

# Insuring the bird

by D. Brinton Smith

If insuring a jet were like insuring a car, you wouldn't need this article—or much help at all. You'd simply call your insurance agent, tell him what model you were buying, make a few quick decisions about coverage limits and be done with it.

But insuring a business jet is far more difficult than that. Multifaceted, frequently contradictory aviation regulations drive the myriad legal agreements you execute when you buy an aircraft and play a key role in shaping your insurance program, which must address a wide variety of complex risks. Here's how to cut through the gobbledygook and buy the coverage you need.

## Get help.

Pick an aviation insurance broker early in the game, not 48 hours before the scheduled closing on your aircraft deal. And choose carefully. You need a broker who can provide advice and resources—not just find the right carrier and get you a competitive premium.

Keep in mind that the aviation insurance marketplace is small and relationship-driven. Underwriters will recognize only the first broker to contact them on your behalf; they won't provide quotes to multiple brokers. Switching or consolidating brokers after they have contacted insurers will confuse underwriters, making it harder for you to get the broadest insurance at the lowest premium.

If you outsource some or all of the responsibilities that go with your jet to a professional manager, that manager will most likely offer to handle insurance for you. It's an offer worth considering, as managers often can leverage their entire fleet to achieve economies of scale, securing broadly written, attractively priced insurance. Still, you may find it beneficial to have an aviation insurance broker re-

view your coverage needs, which undoubtedly extend beyond the aircraft itself, as we'll explain shortly.

## Insure the aircraft.

Insurance for physical damage to the aircraft is known as "hull insurance." Your options include insuring to market value, to purchase price or to a value determined by your lender or lessor. The method you choose will affect the settlement you'll receive in case of a loss. Hull insurance for business jets is written on an "agreed value" basis, meaning the insurer agrees to pay you a stated amount in the event of the total loss of the aircraft, without any adjustment for depreciation or appreciation.

If you experience such a loss, the insurer will sell whatever can be salvaged from your jet and keep the proceeds as part of the settlement of your claim. However, a more common risk in business aviation is serious partial damage, which can result from incidents involving ground handling or storage, also known as hangar rash. In such losses, the aircraft's salvage value may help the insurer to decide whether to pay for repairs or write you a check for the airplane's full value. The closer your



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insured value is to market value at the time of the loss, the better your chances of a favorable settlement. If you intend to lease or finance the aircraft, be sure to involve your aviation legal counsel because contractual requirements will affect your ultimate decision about how much insurance to buy.

Another factor is where you keep your jet. Risks—and, therefore, insurance premiums—are lower if you store it at your own hangar than if you use a shared, rented facility. In most cases, such facilities not only place your aircraft closer to others but also require you to move it more often, increasing the possibility of hangar rash.

The good news: Because busi-

ness jets are statistically quite safe, hull insurance costs relatively little. Insuring a \$10 million jet against physical damage should run less than \$50,000.

## Focus on liabilities.

Once you've insured the aircraft itself, turn your attention to liability risks, preferably with the help of your aviation legal counsel. How much liability insurance you need depends on many factors, including your crew and passengers, the ways you use your aircraft and the extent of your legal liability. Understanding those factors may help you achieve lower premiums while also

enhancing the safety of your operations.

Where the crew is concerned, experience, training and employment status all affect insurability. For a pilot, amount and relevancy of flight experience, proficiency with your make and model and annual flight simulator-based training are priorities for underwriters.

If you and not a manager will be responsible for the crew, carry worker's compensation and employer liability insurance. Whether or not you employ the crew, the risk of on-the-job injuries to them and the liability that may create for you are real.

You and your aviation attorney should decide whether you're better off hiring or contracting for crew. Underwriters do look more favorably on a stable, employed crew, but you'll likely need independent contractors to supplement, and sometimes complement, regular staff. Depending on jurisdiction, a contractor may be deemed an employee or a third party. Various methods exist to mitigate this liability.

With passengers, the main factors affecting insurance rates are average load and profile. Historical industry loss experience matters, too. Your aviation insurance broker should be able to explain not only pertinent loss information but also the implications of profiles and load factors. Total aircraft liability losses for private jets have yet to exceed \$100 million. Because accidents are relatively quite rare, settlements have focused on passenger and crew claims, casting little light on the maximum potential risk of bodily injury and property damage to third parties and property outside the airplane.

Underwriters also consider why, where and how you use your aircraft. They view personal and business travel differently from charter or "for hire" operations. The risk of an accident impacting people and property outside the aircraft will also depend partly on whether you commonly fly to rural or urban destinations.

The extent of your legal liability is less quantifiable. Factors include the legal structure for your jet's ownership and usage; activities at and public or guest access to the jet's base of operations; and contractual obligations. Obviously, owning a jet in your own name, which is more common than you might think, is personally riskier than placing it in a "C" corporate structure.

Using other aircraft also increases

your liability. Say you use a smaller, older, piston-driven float airplane to get to your fishing lodge in Alaska. This aircraft is likely to be considered relatively risky and underwriters will view this risk as material to your jet's insurance.

Contract risk is a common and perpetual theme in business aviation, as you will find when you negotiate with lenders, vendors, landlords, contractors, tenants or aircraft users. Through legal agreements, these parties may obligate you to assume their risks—even when they're negligent. Such legal promises may include defending and paying to defend another party; paying to settle demands or suits on behalf of the other party; and protecting that party from claims, while simultaneously diluting your own liability protection. You may even be prevented from collecting for loss of use, other indirect damages or diminished future aircraft market value, even though liability rests

limits as a benchmark for comparison. How much your liability coverage will cost obviously depends on your own risk profile, but let's assume you're buying a jet with eight passenger seats and will carry a \$100 million liability limit. Although insurers use different methods and contemplate multiple factors to calculate, including their own loss experience, a ballpark estimate of the annual premium would be \$25,000.

### Think outside the bird.

Once you've considered the aircraft itself and your related liabilities, it's time to think about your total risk profile. Insurance policies dovetail only when you consider them together, and a comprehensive insurance program should eliminate gaps and redundancies in your personal and business coverage. You and your flight department should read each of your policies carefully to ensure that you understand its provisions, conditions and exclusions.

You may need coverage for hangar space, a crew office and its contents, air-

nanny acts as a flight attendant or your ranch has its own airstrip.

Other risk factors include off-airport, financial, fiduciary and pollution liability. Aircraft liability insurance protects you until you leave the airport. For example, liability to you arising from an accident to the car your jet crew rented may require separate insurance. Whether financial, fiduciary and environmental risks apply to you may depend on the amount of legal and physical control you exercise over the jet. With pollution, for example, risks may arise not only from having your own fuel tank but also from simply handling fuel. For many of these hazards, risk mitigation or control techniques may play a larger role in your planning than insurance.

### Consider foreign factors.

If you'll use your jet internationally, you and your advisor should consider the effect on insurance of overwater travel and cultural, language, political and economic factors. In addition, countries you fly to may have specific flight requirements that, if not met, could void your coverage. Your insurance can include options to protect you from perils like terrorism, war, confiscation, hijacking, sabotage, malicious acts and civil commotion.

One U.S. government change in terrorism management since 9/11 affects international operations for U.S. owners. The U.S. Treasury's Office of Foreign Asset Control (OFAC) maintains a list of people, businesses and countries it considers to be supporters of terrorism. U.S. businesses are prohibited from relations with these parties without prior OFAC approval. If you travel or work with a person or business on this list or fly to one of the destinations listed, you may breach contractual relationships and your insurer may therefore be prevented from responding to or settling claims.

### Keep coverage current.

As with any insurance policy, you should monitor your coverage periodically—at least once a year—to make sure it's up to date. Tell your insurer or broker about any changes in assets, liabilities, contracts, mission or regulations. Remember to look at your risk on an enterprise-wide basis so that all the insurance policies you purchase fit together. ■

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### What to give your insurance broker

Aircraft information	Report year, make, model and acquisition value, plus tail and serial numbers and information about passenger and crew seating.
Base information	Give details about home airport, hangar space and ground handling.
Contracts	Supply drafts of ownership, usage and storage agreements.
Liability limits and provisions	Report average passenger load and profile and review insurance provisions, deductibles and war-risk perils.
Maintenance details	Explain whether you'll outsource it, use an in-house mechanic or do a little of both.
Mission information	Detail purpose of use, territory of operations and anticipated annual hours of operation.
Pilot history forms	Submit signed forms (which are obtainable from your broker) for all pilots.

with other parties.

On top of all this, obtaining insurance for these legal promises isn't guaranteed. In agreements where you assume the liability of another party, submit these to your insurer for their review and approval. To best manage this risk, be sure to have your aviation attorney and insurance broker review draft agreements regarding ownership, usage and storage.

Your aviation insurance broker should provide examples of what clients with a similar risk profile carry for liability

craft support equipment and vehicles and valuables that you store in the hangar. Keep in mind, too, that the aircraft can have insurance implications for businesses and other personal assets, such as a ranch or yacht. You may be able to leverage coverage you already have to reduce your costs for insuring such assets, but you also may find that having a jet creates new risks for you, as you use it to support your other interests. Insurance solutions can change when your pilot is based on your yacht, your