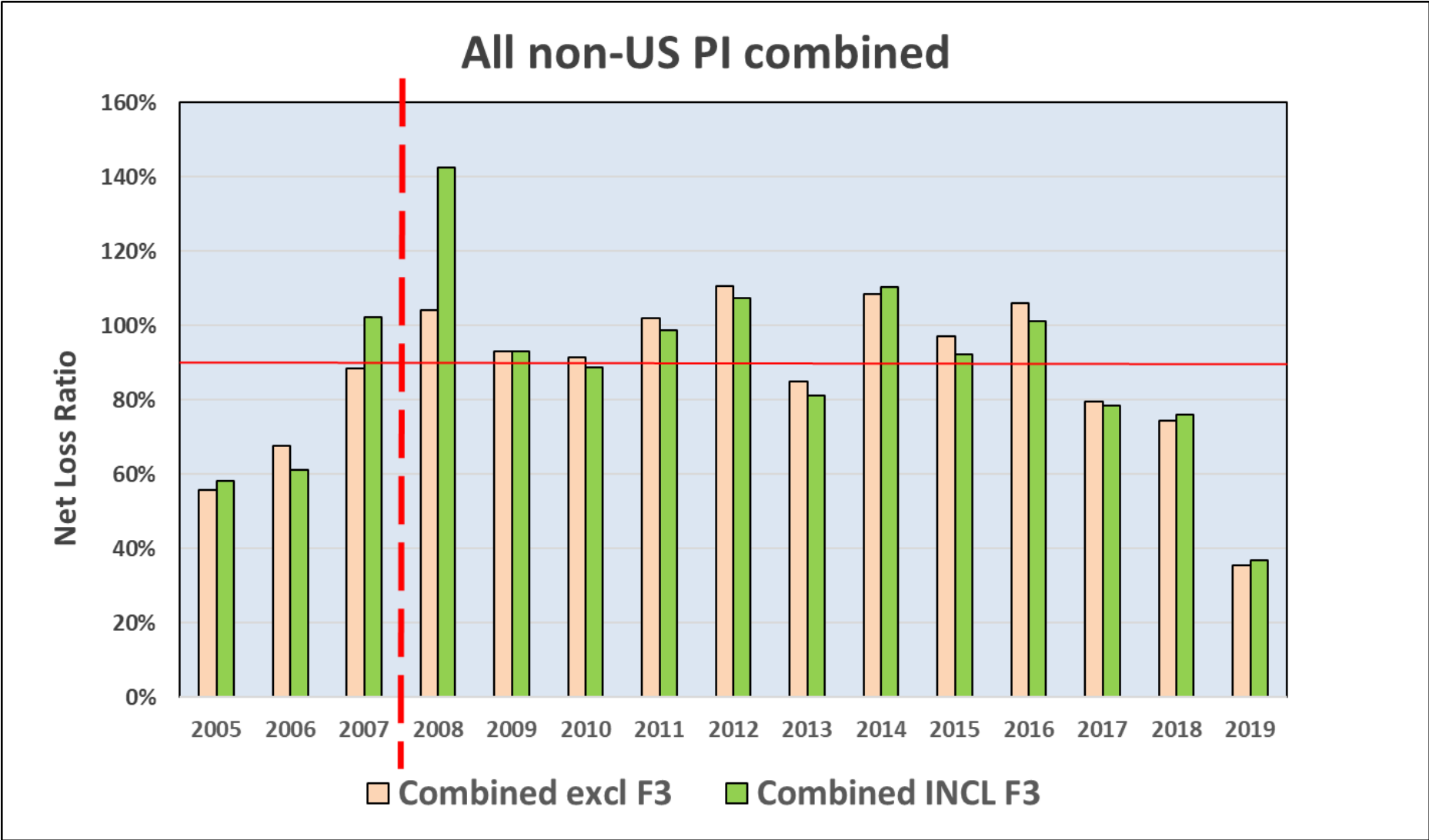


# Or does it?





# Well, probably



# Russia and its invasion of Ukraine

- A PI exposure-fest e.g. XTX Markets v Mazars
- Lawfare, SLAPPs, dodgy oligarchs, trust services
  - e.g. Prigozhin vs Bellingcat, Berezovsky v Abramovich [2012] EWHC 2463
- UK law firms have left Russia
- What about Dubai and Turkey, for example?
- Amendment 17 to The Russia (Sanctions) (EU Exit) Regulations 2022: **any UK persons anywhere** and **other persons in the UK** are prohibited from providing advertising, architectural, auditing, engineering and IT consultancy and design services to a person connected with Russia
- *“Yeah, but Russia is an opportunity”* (No it’s not. It’s really not!)

# Getting out without getting robbed

- What about Russian sanctions (*Special Economic Measures*)?
- How to exit Russia? Or stay? China too?
- Who wants to provide *that* advice? *Can* you provide that advice?
- Uncertainty:
  - Suddenly-changing laws
  - Fines, penalties, tax warfare
  - CEND perils (e.g. Russian aircraft)
  - Huge write-downs
- What happens if your policyholders are sued in hostile countries?
- Does advice even matter?

# War! What is it good for?

- Innovation, innovation, innovation (Edwin Starr did *not* say this).
- Drone technology: air, land, and sea
- Artificial Intelligence
- Dual-use technologies are a problem
- PI = e.g. drone designers, software engineers, IP lawyers, advertising
- Cyber – a minefield (no pun intended)
- Can the liability regime keep up?

# Brexit

- “...if a clod be washed away by the sea, Europe is the less.” (John Donne, 1624)
- Love the EU or hate it, life is more complicated now
- In insurance-speak, we have a DIC problem!
- Remember: war breeds innovation. And Brexit is a war (isn't it?)
- Divergent regimes
- If EU law changes, will UK law change?
- Customs agents / legal advisers
- Impact on (some) inflation

# China

- Big Power competition is driving innovation, exposure, and cost e.g.
  - Artificial Intelligence
  - On-shoring, near-shoring, friend-shoring
  - Taiwan wind farms
- Strategic interference, e.g. Alibaba, HSBC
- Evaluation of Chinese risks is *difficult*
- How do you enforce your client's rights, e.g. IP infringement is a massive problem
- *"The law is only part of the solution..."*

# Sanctions

- LMA 3100:
  - No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under **United Nations resolutions or the trade or economic sanctions, laws of the European Union, United Kingdom or United States of America.**”
- But, what about the 43 countries that have autonomous sanctions lists? e.g. Japan, Australia, Switzerland
- Divergent regimes, e.g. Brexit (again!)
- Supply chain analysis (more on that in a mo)
- Sanctions-busting – Dubai, Turkey, CSTO

# And now onto Roman...

- Owned by *A. Corp Trustee Ltd.*, Cyprus. Director is Irina Panchenko (**sanctioned**)
- RESTRICTION: No disposition of the registered estate... without a written consent signed by... Lindeza Worldwide Ltd
- RESTRICTION: No disposition ... unless the registrar is satisfied that disposition not in contravention of regulations made under Sanctions and Anti-Money Laundering Act 2018
- *All conveyancers / solicitors are affected*

Register summary	
Title number	BGL50836
Registered owners	A. Corp Trustee Limited Stamford Bridge, Fulham Road, London SW6 1HS Chrysanthou Mylona, 3,3030 Limassol, Cyprus



# So, how to deal with sanctions?

- Guidance to professionals from OFSI. You **must**:
  - Check whether you maintain any accounts or hold any funds or economic resources for persons set out in the Annex to this Notice **and any entities owned or controlled by them**
  - Freeze
  - Refrain from dealing directly **or indirectly**
  - Refrain from providing **trust services** (for PCWRs)
  - Report; and
  - Failure to comply may be a criminal offence
- Are your insureds evaluating supply chains?



Office of Financial  
Sanctions Implementation  
HM Treasury

1124. **Name 6:** PUTIN **1:** VLADIMIR **2:** VLADIMIROVICH **3:** n/a **4:** n/a **5:** n/a.

**Name (non-Latin script):** Владимир Владимирович Путин

**DOB:** 07/10/1952. **POB:** St Petersburg (then Leningrad), Russia **a.k.a:** PUTIN, Vladimir **Nationality:** Russia **Address:** Moscow, Russia **Position:** President of the Russian Federation **Other Information:** (UK Sanctions List Ref):RUS0251. Financial sanctions imposed in addition to an asset freeze: Trust services. Date trust services sanctions imposed: 21/03/2023. (UK Statement of Reasons):Vladimir Vladimirovich Putin is the President of the Russian Federation, carrying ultimate authority for the policy of the Russian government and Russian armed forces. In February 2022, Putin ordered Russian military forces to launch an invasion of Ukraine, undermining and threatening the territorial integrity, sovereignty or independence of Ukraine. (Gender):Male **Listed on:** 25/02/2022 **UK Sanctions List Date Designated:** 25/02/2022 **Last Updated:** 21/03/2023 **Group ID:**

# Climate change and inflation – an example

- Ask 20 people, get 20 answers
- CPI = 8.7% May 2023. Construction materials +26%
- Q3 2022 Wages +6.6% but construction wages +12.8%
- Foreign workers have vanished, and need a visa now
- Shortage Occupation List – building trades aren't on it
- Climate change impact on building cost inflation, e.g.
  - Climate policies e.g. cement, formaldehyde
  - Building Reg changes: from June 2022 all new homes in England = 30% less CO<sub>2</sub> (+7.2% on newbuild cost)
  - Early indicators e.g. Canadian lumber

# Some conclusions, before some advice

- Individuals and small companies cannot escape geopolitics
- You *are* plugged into a global web of influences that you can't control
- You *can* identify and plan for (some of) them
- Common themes
  - Uncertainty and unpredictability
  - Divergent regimes
  - Financial interconnectedness
- 2024 is a Big Year!

# What can PI underwriters do?

- Read the news!
- Know that PI is susceptible to things you can't control. But understand them
- Evaluate your insureds *in depth*
- Don't obsess about *theoretical* outcomes
- You *can* prognosticate (sort of!)
- Employ a clairvoyant
- And...

## ...don't be Phil Mickelson

“They [the Saudis] are scary mother\*\*\*\*\* to get involved with. We know they killed Khashoggi and have a horrible record on human rights. They execute people over there for being gay. Knowing all of this, why would I even consider it? Because this is a once-in-a-lifetime opportunity...”

Source: Daily Mirror, 9 Feb 2023, accessed 19 June 2023: <https://www.mirror.co.uk/sport/golf/phil-mickelson-liv-golf-news-29176132>

# Questions?