



Secure Legal Title, Lloyd's of London and the bid for the European title market

by Chris Crowell

There are plenty of differences between the title insurance industry of the United States and the title insurance system of Europe, but a key difference for insurance companies is this: there is untapped market potential in Europe. That's the part that excites Secure Legal Title, a title agency headquartered in London with a presence here in the U.S. that is going to exclusively work on high-end deals in Europe. But why Europe, why now, given all of the challenges in selling title outside U.S. borders? Secure Legal Title is being backed by Lloyd's of London — Lloyd's first foray into the European wide title insurance world.

It's tough to gauge the title insurance market in Europe right now and what the actual growth potential is. Several of the large U.S. title companies are doing business there, but they operate in local subsidiaries and the true amount of business that's being done overseas isn't broken down in their financial reports. Joel Peck, chief executive officer of Secure Legal Title, admits that title is a "niche insurance business" in Europe and estimates that the market, judged by premium, currently is in the tens of millions of dollars.

Peck experienced the risks involved in closing European real estate transactions when he helped start LandAmerica's international business unit a decade ago. Joining him at Secure Legal Title is managing director Jean-Bernard Wurm, also formerly with LandAmerica; chairman Sean

Dalton, formerly chief executive officer of a large syndicate at Lloyd's; and underwriting officer Geoffrey Lynch, who is a major figure in the London insurance world. The team's pitch to Lloyd's took about 18 months, moving methodically from discussion to review to underwriting analysis to approval.

"Part of our sales pitch is if there is a transaction where the lawyers and investors and mortgage lenders say they want title insurance, that's likely to be competitive [among the title insurers in Europe]," Peck said. "With Lloyd's powerful brand and financial strength ratings, we believe we have a competitive advantage in those transactions, but we also think there is a large potential market in Europe of people not using title insurance today."

Title insurance

To understand Secure Legal Title's proposal is to understand the current worlds of real estate and title insurance in Europe. Each country has its own nuances, but basically, outside the United States, title work is done by local lawyers. Investors in the United States that are looking to do deals in Europe — private equity investors, hedge fund investors, mortgage lenders, big box retailers, hotel franchises, etc. — work with local counsel to discover the status of title, which can be a lengthy process. If nothing pops up, the transaction is likely to go through and no one seeks a title policy. If the lawyer discovers a few

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risks, an opinion is offered. Just how risky is this deal? Is it worth buying?

At that point, a title insurer could step in and insure against that risk and help facilitate the deal. From there, a notary — which holds a different distinction in Europe — transfers the title.

Essentially, the title insurer has existed in Europe to back risky deals with insurance policies, which is a scarier proposition for title insurers when compared to the United States.

“If you are in America and get a policy, and there’s a risk on the title, the reaction [of title insurers] is ‘no we don’t want to write risk.’ U.S. title insurers want to do the work, correct any problems with title, and then write a policy,” Peck said. “At Secure Legal Title, say we have an office building in London or Warsaw or Hamburg, and there’s something wrong with the title or the building permit which cannot be corrected, but we think it’s a reasonable risk and we want this deal to go through for our client. Lloyd’s is in the business of covering risk.”

It is also a common situation, which leaves investors constantly weighing pros and cons.

More risks equal more potential

Risk appetite is changing across the globe, a potentially permanent shift in philosophy resulting from the fall of Lehman Brothers, the economic crash and the new normal of uncertainty. This is especially true in Europe. But Secure Legal Title and Lloyd’s see this risk aversion as a potential opportunity. In addition to the traditional European title insurance deal that comes from lawyers and buyers looking to have the risk insured, Secure Legal Title is reaching out to sellers who want to expedite the selling process. The proposition is basically: I have this portfolio of 50 properties, and I don’t want them any longer, but I worry that there will be too many risks and a potential buyer will get scared off; I will buy a title insurance policy to insure that risk ahead of time to help facilitate the deal and lessen risks.

Peck believes this approach also will be effective with

European governments. Many governments own a lot of land in Europe and most of them are experiencing financial difficulty. This means they are more willing to sell portfolios of real estate to rebuild their coffers, but that also means the land is more likely to carry risks.

“Typically, you’re putting the due diligence burden on the buyer,” Peck said. “It’s a time-consuming, expensive process. If you’re buying a property, you get a lawyer’s opinion, a notary to certify the deed and get the seller to provide reps and warranties to promise it’s all ok. The problem with governments selling is they don’t give reps and warranties.

“It’s cumbersome for someone to do all of the legal due diligence on all of these properties,” Peck continued. “So, we say we’ll come in, in advance, work with lawyers and notaries and do the due diligence for all the properties. Once we are satisfied, we’ll issue a commitment for title insurance with the policy to be issued to a buyer to be determined. That way, when the government goes to the market with these properties, in the offering of the memorandum, there is a description of all properties, and it will say there is a title insurance policy from Lloyd’s of London guaranteeing [the buyer is] getting good title.”

Those prospective buyers and prospective lenders are fiduciaries; they are officers of companies. They have to go to investment committees and give their reports. As fiduciaries, they have an obligation to minimize risk. In Europe that usually means dealing with that risk in some way or walking away. Secure Legal Title is hoping the power of a Lloyd’s of London title policy already in hand will sweeten the deals and make deals much easier to get that deal done and in a shorter amount of time, both for governments and for private sector sellers of properties.

Peck is also trying to spread the word to title agents in the United States that if clients of theirs are doing deals in Europe, or thinking about doing deals in Europe, the title agents can refer that business to Secure Legal Title and then work with them to facilitate the deals they might have otherwise missed out on.

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