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European title insurance: the next big opportunity? *Could the \$11bn US market spill over into Europe?*

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The European title insurance market could be set to boom. At present it amounts to around only 1% of the US market, where title insurance is a staple product. But the demand for this type of cover is growing in Europe, and it is predicted that the European market could grow by as much as ten-fold. However, in the clamour for market share, insurers are warned that the costs of underwriting such risks can be expensive.

What is title insurance? Lloyd's-backed title insurance provider Secure Legal Title defines it as cover that indemnifies against losses

arising from both known—and unknown—legal risks related to real estate acquisitions and mortgage finance. In other words, title insurance lessens the risk for property investors and mortgage lenders when completing property transactions. Legal indemnity cover, which is commonly purchased in the UK, is a form of title insurance that indemnifies the property buyer and the mortgage lender against a specific, defined risk that has been identified by the buyer's lawyer. Unlike title insurance, legal indemnity policies do not cover unknown risks.

The title insurance market is well established in the US, where it is practically compulsory, and is valued at around \$11.4bn in gross written premiums (GWP). However, in stark contrast, the European commercial title insurance market is very small, with Secure Legal Title estimating its value to be around \$100m in GWP, which effectively makes it around hundred times smaller than the US market. The origins of the European title insurance market are in Central & Eastern Europe—specifically Romania and Poland—where US investors were concerned about possible restitution issues in former communist countries, for example. In one recent high profile deal in Poland, US insurer Stewart Title issued a €400m policy in relation to a shopping centre in Katowice, Poland, that was purchased by a consortium of investors led by Allianz Real Estate.

Though the European title insurance market is small, there is a belief that it has significant potential for expansion. Secure Legal Title chairman Sean Dalton says: “There is definite potential for high growth. I don't see why the European market wouldn't seek to buy it. Non-European investors are coming in and the finance-providing banks are demanding title insurance.” Meanwhile, Conveyancing Liability Solutions underwriting director Jean Claude Domaingue says buying title insurance provides protection against “the doomsday scenario, which is either you own it [the property] or you don't own it”. He adds that, in Eastern Europe, for example, it could be a case of one day having a site worth £10m and then the next day not having it.”

However, in addition to protecting investors in Eastern Europe, title insurance is also facilitating commercial property transactions in Western Europe, according to Dalton. While around 90% of title insurance purchased in Europe covers risks in Central & Eastern Europe, an increasing amount of policies are being bought to cover deals happening in Spain, France and Italy. Whereas in the past the buyer would decide whether to assume the risk or walk away from the deal, with title insurance the risk is eliminated. “Title insurance makes deals flow quicker,” says Dalton. “With a developer who buys land, for example, when they buy a title insurance policy, the transaction is easier when it comes to selling.” This is a view echoed by US insurer First Title, which promotes title insurance by highlighting that it “adds real value in making all types of property transactions complete more quickly, easily, and safely” as well as making such deals generally less costly, and sometimes aiding a deal that “may not otherwise happen at all”.

With investors becoming more risk-aware with regard to property transactions, the European title insurance market could in theory be ten times its current size, according to Dalton. What is driving this growth? “In countries such as Spain, France, and Italy, there is traditionally less title insurance bought—but there has been an increase in enquiries because buyers want to do deals and title insurance allows deals to go through,” Dalton says. However, Domaingue says opinion is divided when it comes to assessing the probability of growth in the title insurance market. “There are different views about the potential, there is greater awareness of transactional risk—there’s a large amount of capacity in the market—and it can generate good returns,” he says. “But some American insurers’ interest is waning – the American property market is functioning again, and they’re going back to their core business.”

What are the potential pitfalls of entering the title insurance market? “It’s a niche area, it’s a case of finding people with the inclination to dig into the risk—enquiries take a lot of investigation,” Domaingue says. He adds that one of the main dangers for insurers is “not taking the time to review the risk”. Meanwhile, according to Dalton, the costs related to providing title insurance are sizable. “The underwriting costs are a lot—on a typical transaction, there is a lot of complicated legal opinion, a lot of analysis of risk, which may require further legal opinion, it is time consuming,” he says. As a result Dalton argues that the “barrier to entry” into the title insurance market is very high. In addition, insurers are not particularly keen on the “in perpetuity” nature of the risk, Dalton says. “A lot of the insurers don’t like the length of the tail.” Dalton adds that reinsurers are becoming increasingly involved in the market. “Traditionally, title insurers reinsured each other, now reinsurers may have a sunset clause. For example, they’ll write a risk for seven years, which is a perfectly legitimate approach.”

“Secure Legal Title is not planning to do volume residential legal indemnity in the UK,” Dalton says. “It’s extremely competitive and volume-driven. There’s talk of a residential product in Poland, but continental insurers don’t get involved because it’s very specialised.” Meanwhile, insurers that are geared up to handling high volume business see the notion of title insurance as somewhat alien, according to Dalton. “For general insurers, it’s a difficult concept, it’s very specialised and it’s very long in terms of exposure.”



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