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Late News

Reinsurers see drop in combined ratio: RAA

U.S. reinsurers posted a 96.5% combined ratio for the first half of 2006, compared with a 105.8% combined ratio reported for the same period a year ago, a survey by the Washington-based Reinsurance Assn. of America found. The 96.5% combined ratio reflects a 68.8% loss ratio and a 27.7% expense ratio. The 23 reinsurers surveyed reported $13 billion in net premium written in the half. That is down from $13.21 billion reported by a similar group of 26 companies for the same period in 2005.

St. Paul Travelers restructures units

St. Paul Travelers Cos. Inc. is restructuring its three business units to improve operational efficiency and customer service. The St. Paul, Minn.-based property/casualty insurer is realigning its commercial and specialty divisions into two new segments: the business insurance segment and the financial, professional and international segment. St. Paul's personal lines

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Lockton expands international reach

Broker buys London arm from Alexander Forbes

By SALLY ROBERTS

KANSAS CITY, Mo.—Lockton Cos. Inc.'s proposed $170 million acquisition of Alexander Forbes International Risk Services would significantly expand the broker's international capabilities, giving large, multinational clients another option in the market.

After years of servicing multinational clients through worldwide broker partnerships, Kansas City, Mo.-based Lockton would own its own international operations following the acquisition of AFIRS, the London-based arm of South African broker Alexander Forbes Ltd.

As a result of the deal, announced last week, privately held Lockton would have approximately $611 million in annual revenue and 3,700 employees serving clients in 12 countries in Europe, North America, Latin America and Asia, Lockton said. AFIRS' membership in the EOS RISQ network of European brokers, which Lockton intends to maintain, further expands its reach to 43 countries around the world.

The deal, expected to close in October, also could propel Lockton into the ranks of the world's 10 largest brokers. Alexander Forbes was the ninth-largest broker in *Business Insurance*'s 2006 ranking, based on 2005 brokerage revenues of $682.4 million. In a statement, Lockton said the business it plans to buy from Alexander Forbes represents revenues of about $202 million.

Executives from both brokers said the deal is mutually beneficial.

The combination would create

See **LOCKTON** / page 22

'Fair Share' bills perish following ERISA ruling

States look for other options

By JERRY GEISEL

The drive at the state level to pass legislation to require employers of a certain size to spend a minimum amount on health care benefits for their employees or be slapped with a new tax is fizzling out.

The drive, heavily supported by organized labor, began in January when Maryland lawmakers overrode a gubernatorial veto of legislation to require employers in the state with at least 10,000 employees to spend an amount equal to at least 8% of their payroll to provide health care benefits.

Under that measure, which as written would have applied only to Wal-Mart Stores Inc., the giant Bentonville, Ark.-based retailer, those that failed to meet that spending threshold would have to contribute to a state fund providing health care coverage to low-income residents.

The Maryland law became a template for similar bills—dubbed "Fair Share" by backer the AFL-CIO—that were introduced in roughly two dozen states.

See **HEALTH CARE** / page 22

Katrina losses change market for coast risks

By DAVE LENCKUS

After prompting increasingly dire storm warnings for days during a hurricane season that experts had predicted would be troublesome, Hurricane Katrina slammed into the U.S. Gulf Coast a year ago with a ferocity for which few had adequately prepared.

A year later, as [illegible]esses and communities [illegible] prone areas of the United States brace for another active hurricane season, the fallout from the record hurricane losses last year is dogging risk managers: Property catastrophe insurance capacity is sharply lower and prices are exorbitant.

But, unlike other tight insurance markets, this one is different, some market experts warn. This one mimics a rough patch in the insurance market cycle but is actually quite different, they say.

Today's restricted and expensive coverage, those experts assert, is the product of structural changes in the property catastrophe insurance market that are outside of the market's control: tougher risk-based capital formulas and stress testing from insurer rating agencies and revised catastrophe models that anticipate greater hurricane activity in coming years.

Those changes likely mean that the market never will look as good as it did to risk managers in 2005, experts say.

While the property catastrophe market likely will improve for risk managers eventually, "it's going to be a different market going forward," said David Bradford, editor-in-chief of insurance industry analyst Advisen Ltd. of New York. "Those with catastrophe exposures won't see 2005 rates again."

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How to secure capacity [illegible] tight market / 21

"The market [illegible] itself and will [illegible] [illegible] ly and extremely [illegible]," said Gary Marchitello, a managing principal and the property practice leader of New York-based Integro Ltd.

But even after that adjustment, "capacity will be much more limited and much more expensive," he said.

To manage their organizations' catastrophe exposures, risk managers have to understand that the property catastrophe insurance market has changed structurally and likely "is going to get worse before it gets better," said Aaron Davis, director of the National Terrorism and Property Resources practice at Aon Risk Services Inc. of New York.

Nashville, Tenn.-based HCA Inc., the nation's largest multihospital organization, sustained a total of more than $200 million of hurricane damage during 2004 and 2005, according to Shirley Fuller Cooper, assistant vp-insurance.

Last year, HCA had $1

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DRUG RULING
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Inside

Insurers experiment with health credit cards

Consumers would use low-limit cards to pay for out-of-pocket health care expenses. **Page 4**

Federal health data rule welcomed by employers

A requirement for health care providers to reveal price and quality data for government contracts is expected to benefit private employers too. **Page 4**

Employers seeking broader travel cover

Companies look for cost-effective ways to provide health coverage for international travelers. **Page 6**

Alternative coverage needed in tight market

Property catastrophe insurance capacity problems require a creative response from buyers, an editorial says. **Page 8**

Online poll [8/21-8/25]

Should the federal government pay for losses stemming from chemical, nuclear, biological and radiological terrorist attacks?

Participate in BI's online polls at *www.businessinsurance.com.*

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Reporting on corporate risk and employee benefit management news

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Crawford broadens reach with Broadspire purchase

Acquisition would boost business from self-insurers

By RUPAL PAREKH

ATLANTA—Crawford & Co.'s proposed $150 million acquisition of third-party casualty and medical claims administrator Broadspire Services Inc. would more than double Crawford's revenue from self-insured clients and make it a stronger player in that market.

The Atlanta-based claims manager, whose self-insured business has been waning during the past year, would benefit from Broadspire's expertise and client base in that arena, Crawford and market observers say.

Under the terms of the transaction agreement—which was struck with Broadspire's owner, Beverly Hills, Calif.-based global acquisition firm Platinum Equity L.L.C.—Crawford is to pay $150 million in cash to purchase Broadspire, formerly a unit of Kemper Insurance Cos.

Pending regulatory approval, the deal is expected to close early in the fourth quarter.

The acquisition would be the largest in Crawford's history, the company said, and comes on the heels of its just-completed buyout of Specialist Liability Services Ltd., a U.K.-based adjusting and claims handling firm.

Crawford is the world's 10th largest claims administrator for self-insured clients, based on 2005 revenues from such clients of $89.1 million, according to *Business Insurance's* ranking (*BI*, March 20).

Crawford President and Chief Executive Officer Tom Crawford said the process leading up to last week's announced acquisition of Broadspire began about four months ago.

"Our interest in Broadspire Services was driven by their reputation," Mr. Crawford said in a conference call with analysts. "They have an outstanding reputation on the street," along with "a professional staff and a great client base." The privately held TPA's business is a mix of casualty and medical and disability management services, including workers compensation, auto and general liability.

Major service lines at Crawford, meanwhile, include: property and casualty claims management; integrated claims and medical management for workers compensation; legal settlement administration, including class action and warranty inspections; and risk management information services.

"This is a great step forward for Crawford & Co.," Mr. Crawford said. "It is a strategic combination

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Combined strength

Expected 2006 gross revenues from self-insured clients	
Crawford:	$150 million
Broadspire:	$200 million
TOTAL:	**$350 million**
Employees	
Crawford:	7,500
Broadspire:	1,700
TOTAL:	**9,200**
Offices	
Crawford:	More than 700
Broadspire:	More than 40
Headquarters	
Crawford:	Atlanta
Broadspire:	Plantation, Fla.

Source: Securities and Exchange Commission filings

Marsh gets OK to take underwriter payments

By SALLY ROBERTS

NEW YORK—Marsh Inc. may now accept additional profit-based commissions from insurers on business where it acts as a managing general agent or underwriting manager, under an agreement reached with New York Attorney General Eliot Spitzer and New York Superintendent of Insurance Howard Mills.

Marsh announced the agreement in a Securities and Exchange Commission filing last week.

Marsh and its parent, Marsh & McLennan Cos. Inc., in January 2005 settled charges that the broker rigged bids and steered clients to favored insurers, agreeing to pay $850 million in client restitution and to cease collecting contingent commissions from insurers.

New York Insurance Superintendent Howard Mills, left, and Attorney General Eliot Spitzer have agreed to let Marsh accept payments from insurers when it acts as an MGA.

The amendment to the agreement reached Aug. 17 clarifies the means by which Marsh may act and be compensated as an MGA or underwriting manager, defining such activities as those where an insurer has appointed Marsh to be the insurer's representative in connection with the management of its book of business.

"This enables us now to engage in profit-sharing with the insurance company for which MGAs place business," an MMC spokeswoman said.

For MGAs, which work on behalf of the insurer, profit-sharing arrangements are a standard form of compensation that align the economic interests of both parties. But "because of the Spitzer settlement, we just were not able to do it," the spokeswoman said.

Chicago-based Aon Corp. and London-based Willis Group Holdings Ltd., which reached similar settlements with Mr. Spitzer and other state officials in 2005, expect to reach similar revised agreements.

"Aon has been in discussions with the attorney general's office on the same issue, and we've been assured that we will receive the same result from that office," an Aon spokesman said.

"We've always enjoyed the positive, strong relationship with the attorney general' s office and have received fair and equal treatment from them, and expect we would receive the same professionalism in this instance," a Willis spokesman said.

Itasca, Ill.-based Arthur J. Gallagher & Co. and Glen Allen, Va.-based Hilb, Rogal & Hobbs Co. also reached agreements in 2005 with other state attorneys general permitting the brokers to accept contingent commissions in certain circumstances, such as when the companies act as a wholesaler or an agent of an insurer (*BI*, Sept. 5, 2005; May 23, 2005).

Risk manager group proposes principles for broker dealings

By LAWRENCE RICHTER QUINN

As the dust from the broker compensation scandal continues to settle, dozens of risk managers from some of the largest U.S. companies are seeking to gain wide acceptance for a common set of principles that they say should govern dealings between brokers and their clients.

Signing on

Risk managers at 40 major companies are proposing a set of principles for their brokers to follow.

Since late last year, these risk managers have been developing what they call "basic principles for broker relationships." Their 10-point document—which was written very much with New York Attorney General Eliot Spitzer's investigation of insurance brokers in mind—states, among other things, that a broker should work in the "sole interest" of the client, disclose any potential conflicts of interest, and provide documentation to demonstrate compliance with the various principles (see story, page 11).

Proponents say the initiative is needed to ensure transparency in the placement process and to provide clear guidelines on how brokers should be compensated.

The initiative to establish the common principles was launched at an impromptu gathering of risk managers during a meeting of the risk management council of the Arlington, Va.-based Manufacturers Alliance/MAPI. The document listing the principles likely will be presented by its original backers to the full council again at the group's next meeting in Tucson, Ariz., late next month, with the goal of adding more signatories and determining future plans for the effort. Neither MAPI nor its risk council has endorsed the initiative, and neither is likely to do so unless a consensus of the 190-member council endorses it.

The document appears to represent the first time that individual risk managers and their companies have been willing to lend their names publicly and in writing to any sort of framework regarding how they conduct business with the insurance industry.

Among the 40 companies whose risk managers have signed on already are well-known names such as Archer Daniels Midland Co.; Halliburton Co.; Illinois Tool Works Inc.; Northrop Grumman Corp.; Rolls-Royce North America Inc.; Sunoco Inc.; Textron Inc. and

See **GUIDELINES** / page 11

Government-sponsored health plans to reveal pricing data

Bush signs order

By JOANNE WOJCIK

WASHINGTON—The employer community generally applauded an executive order that President George Bush signed last week requiring health care providers that contract with government-sponsored health plans to publicly reveal price and quality information.

The executive order directed federal agencies that administer or sponsor federal health insurance programs to:

- Increase transparency in pricing by disclosing information about prices paid to health care providers.
- Increase transparency in quality by sharing information on the quality of services provided by doctors, hospitals and other health care providers.
- Encourage adoption of health information technology standards, including electronic medical records.
- Provide options that promote quality and efficiency in health care, including pay-for-performance models of reimbursement.

"We have been encouraging the federal government to take this kind of action for a couple of years," said Ned Holland, vp of compensation, benefits, labor and employee relations at Sprint Corp. in Overland Park, Kan. "Our view is that in order to pursue evidence-based health care delivery effectively, it has to be based on data and, while big employers have a lot of data, the mother lode of data is the federal government."

In fact, during a panel discussion at the 2005 annual meeting of the Washington-based National Business Group on Health, Mr. Holland called on the Centers for Medicare and Medicaid Services to share its database with employers so they could use the information to develop benefit plan designs that support evidence-based medicine.

Mr. Holland said he expects that employer-led quality and transparency efforts will get a boost from the president's directive, including NBGH, the Leapfrog Group, Bridges to Excellence and Care Focused Purchasing Inc., a large-employer organization that announced last week it had finalized contracts with several insurers to start aggregating data.

"You've got 80 million with Medicare and Medicaid. Then if you add the armed services and the federal employees, you're talking about close to 100 million people. That's a big, big, big deal," Mr. Holland said. "If you think about it, there are 300 million people in the U.S. If you have data on a third of

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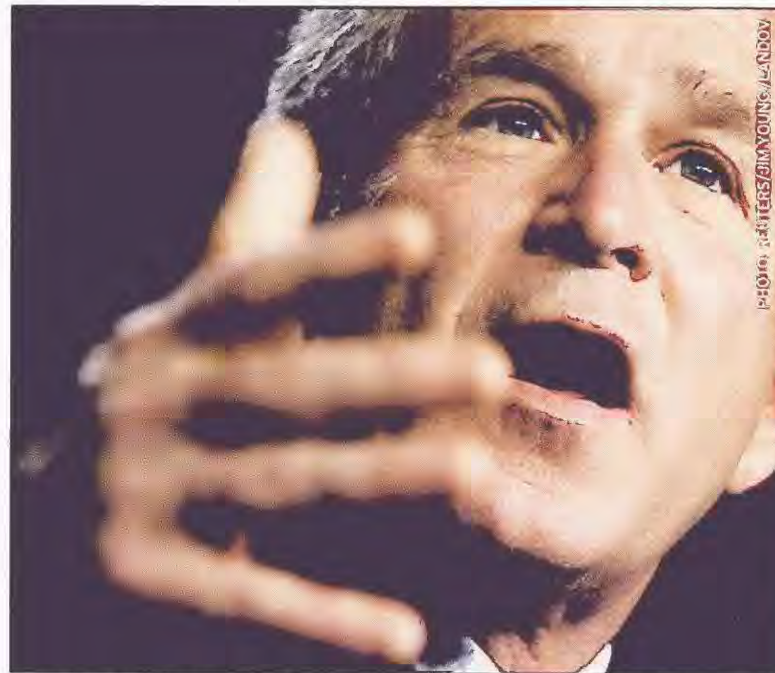
PHOTO: REUTERS/JIM YOUNG/LANDOV

Last week, President Bush signed an executive order requiring health care providers to reveal price and quality data for government contracts.

Insurance providers tackle climate change and weather events

By SALLY ROBERTS

Several insurance providers are attempting to address the causes of climate change and increased weather-related losses, but more needs to be done to minimize those losses and take advantage of the opportunities global warming presents, a report concludes.

On the heels of back-to-back hur-

ricane seasons in the United States that caused a record $75 billion in insured losses during 2004 and 2005, the insurance sector is poised to make a major contribution to curb the growth of greenhouse gas emissions by, for example, issuing policies that include a financial incentive to reduce emissions, according to the report issued by Boston-based Ceres, an investor coalition that promotes corporate responsibility on environmental issues.

Greenhouse gases are believed to be warming the earth's temperature, causing more intense hurricanes and other extreme weather.

Ceres' report identifies 190 products and services that are available or in the pipeline from dozens of insurance providers in 16 countries. More than half of the activities come from U.S.-based companies, covering climate change solutions such as energy efficiency, green building design, carbon emissions trading and sustainable driving practices.

"Climate change poses unprecedented risks to the insurance industry, but it also creates vast opportunities for new products and services to help consumers and businesses reduce their losses," Mindy S. Lubber, president of Ceres, said in a statement. "We've seen...progress from big-name insurers and brokers since last year's devastating hurricanes, but many more creative services will be needed to confront what is perhaps the biggest threat in the industry's history."

The report, "From Risk to Opportunity: How Insurers Can Proactively and Profitably Manage Climate Change" is available at at www.ceres.org/pub/.

Errors & Omissions

A July 17 chart that ranked insurance brokers on 2005 pure placement revenues omitted benefits brokerage revenues from Aon Corp. and Marsh & McLennan Cos. Inc. that were reported to *Business Insurance* as services. The pure placement ranking reflects brokers' revenues from commercial retail, wholesale, reinsurance and personal lines brokerage and excludes income from consulting and other nonbrokerage operations. The revised chart appears on page 6.

Insurers begin experimenting with health care credit cards

By LEIGH PAGE

Americans' infatuation with credit cards is beginning to infect health care, where the growth of high-deductible health plans is forcing more and more members to pony up substantial out-of-pocket sums.

Health care consumers are already using normal credit cards for out-of-pocket expenses. A 2005 survey by the Center for Responsible Lending in Durham, N.C., found that seven out of 10 low- and middle-income households have used their credit cards as a "safety net," used when other sources of payment are not available, and health care was one of the top reasons for using the card in this way.

And now, big players such as In-

dianapolis-based WellPoint Inc. and Minnetonka, Minn.-based UnitedHealth Group Inc., the nation's first and second largest health insurers, respectively, have been experimenting with credit cards distributed through employers that pay only for health care expenses and have relatively small lines of credit.

Vendors say the rise of high-deductible health care plans, often attached to tax-favored consumer-driven accounts, is creating a market for health care-only credit cards. They benefit health care providers by making sure they get paid for patients' out-of-pocket expenses, which have poor collection rates. Currently, 3.2 million

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Lexington enters sidecar agreement

BOSTON—Lexington Insurance Co. is entering a quota-share reinsurance agreement with Bermuda-based sidecar company Concord Re Ltd. for U.S. commercial property business.

Under the terms of the deal, newly formed Concord Re will assume a pro-rata share of the gross written premiums and losses for the first $10 million of limits per policy, per occurrence—or first $5 million of limits per policy, per occurrence for lines classified as construction services—for policies underwritten by Boston-based Lexington's property division, according to rating agency reports.

Exposures from program business, terrorism, personal lines, and boiler and machinery will be excluded under the reinsurance agreement, which will cover contracts between July 15, 2006, and Jan. 15, 2008, New York-based Standard & Poor's Corp. said in a statement announcing its rating of a term loan debt facility for Concord Re.

Initial capitalization for the newly formed Class 3 Bermuda reinsurer is expected to be up to $750 million, Moody's Investors Service noted in a similar statement.

"We're not commenting until the deal is completed," said an American International Group Inc. spokesman on Lexington's behalf. Lexington, the largest U.S. surplus lines insurer, is a subsidiary of New York-based AIG.

The spokesman did not indicate when the transaction is expected to close.

Sidecars, which are special-purpose vehicles established for the purpose of taking on underwriting risk from ceding insurers or reinsurers, have surged recently, with billions in capital funneled into the new structures in the months since Hurricane Katrina.

—By Rupal Parekh

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Employers seeking broader coverage for traveling workers

By KAREN PALLARITO

As the global economy spurs corporate expansion and boosts overseas travel, more employers are looking to buy coverage for employees who travel on business outside of the country for six months or less.

Employers have grappled with finding the best, most cost-effective way to insure short-term travelers against medical costs in foreign lands, in addition to trying to help employees navigate unfamiliar health care systems and access the care they require.

Keane Inc., a Boston-based provider of information technology services. for example, used to rely on its domestic health insurer to cover dozens of U.S. employees when they travel to other parts of the globe, said John Kennedy, the company's director of global benefits. But these plans are not recognized worldwide and typically require employees to pay for care upfront, either by credit card or traveler's checks, he said. To get reimbursed, employees must submit their medical expenses and currency conversion data.

Keane had another problem, too. At any time, 130 to 230 staff from India are traveling in the United States. It would have been too expensive to cover them under a U.S. plan, plus some employees travel on visas that bar such coverage, he said.

The company solved both problems with a business travel medical plan from HTH Worldwide, a Radnor, Pa.-based provider of short-term health insurance for international business travelers, that it purchased for about 60% to 70% of what a typical U.S. health insurance plan would have cost, Mr. Kennedy said. A key selling point was the insurer's global provider network, he said.

For Zyman Group, an international consulting firm based in Atlanta, business travel medical insurance provides "peace of mind," at a cost of less than $3,000 a year, said Mamie Ramsey, director of human resources. With 50 to 60 employees traveling abroad in any one year, "We really needed more than just the basics covered," she said.

If any one of them should require medical evacuation, that service would be covered, she said. In the year since buying a policy through Aetna Global Benefits, Zyman employees have used it for anything from prescription drugs to doctor visits—without generating a bill.

Obtaining medical care without the hassle of paying upfront for the care is a key attribute of the business travel medical plans, said John H. Briggs, international human resources law practice leader at Worldwide Consulting Group L.L.C. in Taos, N.M., which specializes in international employee benefits.

Appropriate coverage can make medical emergencies overseas much easier to deal with, he said. For example, within 24 hours of signing a contract for business travel coverage, a software company client of Worldwide had a German employee on business in India who needed an appendectomy. The insurer scheduled his hospital stay, the appendix came out and the employee "never had to touch his wallet," Mr. Briggs said.

Most companies originally used business travel programs for foreign employees, say, when European workers travel to Asia, said Ed Dombkowski, director and national practice leader for global special benefits in the health and welfare benefits unit of Buck Consultants in Philadelphia. Over time, he said, coverage has expanded to include U.S. workers who travel overseas.

One option, so-called "business travel accident" insurance, is perhaps the most common. It covers accidental death and dismemberment and often provides for medical evacuation and repatriation of remains, which are add-ons that reflect the increase in international travel. Often, these carriers contract with global assistance companies to airlift ill or injured patients to their home country or to the nearest suitable hospital and provide other emergency medical assistance.

Most evacuation programs will go to the nearest hospital, which might be in Singapore, as an example, said Mr. Briggs of Worldwide. But if you're a U.S. citizen, you probably want to come home. This is a point employers must negotiate upfront. Some insurers will accommodate the request; others will not, he said.

"Theoretically, your domestic coverage may ultimately cover your costs," said Rob Howard, director of corporate business at HTH Worldwide. "But what they're saying is 'Come back to the United States, send in your claim form and we'll reimburse you.' not 'We'll get you into that hospital when you need to get in, we'll get you in the door.'"

To fill the coverage gap, several insurers now offer plans that combine medical benefits with limits of $100,000 to $250,000 a person, established provider networks and emergency assistance.

"Plan designs can vary from first-dollar coverage and no coinsurance and no pre-existing conditions to plans that provide no pre-existing coverage whatsoever, high deductibles and high coinsurance," Mr. Dombkowski said. "The trend right now," he added, "is to provide zero deductible, no coinsurance and primary coverage. So this way, the person who is in that emergency event gets immediate care."

Having a business travel medical plan that is the primary payer for costs incurred abroad eliminates the "hassle factor" of having to submit expenses to the domestic carrier first, noted Martha Temple, a vp and head of Aetna Global Benefits, whose WorldTraveler plan offers a choice of two benefit designs plus options such as business travel accident, spouse and dependent, and sojourn coverage.

"Everybody just wants to know, I've got this card, I can submit this claim and not have to think twice about it," she said.

Securing travel coverage

Companies whose employees travel internationally for six months or less may want to consider a policy that covers routine and urgent medical needs outside their home country, consultants and brokers say. Here are features to consider:

Direct payment: Some insurers will pay provider claims directly. Neither employee nor employer receives a bill, reducing the stress of dealing with a foreign health care system and avoiding paperwork. Other insurers only reimburse claims, which means employees may have to pay upfront.

Broad provider network: Look for an insurer that has relationships with the top doctors and hospitals in all the countries in which employees do business.

Comprehensive medical benefits: Don't get sidetracked by lost luggage coverage and other incidentals. Focus on medical benefits. The best short-term plans provide $100,000 to $250,000 of coverage per employee without limits on pre-existing conditions and include a substantial medical evacuation benefit. This service can easily cost $10,000 and up, according to the U.S. Department of State. Consider add-ons such as sojourn coverage for emergencies that occur when a business traveler takes a side trip for pleasure, and spouse/dependent coverage for family members' medical needs.

Blanket coverage: Buy a policy that will cover any employee who might be traveling within a year. These policies are priced based on a company's estimate of the number of U.S. employees who will be traveling internationally, the number of foreign employees traveling to the United States and the average number of days of travel per year. Avoid policies requiring "positive enrollment" of each traveler by name.

Other assistance: Some insurers offer Web-based and telephonic tools to help employees find network providers and navigate foreign health systems.

—By Karen Pallarito

Webcast to address TRIA solutions

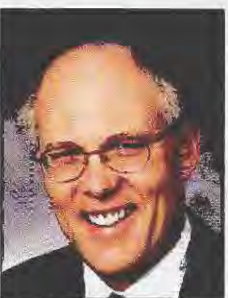
Mr. Coccia

BI to host online panel discussion

Mr. Brosius

Mr. Davis

Mr. Gorski


Mr. Heidrich

The Terrorism Risk & Insurance Act won a last-minute reprieve from Congress in 2005, but only after persistent lobbying by insurers, risk managers and others. Is the industry prepared to repeat this struggle all over again when the TRIA extension expires, or is there a long-term solution to insuring terrorism risks?

Business Insurance invites readers to register for "A Permanent Solution to TRIA," a free online panel discussion on Aug. 29, 2006, that will explore this important issue.

Several proposals have been floated to create a more permanent solution to financing U.S. terrorism risk and providing security to insurers that write the coverage, particularly workers compensation. Before the TRIA extension expires at the end of 2007, industry leaders are pushing for new and more lasting solutions.

During this webinar, a panel of experts will explore some of these new proposals for handling terrorism risk in the United States, and take questions from the live online audience. Speakers include:

- J. Eric Brosius, senior vp and manager, reinsurance for Liberty Mutual Insurance Co. in Boston.
- Aaron Davis, director, National Terrorism and Property Resources for Aon Risk Services in New York.
- Al Gorski, manager of risk management for the Orange County Transportation Authority in Orange, Calif.
- Greg Heidrich, senior vp of policy development & research for the Property Casualty Insurers Assn. of America in Des Plaines, Ill.

Business Insurance Editor Regis Coccia will moderate the webinar.

BI's Online Executive Forum™ webinars, developed by our editorial staff, are highly informative online events where noted speakers and respected business leaders come together with *BI* editors to discuss the most pressing issues in this live interactive format.

For more information, and to register for the free Aug. 29 Online Executive Forum on TRIA, please visit *www.BusinessInsurance.com/webinars*.

Revised chart

A July 17 chart ranking brokers on placement revenues omitted benefits brokerage revenues from Aon Corp. and Marsh & McLennan Cos. Inc. that were reported to *Business Insurance* as services. This ranking is *BI*'s estimate based on rounded percentages of placement revenue as provided by the companies in the areas of commercial retail, wholesale, reinsurance and personal lines. Consulting and other revenue, including revenue from discontinued operations, are excluded. All company figures were checked, and any revisions were supported by either public filings or third-party review. The corrected chart appears below.

Largest brokers by pure placement

Company	Placement revenue*
Aon Corp.	$5,691,980,000
Marsh & McLennan Cos. Inc.	$5,561,550,000
Willis Group Holdings Ltd.	$2,153,650,000
Arthur J. Gallagher & Co.	$994,213,000
Wells Fargo & Co.	$894,074,580
BB&T Insurance Services Inc.	$757,475,778
Brown & Brown Inc.	$746,516,547
Jardine Lloyd Thompson Group P.L.C.	$654,950,794
Hilb Rogal & Hobbs Co.	$629,408,358
Gras Savoye & Cie.	$534,634,754

* Commercial retail, wholesale, reinsurance and personal lines brokerage only, not consulting or other income.
Source: *BI* survey

Editor Regis Coccia is on vacation. His column appears periodically and he can be reached at *rcoccia@businessinsurance.com*.

Out of

HARM'S WAY WAS HEADED YOURS?

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Editorial

Using alternative vehicles

WHILE EMPLOYERS MAY have cleared up much of the damage that their facilities suffered during last year's horrific hurricane season, many of their insurance programs are still a mess.

One year after Hurricane Katrina smashed much of the Gulf Coast and caused the largest loss ever to hit the insurance market, policyholders are finding capacity short and prices high for their windstorm-exposed properties.

Insurers, which collectively made hefty profits in 2005 despite the hurricane losses, say that a fundamental change has taken place in the property insurance market and that to provide adequate returns to their shareholders they have to greatly increase their rates.

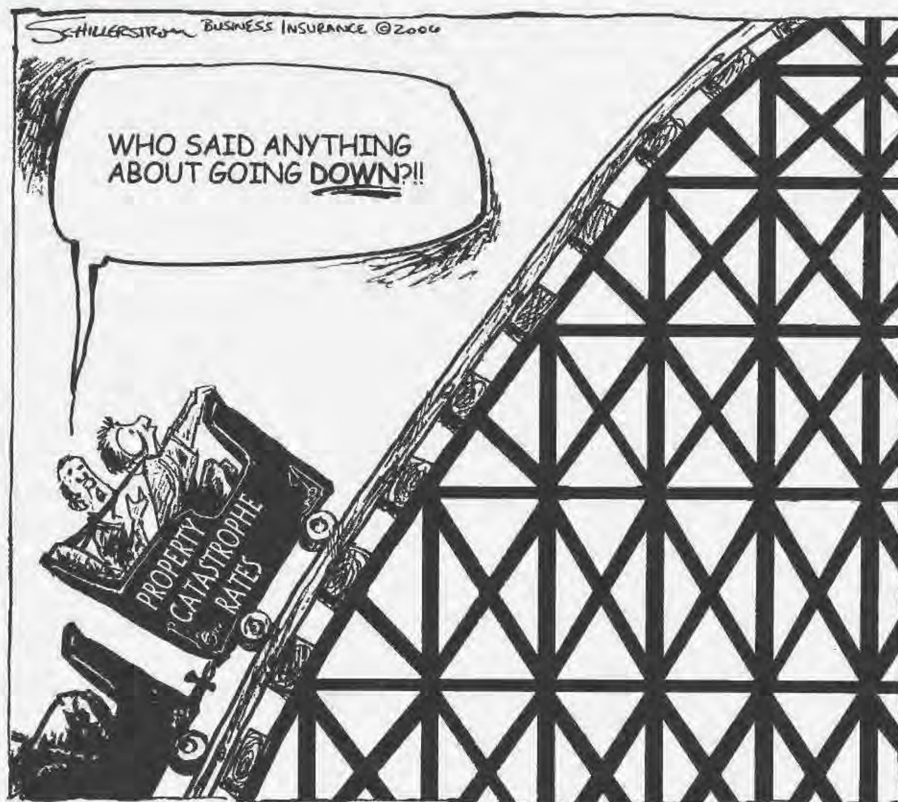
Whether the rate increases are justified or not, risk managers do appear to be facing a vastly different property catastrophe insurance market that is unlikely to change much for the next couple of years.

Increased risk mitigation efforts are an obvious place for risk managers to start in terms of ameliorating the impact of higher insurance costs. Indeed, regardless of the cost of insurance, it makes sense to bolt down roofs more effectively and replace broken windows with toughened glass.

But trying to ensure that large insurance claims are not suffered in the first place is not the only weapon that risk managers can use to reduce long-term insurance costs. In the same way that insurers and reinsurers are looking to alternative sources of capacity—whether it be through sidecars, industry loss warranties or securitized reinsurance—employers can turn to alternative risk transfer vehicles, such as funding more property risks in their captive insurance companies, as a counterbalance to the insurance market.

As has been shown in the past when insurers have shunned risks, the problems that have followed can be turned into an opportunity to develop new types of financial guarantees to back risk portfolios—and this looks like another chance to do just that.

Schillerstrom



Fair Share Act falls short

REMEMBER THE "FAIR SHARE" approach to health care reform?

Pioneered, in the latest go-around by Maryland, and copied this year by legislators in two dozen states, the approach mandated that employers above a specific size spend a certain amount of money—expressed as a percentage of payroll—on health care benefits.

Those that didn't would have to pay the difference into a state fund to subsidize coverage for lower-income state residents.

While the approach got plenty of discussion, it fortunately has turned out to be pretty much of a bust. Only one state—Maryland—passed such a bill, over its governor's veto, and a federal judge correctly found that the measure violated a provision of the Employee Retirement Income Security Act that pre-empts state laws and rules that relate to employee benefit plans.

Elsewhere, most of the bills died in committees, while a handful are technically alive but, as we report on page 1, unlikely to be acted on.

We are not surprised at this outcome. First, unquestionably, as Judge J. Frederick Motz ruled in the Maryland case, the bills clearly and unambiguously violate ERISA. The whole point of ERISA pre-emption was to allow multistate employers to offer uniform employee benefit plans. If one state, for example, requires employers to spend 6% of payroll on health care benefits, while a second state requires 7% and a third state requires 8%, it obviously becomes impossible for an employer operating nationwide to offer a uniform health care benefits plan.

Just as important, we think state legislators recognized pretty quickly that these bills had nothing to do with true health care reform: making coverage more affordable and reducing the number of uninsured. In fact, the bills were no more than a thinly disguised effort by organized labor groups to bash those employers that didn't spend what labor thought was the right amount on health care benefits.

These bills deserved to die. That said, we strongly encourage states to take action to expand health care coverage. We like approaches, such as those taken by legislators in Massachusetts and Vermont, that use broad revenue sources to subsidize premiums for low-income users, increasing the likelihood that they will go to primary care physicians for treatment of medical problems and not super-high cost emergency rooms.

Meaningful state-level reform is possible, but only if the approach is the right one.

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By Ralph C. Chapa Jr.

Perspectives

Retentions improve risk control

Risk management is about much more than buying an insurance policy. It's about carefully assessing liabilities and exposures, developing strategies and programs to prevent "losses" as much as possible and, should they occur, to mitigate their impact.

However, many corporate risk managers are missing an excellent opportunity to minimize risk and liability through self-insured retention. Through self-insured retention, buyers of liability coverages can better manage risk, lower insurance premiums, increase profitability and, perhaps most importantly, take control of any liability-related claims or litigation.

Many corporate entities have significant liability exposure as a part of doing business. Whether manufacturing a baby stroller, doing environmental cleanups or managing investments, there are times when people will be dissatisfied with the entity's performance or actions and file a lawsuit. Each industry has its own typical liability or litigation pattern and benchmarks. Not all risks can be eliminated—claims and lawsuits go with the territory.

The term self-insurance often is used, but what is really being addressed is a strategy of retained liability: the entity takes full responsibility for liability up to a certain dollar limit, beyond which insurance coverage is purchased. Since the company absorbs any lower-value claims and their costs (for legal services as well as any payouts in the form of judgments or settlements), policy premiums are reduced.

While self-insured retention may seem similar to taking out higher deductibles on policies, there is a big difference. The issue is control. When an entity is fully insured, the insurance company assigns the attorneys to handle a lawsuit, and these attorneys determine legal strategy and the terms of any settlement.

In contrast, through properly negotiated self-retention, a company will have more leverage in these determinations. At the first level, before the policy kicks in, the accused party chooses its own attorneys, directs and controls the defense, makes any settlement decision and is able to scrutinize, and thus contain, legal fees. Should the value of a case then escalate and invoke purchased coverage, the insurer often will be open to having existing counsel continue since it would have familiarity with the case. Usually, the company's chosen counsel will remain at least in an advisory capacity.

In general, companies that self-insure tend to watch lawsuits more carefully since they are on the hook first for any damages incurred. By being more careful in this way, businesses achieve lower occurrences of claims, thereby lowering their insurance premiums for the following year. These savings can be applied directly to the bottom line or, alternately, allow a company to purchase policies with higher single-occurrence and aggregate limits. This latter strategy may make sense as a business grows, expands operations, or takes on new, higher-risk endeavors, such as those involving new technology or financing.

Many businesses with significant annual expenditures for liability coverages can begin self-insured retention in a modest way. Choose an area of liability with a good claims and loss history, where anticipated retention can be handled in any worst-case scenario. Next comes shopping and working with a representative to help access the surplus lines marketplace, an arena where carriers can be found that are willing to negotiate defense conditions. The insurance markets generally are receptive to self-insurance, as it removes the most frequent, lower-value yet still time-consuming claims from their responsibility.

Then, as they further develop a claims and loss history, companies can expand their self-insured programs. Many companies each year will tweak their stake in self-insured retention with respect to limits, conditions and carriers.

SIR goes hand-in-hand with risk management. Having your own attorneys involved with claims often brings out the areas where claim avoidance can be achieved, either by making improvements to a product, correcting hazardous premises conditions, or revising the company's procedures and training. Often, part of the premium savings can be put to good use by funding these risk management techniques.

What most companies aren't aware of is that self-insured retention can be a valuable risk management and profit strategy. Most companies look for creative ways to increase profitability and minimize risk, yet few consider self-insured retention—one of the most basic, and perhaps easiest, ways to do both at the same time.

Ralph C. Chapa Jr. is a partner with the Farmington Hills, Mich.-based law firm Kaufman, Payton & Chapa, specializing in insurance-related matters and litigation.

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Cards: Employees' health care debt becomes concern as credit cards enter market

Continued from page 4

high-deductible plans as part of health savings accounts, up from 1 million in 2005, according to a survey of insurers by Washington-based America's Health Insurance Plans.

Prepaid health care debit cards have been around for several years, but credit card versions are still being tested and are not yet widely available. Vendors are still tinkering with ways to make the cards attractive to employers. Some of them are concerned that because credit cards are distributed through employers, relations with employees could be harmed if they rack up debts.

Since April, UnitedHealth has been testing OnePay, a program using MasterCard credit cards, in Texas. The state is the home base of Tenet Healthcare, which has agreed to help test the product. Dallas-based Tenet, with 14 hospitals in the state, is the only employer signed up so far and also the major provider in the arrangement. The company reports that several hundred of its 11,000 Texas employees have signed up for OnePay.

The credit card is "for a segment of the health care market, for people who expect to have really large copays and deductibles," says a Tenet spokesman. "The out-of-pocket may be $1,000 or more. Some people don't have that money."

A spokesman for UnitedHealth said OnePay members like the way it simplifies their health care bills. An array of confusing charges that patients usually deal with is replaced by one consolidated bill for the member.

Under the arrangement, UnitedHealth pays the provider immediately then bills the member. The member can pay off the bill or charge it on the card. Interest is paid at the prime rate, currently 8.25%, which is well below the rate of commercial credit cards. This can be done because payment on the card is guaranteed through payroll deductions.

But other vendors that have tested similar products have rejected payroll deductions, based on feedback from employers.

Health Pay Plus, a program from Empire Blue Cross Blue Shield, a WellPoint Inc. subsidiary based in New York, has been piloting a health care-only American Express credit card that has nearly 12,000 members from four large, unnamed employers. Empire President Jason Gorevic says the card has the same interest rate as a regular credit card. However, the program does not include payroll deductions because "the feedback from employers is that it would create ill will from employees," he said.

The UnitedHealth spokesman said employers already deduct payments from paychecks for employer-sponsored health care plans and the financial squeeze from OnePay is limited. It deducts no more than $50 a paycheck and the total owed cannot exceed the member's maximum yearly out-of-pocket charge, which is just a few thousand dollars, he said. In addition, employees who leave the company are not on the hook for the money still owed. In these situations, he said, the company would have to work directly with the former employee to recoup the money.

"The employer may have employees who have significant credit problems. It may not want to know that information."

Jon Kessler
WageWorks Inc.

Meanwhile, WageWorks Inc., a San Mateo, Calif., provider of consumer-driven spending accounts, disbanded a pilot health care credit card program this year, due partly to concerns about the employer's role, says Chairman and Chief Executive Officer Jon Kessler.

"Does the employer want to get involved in the employee's credit relationships?" he asked. "The employer may have employees who have significant credit problems. It may not want to know that information."

Mr. Kessler says the card also presents problems for consumers. Providers are often willing to lower charges for individual patients, but when a credit card company pays the bill, the charge is locked in. He is also concerned about divided loyalties—while the vendor of a regular card is basically loyal only to the cardholder, he said, the health card vendor also wants to make sure providers are paid.

Paul Fronstin, director of the health research and education program at Washington-based Employee Benefit Research Institute, is concerned that the health care cardholders will get all too enamored with their pieces of plastic and charge too much.

The UnitedHealth spokesman disagreed with the critics. "This is not about swiping the card and not having to think about the cost of health care," he says. "Folks are still going to get a written statement showing what they owe."

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THE BENEFITS OF BETTER COVERAGE.

Guidelines: Group of buyers set principles for broker relationships

Continued from page 3

United Technologies Corp.

The document's signers say they're eager to add more signatories to the document.

"I wish I could say it was my idea," said Richard L. Broderick, vp of risk management at Harris Corp., a Melbourne, Fla.-based communications and information technology company. "I think it's putting into writing what we're doing and (what) should be done; it was self-explanatory even before Spitzer. It's just following good, sound ethics."

"You want people to know you're behind high standards," he said.

Mr. Broderick noted that, after Mr. Spitzer charged Marsh & McLennan Cos. Inc. with bid rigging and client steering, Harris' management and board asked him whether its arrangement with broker Marsh should be changed or terminated; eventually, the company kept Marsh but added Aon Corp. to handle its executive risk placements. "There have been some changes, some good changes, since Spitzer, and we're getting better answers than we have in the past, but you have to remember that in the past, brokers didn't think this was all that big a deal."

> "I think it's putting into writing what we're doing and (what) should be done; it was self-explanatory even before Spitzer. It's just following good, sound ethics."
>
> **Richard L. Broderick**
> Harris Corp.

Paul E. Morrison, director of risk management at St. Louis-based manufacturer Emerson Electric Co., said, "Overall, this is a statement that if you want to do business with us, you've got to have a very transparent relationship when it comes to compensation—both direct compensation and indirect compensation."

"You wouldn't think you'd need this proposal, but a lot of risk managers think it's both necessary and beneficial," he said.

Some risk managers including

See GUIDELINES / next page

Principles outline protocols for brokers

The risk manager representatives of the Manufacturers Alliance/MAPI have outlined the "principal broker representations" on which clients rely when working with a broker. The principles say that the intermediary:

- Works in the sole interest of the client on matters relating to the client's account.
- Receives compensation related to the account exclusively from the client. Compensation is defined as any and all income that flows to the broker—including any members of the brokerage team and any/all affiliated companies—related to the client's account. The broker is not entitled to any other compensation related to the account unless it is disclosed to—and agreed to in writing by—the client prior to its receipt. Should the broker receive any account-related compensation that is not disclosed and agreed to in advance, its amount will be credited against the client's fee to the degree permissible by law.
- Discloses to the client any actual or potential conflicts of interest or the appearance of conflicts of interest.
- Provides the highest level of professional services to the client to minimize the client's cost of risk—regardless of the impact on the broker's compensation.
- Acts in a fiduciary capacity on behalf of the client.
- Provides an annual reconciliation of fees/commissions within 45 days of the account anniversary.
- Provides a copy of its ethics policy/code of conduct to the client and affirms that all members of the brokerage team are required annually to sign a statement acknowledging that they have read and understand the contents of such document(s).
- Advises the client of any ownership interests it has in any companies that are currently engaged in a business relationship—or have a business proposal pending—with the client's risk management/insurance program.
- Makes available for review and/or audit by the client all documentation necessary to verify conformance with these expectations.
- Attests in writing, under an officer's signature, to the accuracy of the representations.

—By Lawrence Richter Quinn

On September 23, 2005, in Mission Viejo, California, Coach Bob Johnson chalked up his 200th win.

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Guidelines: Risk managers propose principles for broker/client relationships

Continued from previous page

those based outside the United States, who haven't signed the document say they support the risk managers' efforts.

"I think the MAPI principles are very healthy," said Laurie J. Champion, who was recently named vp of risk management at Coca-Cola Enterprises Inc. in Atlanta, and who has seen the principles but not yet reviewed them in detail.

"You need someone who says: 'This is how we're going to do business together and what we expect brokers to do at a minimum.' There's a lack of standardization (among all types and sizes of brokers) that makes it difficult to manage relationships," she said.

MAPI member Steven Bechhofer, who is vp of audit, risk management, business continuity and compliance at Qimonda A.G., a Munich, Germany-based computer parts manufacturer, also endorses the initiative but has yet to sign it. "Good governance by and for the brokers will benefit the industry as a whole, leveling the playing field for all concerned. This may create additional bureaucracy, but a lot can be said for transparency—something which many of us have sorely missed over the years."

Despite these accolades, the future of the risk managers' initiative is not clear. For one, supporters are not sure how many more MAPI members will sign on.

Some brokers approve

For their part, brokers are tentatively endorsing the principles.

Mario Vitale, chief executive officer of Willis North America said, "I think it's good that an organization like MAPI is doing something like this; nobody else is doing it, fighting for it."

"This is good governance," Mr. Vitale said. "I like the spirit and direction of (the effort), and though I haven't had our corporate governance people look at it yet, would have no problem signing it. It mirrors closely the 'customer bill of rights' we developed with our clients after the Spitzer investigation was announced."

Patrick Hylant, chairman and CEO of Toledo, Ohio-based Hylant Group Inc., said in an e-mail response: "I have no problem with the document and would be glad to sign it for any client so seeking. It is the way we have operated on fee accounts since day one."

Steve Denton, chief operating officer at Atlanta-based Beecher Carlson, said, "What they're doing absolutely is good governance."

Marsh Inc. and Aon Corp. declined to comment.

What risk managers are saying:

"Good governance by and for the brokers will benefit the industry as a whole, leveling the playing field for all concerned."

Steven Bechhofer
Qimonda A.G.

"We're not trying to change the world; we're resuscitating what brokers already say they do. We're saying, 'We believe you; this is what we've heard from you.' It's just kind of common sense."

Dean A. Reynolds
Northrop Grumman Corp.

"With Spitzer, Marsh came out with something very similar to the MAPI proposal, and that's why I said, 'We've already done this with our broker, it's year-old news.' "

John Hach
Lincoln Electric Holdings Inc.

For the moment, the biggest challenge remains obtaining more signatures within the MAPI risk council's own membership.

Much to their own surprise, backers say it's proving difficult to add new signers—even though they're not asking to do anything new, they say.

Dean A. Reynolds, corporate director of risk management at Northrop Grumman Corp. in Los Angeles and a proponent of the principles, said: "We're not trying to change the world; we're resuscitating what brokers already say they do. We're saying, 'We believe you; this is what we've heard from you.' It's just kind of common sense."

Robert W. Garrison, vp of North American risk management for Siemens Financial Services Inc. in Iselin, N.J., said: "I thought this would get more popular acclaim and move more quickly and broadly than this. It isn't happening and it does surprise me."

He added, "The issue is whether we'll be able to get a sufficient mass of risk managers to sign this in Tucson so that we have an impact," Mr. Garrison said. "I'm less optimistic than I was originally. There seems to be a real problem getting people simply to put their corporate names on anything."

Rich Inserra, head of Insurance Strategies Ltd., in Ridgefield, Conn., and a former risk manager, said: "You would think that risk managers, after having been victimized, might want to do something a little more positive to demonstrate they're governing brokers in a more positive way, but you don't see a lot of that happening."

At least one risk manager says that he sees no need for the document.

John Hach, risk manager at Lincoln Electric Holdings Inc. in Cleveland, said he will not sign on to the principles in part because they have already been incorporated into his new agreements with Marsh.

"With Spitzer, Marsh came out with something very similar to the MAPI proposal, and that's why I said, 'We've already done this with our broker, it's year-old news,'" Mr. Hach said.

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Among the risk management tools offered in the program are a complimentary membership in the Assn. of Certified Fraud Examiners, a provider of anti-fraud training and education; a copy of the Fraud Examiners Manual, a reference for the anti-fraud profession developed by ACFE; fraud prevention tip sheets; and a desktop reference for the 10 leading fraud prevention techniques.

For more information, call Zurich at 866-860-7292, or visit *www.zurichna.com.*

Benefit Concepts adds Enwisen enrollment program

NOVATO, Calif.–Enwisen, a provider of on-demand human resources communications services, has announced that Benefit Concepts Inc. will integrate and resell the Enwisen AnswerSource Knowledge Center's Benefits Communications and Decision Support suite with Benefit Concepts' AvantServe benefits administration system.

The Enwisen program offered by Benefit Concepts helps employers achieve paperless enrollment, streamline enrollment processes and costs, implement plan changes, drive the right employees to the right plans and help employees to become more informed benefits consumers.

The service is available to employers with 100 to 100,000 employees.

For more information on the integrated program, call Earle Phillips, vp marketing of East Providence, R.I.-based Benefit Concepts, at 401-438-7100, ext. 324, or visit *www.benefit concepts.com.*

Wellington offers avian flu cover

LONDON–Wellington Underwriting Agencies Ltd. has developed an avian influenza business interruption product designed for broiler farmers in the United States.

The policy covers business interruption costs incurred by farmers following the slaughter of poultry by order of the U.S. Department of Agriculture in the event of the H5N1 strain of avian influenza on their farms.

Farm limits of $100,000 are available, and each affected chicken house is covered up to $5,000.

For more information, contact London-based Wellington's Marketing Manager David Turner at 44-207-944-0457 or at *david.turner@wellington.co.uk.*

Chubb expands K&R, extortion policy

WARREN, N.J.–The Chubb Group of Insurance Cos. in Warren, N.J., has enhanced its kidnap and ransom and extortion insurance policy.

Chubb offers kidnap and ransom and extortion coverage as part of its specialty commercial lines packages for privately owned companies, publicly held companies, financial institutions, not-for-profit organizations and health care organizations.

Chubb enhanced the policy by, among other things, offering unlimited insurance for the fees and expenses of Miami-based Ackerman Group L.L.C., a security consulting and negotiation firm; broadening business income insurance to include all perils insured under the policy, such as cyber extortion; extending insurance to domestic partners in addition to existing coverage for relatives; reducing the business income waiting period to six hours from 72 hours; eliminating the requirement that a civil authority must shut down the policyholder's operation; extending hijacking insurance to incidents on trains in addition to current insurance for incidents on airplanes and ships; and revising threat response expense insurance to include reimbursement for expenses incurred as a result of a threat made directly against an individual. Previously, the policy provided reimbursement only for threats made against the policyholder's business.

Policy limits of up to $25 million are available.

For more information, call Greg Bangs at 908-903-5372 or reach him at *gbangs@chubb.com* or visit *www.chubb.com.*

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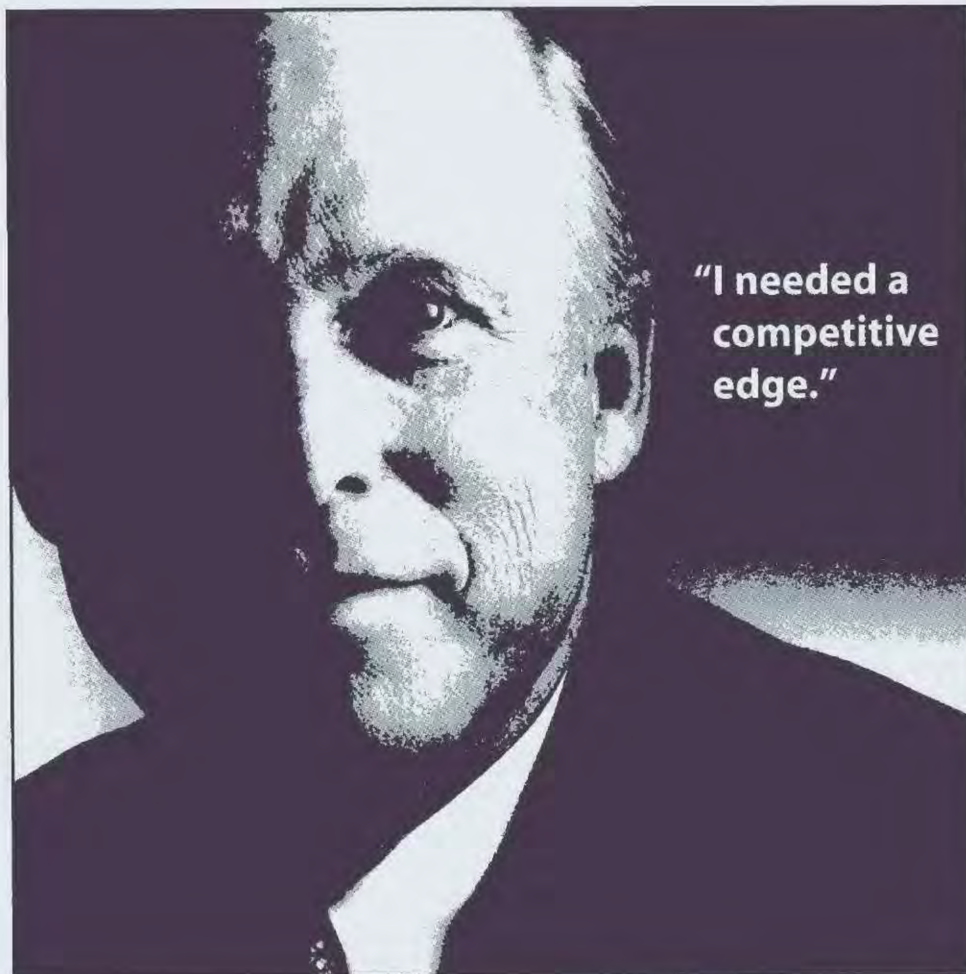

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Hiring managers key to avoiding discrimination claims

Training will help keep interviews from straying into forbidden areas

By FAY HANSEN

A telephone interview between a production manager and a job candidate is now evidence in the Equal Employment Opportunity Commission's race discrimination lawsuit against Vivendi Universal S.A. that's scheduled to go to trial Oct. 23.

The EEOC contends that the termination of an African-American first assistant director was racially motivated and cites the interview with another man, who was being interviewed for a different job in the same film production, as part of its evidence.

In its suit filed in U.S. District Court for the Central District of California in 2003, the EEOC is seeking $8 million in back pay for Frank Davis, who had been hired to work on the film "2 Fast 2 Furious." The EEOC is also seeking damages and court-enforced monitoring and oversight of the studio's hiring and firing practices.

The telephone interview, conducted with a candidate for another directing position on the film, included a blatantly impermissible question about race. The production manager for Universal, who had been involved in the decision to fire Davis, asked the candidate for a second assistant director position: "What color are you, are you black?" The federal court found that the question was "sufficient to give rise to an inference that the termination decision (regarding Davis) was motivated by illegal discrimination."

Lawsuits fueled by forbidden lines of inquiry are less common in this age of diversity classes and compliance training, but the legal boundaries surrounding the interview process are becoming far more complex.

"We've moved from the first generation of interview issues, which centered on explicitly impermissible questions about age, race and national origin, for example, to the second generation, where the problems are far more subtle and hiring managers still need more training," said Judith Keyes, an employment attorney with Davis Wright Tremaine L.L.P. in San Francisco.

Interviews that stray into impermissible areas carry three potential consequences, Ms. Keyes noted. An unsuccessful candidate may claim discrimination based on information that was revealed. A rejected candidate also may claim discrimination because the line of questioning and information provided was not consistent for all candidates. Finally, a successful candidate who is later terminated may reach all the way back to the interview to show evidence of discrimination or, as occurred in the Universal case, use remarks from a separate interview to show a pattern of discrimination.

Training hiring managers

Hiring managers are the weak link in the compliance chain because "they lack a basic understanding of employment law," said Jennifer Sandberg, an employment attorney with Fisher & Phillips L.L.P. in Atlanta. "They may be aware that they should avoid potentially discriminatory behaviors with employees, but often are not aware that applicants are protected with equal force by the very same antidiscrimination laws that apply to employees."

Ms. Sandberg said problems also arise because hiring managers often don't have a "big picture" process for thinking about the open position and the qualifications it requires or for deciding where recruiting will occur and within what time frame. In addition, they don't have a "smaller picture" plan for interviewing specific candidates.

The lack of planning means hiring managers might not see the right candidates and could stray into dangerous territory during interviews.

"Hiring managers often talk too much and ask the wrong questions," Ms. Sandberg said. "Also, they don't know how to respond to questions from candidates, such as queries about health care benefits for specific conditions, that can lead into dangerous territory. Managers need a plan to redirect the conversation when it goes astray."

While there may be no law against asking a specific question in an interview, courts may make inferences about why an employer is asking that question, Ms. Sandberg explained. The most common line of inquiry that can lead to discrimination claims stems from questions related to child care and raising children.

"The hiring manager's real concern here is that the candidate may not come to work because of child care issues," Ms. Sandberg said. "Instead of asking about the candidate's child care arrangements, the manager should ask the candidate directly how often he or she misses work. Questions related to attendance and productivity are entirely appropriate."

Ms. Sandberg also advises managers to deal decisively and immediately with any new employee who is late or absent to avoid potential discrimination charges.

"Managers have to learn to say that the employee's excuse doesn't matter," she said.

"One of the most dangerous things a company can do is to allow managers to hire warm bodies," Ms. Sandberg noted. "Once they are in your organization, it's difficult to get them out. If they are a member of a protected group, discrimination charges may follow the termination."

Breakdowns in preventive policies often occur between human resources and hiring managers, particularly at multilocation companies.

"HR may have good policies in place, but if they are not dissemi-

See EEOC/ page 16

Business Insurance

Late News

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COMMENTARY

Sally Roberts

Savings lesson vital to build nest egg

When I turned 13, I received what I thought to be the absolute *worst* birthday present from my father. He gave me $100 to play the stock market.

And like the quintessential teenager that I had become that day, I ignored the gift and put off my dad's questions of what company I wanted to invest my money in. I remember sitting on the stairs playing my hand-held baseball video game when my dad once again broached the subject. Irritated, I turned over my video game saw the name "Coleco" embossed in the plastic, told him to put my money in that company and went on my way. My dad, I remember, was somewhat surprised by my quick non-thought out response (although it may have been the fact that I responded at all) and the fact that Coleco Industries was indeed a publicly traded company. Following my instructions, he bought $100 worth of Coleco's shares for me.

And that's when the fun began.

That same year, Coleco released the Cabbage Patch Doll. And for any of you who in the early 1980s attempted to purchase such a doll, you're well aware that Coleco couldn't produce them fast enough to keep up with demand.

As Coleco's revenues soared, so did my interest in the stock market. And I began to learn about investing.

It may not have been a hard-core lesson in finance, but I learned that I could become an "owner" in a company that produced toys that I liked to play with. I learned how to read a ticker symbol in the newspaper and compete with my brother over whose stock grew more overnight. I learned about diversifying and investing more conservatively from my brother who—much to his chagrin—had invested half of his birthday money the year prior in a more stable aerospace company and the other half in the local electric company. I learned that selling shares high and receiving a more than 250% return could buy me the stereo that I really wanted for my birthday. And I learned that if you sell your shares too soon, you could miss out on a stock split and perhaps two stereos.

Coleco ended up going bankrupt, eventually selling its assets to Hasbro Inc. in 1989 and I eventually sold my stereo in a garage sale for about $5, but my Coleco lesson has served me well for nearly 25 years now. The investing seeds were sown, so to speak, and I thank my father for that. He wasn't thinking when I was 13 that by the time I retired, Social Security, retiree health benefits and pension plans may not be there to help support me. He didn't know that by 2005, consumer debt in America would reach $2.2 trillion and that the nation's personal savings rate would be zero. He just wanted to teach me how to invest and save money.

I'm fortunate; I learned young. But I'm in the minority.

Only 31% of eligible workers ages 18 to 25, and only 63% of eligible workers ages 26 to 41, participate in a tax-deferred 401(k) plan, according to a 2006 Hewitt Associates Inc. survey. A majority of these workers cited other financial obligations as taking greater priority than contributing more, or at all, to a retirement savings plan.

While the survey found that fewer of these younger workers expect to rely on a pension plan or Social Security than those of the Baby Boomer generation, a great majority of them remain confident that they will maintain their pre-retirement standard of living in retirement.

I don't know whether this is false confidence, but I do know that if 69% and 37% of the young workers surveyed, respectively, are not currently saving money in an available employer-sponsored retirement plan, they won't have as much money as they could later in life. And that's a scary proposition.

We as a nation need to do a better job of educating our young people about the importance of saving and about basic money management.

Parents certainly can play a part, but so, too, could our schools. Several states, including Virginia, Texas and South Carolina, have recently mandated that economics and financial literacy be taught in middle and high school, according to a Washington Post article. And the Maryland State Department of Education is developing lessons on personal finance covering such topics as health insurance selection, retirement planning and credit-card management, the article said.

This is a good start and I can only hope that when my two young sons reach middle school, such education will be among their school's offerings. One thing's for sure, though, I know what they will be getting for their 13th birthdays.

Senior Editor Sally Roberts can be reached at sroberts@businessinsurance.com.

EEOC: Employers must train hiring managers

Continued from page 14

nated to the outlying areas, problems arise," Ms. Sandberg said.

Also, application forms should be customized for each state to reflect differences in state laws.

"Undisciplined hiring practices will frequently get employers in trouble," said Margaret Hart Edwards, shareholder at Littler Mendelson P.C. in San Francisco. She advises HR and staffing executives to design open-ended interview questions that force applicants to demonstrate whether they have the required skills and experience.

Hiring managers should be trained to restrict questions to explicitly job-related topics. Applicants should be treated alike and asked the same questions. When possible, applicants should be interviewed by more than one manager, and the same panel should interview all candidates.

"Group interviews offer the opportunity to get much more information from the applicant if the interviewers stick to their questions and logical follow-ups," Ms. Edwards said.

The interviewers should rank the applicants against one another using the information obtained.

"Only the final ranking should be preserved," Ms. Edwards said.

She advises employers to avoid shortcuts, such as skipping reference and background checks. She also suggests offer letters with "at will" language that has been reviewed by employment counsel.

Eliminating chitchat

Discrimination issues are particularly likely to arise when hiring managers try to ferret out information on the candidate's personal, social and interactive skills. They may be more common when the candidate is under consideration for a higher-level position and the interview process includes a dinner or other social occasion, said Ms. Keyes of Davis Wright Tremaine.

Even if hiring managers know which topics of conversation to avoid, the candidate may open the door to a troublesome area in an attempt to be more likable.

"This is a major potential pitfall because the hiring managers may believe that certain conversations are permissible if the candidate initiates them," Ms. Keyes said.

The solution is to train hiring managers to redirect the conversation to neutral terms.

"This is a complex area," she said. "Obviously, a disabled applicant may tell the employer in an interview that he or she is disabled and what the reasonable accommodation would be. It is permissible for the applicant to offer this information, and for the employer to consider whether the accommodation is reasonable. But if the accommodation is reasonable, then the disability becomes a neutral part of the conversation and may not influence the hiring decision."

Ms. Keyes advises that hiring managers receive face-to-face training that includes role-playing. "In the role-playing, a knowledgeable interviewer is confronted with an applicant who, reading from a script, leads the interviewer out onto thin ice," she said. "The purpose of this...is to impart the lesson that responses to open-ended interview questions can turn problematic and the hiring manager must steer the conversation back into permissible job-related territory."

When candidates push the conversation into a potentially impermissible area, hiring managers must follow three steps, Ms. Keyes said.

First, maintain a comfortable and relaxed atmosphere. "They must not suggest that a wrongdoing has occurred," Ms. Keyes noted.

Second, the hiring manager should suggest through words or body language that the information is interesting but not pertinent.

Third, the hiring manager should pick up on a permissible neutral point and then turn that point back to a job-related line of inquiry.

In situations where the interview process extends into a dinner or another social occasion, Ms. Keyes reminds hiring managers that being under the influence of alcohol is not a defense if they are charged with discriminatory behavior.

"Although they may be in a social setting, the rules remain the same," she said. "And it is assumed that any information the employer elicits is subject to the rules."

If a candidate provides impermissible information during the process, the company is prohibited from using it in the hiring decision.

"Hiring managers should be aware that they should not write down the impermissible information in their notes or the interview summary, and they should not share the information with anyone," Ms. Keyes said.

The only caveat is that if the candidate's remarks are so out of line that the actual information offered is not only impermissible but inappropriate. That inappropriate behavior may be considered in the hiring decision, Ms. Keyes said. In that case, the inappropriate behavior can be noted and shared.

Employers can expect the EEOC will eventually scrutinize "creative" interviewing, particularly because it often promotes different lines of discussion with different candidates, cautioned Gayla Crain, managing partner at Epstein Becker Green Wickliff & Hall in Dallas. "If employers are going to use 'creative' questions, they should ensure that they are using the same ones for all applicants," Ms. Crain said.

Reduce interview risks

- Restrict questions to only job-related topics
- Treat all applicants alike and ask them all the same questions
- More than one manager should interview each applicant, and the same panel should interview all candidates
- Rank candidates against each other using only the information obtained

Fay Hansen is a reporter for Workforce Management, a sister publication of Business Insurance.

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Workers share duty in addiction fight

By GLORIA GONZALEZ

OTTAWA—The Supreme Court of Canada has declined to hear appeals of two British Columbia court decisions concerning an employer's duty to accommodate employees with drug addictions.

In *British Columbia Nurses' Union vs. Health Employers Assn. of British Columbia*, the British Columbia Court of Appeal reinstated an employer's decision to terminate an employee who had been fired in relation to his drug addiction.

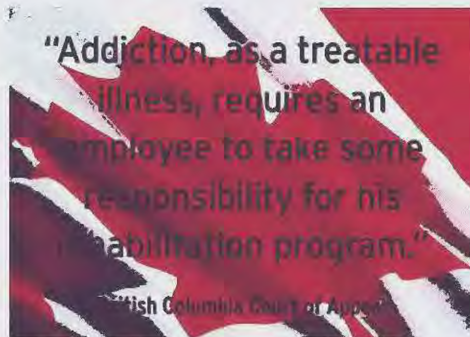
Ron Bergen, a registered nurse at the Kootenay Boundary Regional Hospital, was fired in spring 2003 for failing to abstain from using drugs, stealing drugs and dishonesty—a termination that became the basis of a grievance filed by his union.

A grievance arbitrator overturned the hospital's decision to terminate the nurse, saying that Mr. Bergen's drug addiction was an illness and a disability under provincial human rights law, that his addiction was causally connected with his misconduct at work and that the employer failed to consider accommodating him by finding a job where he would have no access to drugs.

In February, the Court of Appeal overturned the arbitrator's decision and cited the arbitrator's failure to consider that Mr. Bergen had a duty to facilitate the accommodation process and that he had been given two previous opportunities to rehabilitate his addiction. "Addiction, as a treatable illness, requires an employee to take some responsibility for his rehabilitation program," the ruling said. "Mr. Bergen failed to discharge that duty, and the duty to accommodate was exhausted."

The court's statement that employees have an obligation to participate in the accommodation process was beneficial to Canadian employers, said Andrea York, a partner in the labor and employment practice of Blake, Cassels & Graydon L.L.P. in Toronto. "The employee basically can't sit back and let the employer do all the work, which is good news for employers," she said.

In *Kemess Mines Ltd. vs. International Union of Operating Engineers, Local 115*, the Court of Appeal upheld an arbitrator's finding that the employer had not accommodated the employee to the point of undue hardship.



The case began when Mark Gardiner, an employee of Kemess Mines, was fired in August 2004 after he was caught smoking marijuana in his room at the mine site, contrary to the employer's zero-tolerance policy on drug use.

At an arbitration hearing, the employer said Mr. Gardiner's conduct warranted dismissal, but the union argued that the firing violated the provincial human rights code because the employer had not accommodated Mr. Gardiner to the point of undue hardship.

The arbitrator ordered the mine to reinstate Mr. Gardiner, finding that the employer had not fulfilled its duty to accommodate. Instead, the arbitrator imposed a 10-month disciplinary suspension on Mr. Gardiner and ordered him to abstain from drugs, complete a treatment program and attend substance abuse support meetings.

In appealing the decision, the mine company argued that it was not discriminatory to dismiss an employee for failing to abide by its drug policy unless the employee can show that his addiction actually prevented him from complying with that policy. The employer expressed concern that accommodation of employees such as Mr. Gardiner would undermine the purpose of its policy, which was designed to address valid workplace safety issues. The employer also argued that it accommodated all its employees proactively by providing an employee and family assistance program that an employee could contact to seek assistance with drug problems.

While acknowledging that an addicted employee does have a duty to facilitate accommodation through rehabilitation, the Court of Appeal said the scope of the employee's duty varies depending on several factors, including whether the employee is in denial or unaware of the addiction. The court upheld the arbitrator's finding that Mr. Gardiner was not fully aware of his addiction and that it would be wrong to conclude that his failure to seek help ended the employer's duty to accommodate.

While also acknowledging the employer's legitimate safety concerns in establishing its drug policy, the court found that the deterrent nature of the policy would not be seriously undermined by the arbitrator's decision, especially since the arbitrator imposed a suspension on the employee.

"I don't think you can say there will be zero tolerance and everybody will be terminated," Ms. York said. "The level of discipline has to vary depending on the case."

Last week's refusal by the Supreme Court of Canada to consider either appeal allowed the Court of Appeal rulings to stand.

British Columbia Nurses' Union vs. Health Employers Assn. of British Columbia (Kootenay Boundary Regional Hospital) (B.C.) (31417)

Kemess Mines Ltd. v. International Union of Operating Engineers, Local 115 (B.C.) (31415)

Manitoba adds nine industries to comp system

By GLORIA GONZALEZ

WINNIPEG, Manitoba—Manitoba is expanding the number of industries covered by its workers compensation system for the first time since the 1960s, bringing its program more in line with those of other Canadian provinces.

Some Manitoba employers, though, are concerned about the expansion, questioning whether it is necessary to mandate coverage for some of the new industries and the potential for increased workers comp costs.

The province is adding nine industries to the insurance system run by the Workers Compensation Board of Manitoba effective Jan. 1, 2007 (see box, page 18). The coverage expansion represents about 1,150 employers, although 67% of those employers already have voluntary coverage with the provincial system and will not see any changes.

See COMP / next page

Competition, volatility a deregulation concern

By MICHAEL BRADFORD

TAIPEI, Taiwan—Insurance deregulation in Taiwan has created a stable but intensely competitive and loosely disciplined property/casualty marketplace, a newly released study concludes.

The report, "Nonlife Insurance Industry Risk Analysis: Taiwan," published by Standard & Poor's Corp. and its Taiwan Ratings Corp. subsidiary, said deregulation implemented in 2001 has created a market that is flexible and profitable. There remain, though, concerns about the volatility brought on by increased competition.

"Regulatory changes and consolidation have been gradually reshaping the industry landscape, creating opportunities and challenges for participants," said the report's co-author, S&P Credit Analyst Susan Chu, in a statement. "Deregulation is increasing operating flexibility, and consolidation should allow some companies to benefit from better economies of scale."

"The industry's operating performance is satisfactory by international standards," said co-author and S&P Credit Analyst Steven Chen. "Its combined ratio ranged between 94% and 101% in 2001-2005, and the variations in it over that period were smoothed to some extent by reinsurance arrangements," he said in the statement.

The industry reported an average annual return on revenue of 13% between 2001 and 2005, according to the report.

It also said the majority of nonlife insurers in Taiwan are adequately capitalized.

Even so, "Operating volatility is expected to increase because of the combined effects of fierce competition, increased retention risk, riskier investments and catastrophe risk," Mr. Chen said.

The report noted that most nonlife insurers in Taiwan have a similar business strategy to "compete on price to gain market share, while offering similar products," an approach that led to a price war in 2003.

The report is available to subscribers of S&P's RatingsDirect at *www.ratingsdirect.com*. Nonsubscribers can purchase a copy by calling 212-438-9823 or e-mailing *research_request@standardandpoors.com*.

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Business Insurance EUROPE

Bush: Health directive lauded

Continued from page 4

them to start with, that's a legitimate sample. We—the government and private employers—now collectively can use it as a means to develop expectations about price and quality, and that's what we'll be working on."

The presidential directive, which will be implemented for new contracts or contract cycles that begin Jan. 1, 2007, also calls for the federal government to work in concert with similar initiatives in the private and nonfederal public sectors.

"Employers have long wanted for these things—advanced (health information technology), interoperability, transparency, the right data to measure quality and safety, etc.—so having the largest purchaser insist on these standards as a condition of doing business is what we have wanted for a long time," concurred Helen Darling, NBGH president.

"These actions will make all of the difference in the world. We just all need to join together to collaborate for the nation's interest to ensure quality, patient safety, efficiency and affordability," Ms. Darling said.

Larry Boress, vp at the Midwest Business Group on Health in Chicago, said that by throwing its hat in the ring, the federal government will provide long-needed direction to numerous ongoing private-sector health care quality measurement and transparency efforts.

"For a number of years, employers and coalitions have looked into the crowded field of metrics and said, 'It's great that we now have all of these groups developing quality measures and approaches, but it's like a stampede. They're all going in different directions. Which one do we follow and what direction do we take?'" Mr. Boress said.

"Now we have some direction, the federal government has drawn the parameters of what the quality and transparency movement is going to be all about and essentially is saying the federal government will, in collaboration with other stakeholders, create and adopt quality metrics and help people understand what's out there and how you should judge health plans and providers," he said.

While supportive of the intent of the president's directive, at least one health benefit expert expressed some skepticism about its ultimate impact.

"Great idea. Let's see where the money is and the commitment in terms of resources to make it happen, because it isn't just a matter of opening up our databases to everybody and saying, 'Come one, come all and take our data.' It's not going to happen that way," said Linda Bergthold, a senior consultant in the Universal City, Calif., office of Watson Wyatt Worldwide who works with NBGH's Evidence-Based Plan Design Committee.

"Unless there's money tied to it, unless there's a real investment by the government in doing this, it's just rhetoric," Ms. Bergthold said.

The president's order states: "This order does not assume or rely upon additional federal resources or spending to promote quality and efficient health care."

Comp: Manitoba expands industry mandate

Continued from previous page

Canadian workers comp coverage is provided largely by provincial and territorial workers comp boards and financed by employer-paid premiums. Employers have no control over the rates set by the boards; rates for each company in a given sector reflect the loss experience of that sector, though those companies that have low incident levels within a sector are eligible for individual rebates.

In Manitoba, about 70% of employees are covered by the system, the lowest level of coverage in the country, according to Nancy Allan, the province's labor and immigration minister. The expansion of coverage will allow more than 7,000 additional workers to receive benefits, she said. "We are committed to gradually extending WCB coverage starting with the industries where it makes the most sense," Ms. Allan said in a statement.

The new industries are currently covered by most other workers comp boards across Canada. For example, mines exploration, which falls under the category exploration and prospecting, is an industry whose coverage is compulsory under all other provincial/territorial workers comp systems.

Initially, the provincial government published a longer list of industries for which compulsory coverage was being considered, but the list was trimmed down in the midst of opposition by groups representing employers.

The Manitoba chapter of the Canadian Federation of Independent Business, which represents more than 4,800 small and midsize employers in the province, successfully fought the inclusion of several industries, including the health care sector. The organization's health care members opposed compulsory coverage because they already have private insurance coverage that they felt was superior to the provincial program, said Shannon Martin, director of provincial affairs for the CFIB in Winnipeg, Manitoba. "They actually thought that was a detriment to their employees," he said.

Expanding workers comp coverage

Manitoba is expanding the scope of its workers compensation system to mandate that employers in the following industries participate in the program beginning Jan. 1, 2007:

- **Outside window cleaning**
- **Aviation and air transport**
- **Exploration and prospecting**
- **Mushroom- plants**
- **Taxidermy**
- **Testing laboratories**
- **Land surveying**
- **Landscape architecture and design**
- **Property management**

Source: Manitoba Labor and Immigration Department

Mr. Martin believes, though, that the employers' victory may be short-lived because of the minister's stated intention to continue expanding the number of industries covered by the system. "There's no doubt in our minds whatsoever that there will be further expansion," he said. "The big question our members are facing is, 'What's next?' "

Employers in some of the new industries that will now be compelled to obtain coverage questioned the need for such coverage, Mr. Martin noted. "I would suggest taxidermy is hardly a dangerous occupation as well as property management and design of landscaping," he said.

Another key issue for employers relates to the cost of coverage, including the possibility that adding more employers and workers could disrupt what is one of Canada's most stable workers comp programs and eventually lead to higher rates.

The Workers Compensation Board of Manitoba has not yet finalized its assessment rates for 2007, but rates have been assessed for employers in the new industries that have sought voluntary coverage in the past. For example, Manitoba employers in the industry category taxidermy that elected to obtain WCB coverage were assessed an average rate of $1.83 Canadian ($1.63) per $100 Canadian ($89) of insurable earnings for coverage this year. Manitoba employers paid the second-lowest average premium in Canada this year at $1.68 Canadian ($1.50) per $100 Canadian of insurable earnings.

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Market: Katrina likely to continue to influence catastrophe insurance capacity

Continued from page 1

billion of windstorm coverage for its approximately $35 billion of total insured property values—about $22 billion of which is located in wind-prone regions, according to James D. Hinton, vp-risk and insurance.

During this year's May renewal, HCA was able to purchase less than $270 million of windstorm coverage above its 5% deductible per location, according to Mr. Hinton. And, "we've got holes" in the layer above the first $100 million of coverage, Mr. Hinton noted.

With that reduced catastrophe coverage—and even though HCA's fire limits remained at $1 billion—the cost of HCA's entire property program shot up 167%.

HCA's renewal was fairly typical in the post-Katrina property catastrophe insurance market era.

This year, catastrophe capacity is down as much as 80%, and risk managers should expect to pay two to five times as much for that reduced coverage, according to brokers and risk managers.

Of course, the catastrophe losses that insurers covered last year are helping shape the market. Catastrophes in 2005 generated a record $61.2 billion of insured losses, with Katrina accounting for about $40.6 billion, according to the New York-based Insurance Information Institute and the Rahway, N.J.-based Property Claims Service division of the Insurance Services Office Inc.

And those losses came on the heels of a then-record $27.5 billion of covered catastrophe losses in 2004, according to the PCS and III.

Despite those heavy losses, property/casualty insurers recorded their fourth consecutive profitable year and third consecutive year of surplus growth in 2005, in part because reinsurance covered a lot of those losses.

Still, insurer rating agencies and catastrophe modeling companies became concerned that they may not have fully measured insurers' true exposure to, and ability to withstand, catastrophe losses.

Several insurer rating agencies over the past year have toughened the risk-based capital formulas and stress tests they use to measure the adequacy of capital that insurers have to support the catastrophe risks they underwrite. Among other factors, the agencies adjusted their formulas to measure insurers' ability to withstand multiple catastrophic events within one year and to recognize a higher cost than they previously considered for labor and materials in storm-stricken areas.

The result is that with the same amount of capital and even more, insurers cannot offer policyholders nearly as much capacity as before. "They're managing to certain numbers and can't go beyond that because it would affect their ratings," said Bob Howe, global director of property operations for Marsh Inc. of New York.

Meanwhile, several catastrophe modeling companies adjusted their models to reflect projections that Atlantic hurricanes have become more frequent and severe. The revised models also factor in higher damage estimates for many types of commercial facilities (*BI*, June 12).

For example, Newark, Calif.-based modeling company Risk Management Solutions Inc. no longer projects hurricane frequency and severity based on averages for the past 100 years, noted Peter Nakada, managing director and head of the RMS insurer consulting practice. Now, the RMS model factors in a five-year forward looking hurricane frequency projection developed by four leading hurricane experts, Mr. Nakada said.

That has boosted the modeled frequency of category 3, 4 and 5 storms making landfall in the United States by more than 30%. The modeled frequency of category 1 and 2 storms making a U.S. landfall jumped 20%.

At the same time, RMS has used its clients' hurricane loss data from 2004 and 2005 to update the claims data element of its model—the first significant update since 1992, when Hurricane Andrew caused $21.6 billion of insured damage. That update led to about a 40% increase in the model's projection of damage to commercial buildings.

For insurers, the modified models have "radically altered their calculations on their expected losses," Marsh's Mr. Howe said.

Aon's Mr. Davis said insurers' estimated catastrophe losses are 70% to 100% higher now.

That compels insurers to either shed accounts or reduce the limits they offer, Mr. Howe said.

Meanwhile, insurers need rate hikes sizeable enough to generate a sufficient return on equity, he said.

Fortune 500 companies typically generate a 13% to 15% ROE, noted L. James Valverde Jr., vp, economics and risk management for the III.

But for U.S. property/casualty insurers, the 10-year ROE through 2005 averaged 8.9%, and the five-year average was 6.6%, according to insurer rating agency A.M. Best Co. Inc. of Oldwick, N.J.

Unlike during the 1970s, when investment income was far more robust, insurers cannot generate ROEs around 15% with combined ratios at or near 100%, according to Mr. Valverde. Combined ratios must be lower than 95%, which means prices must rise, he said (see chart).

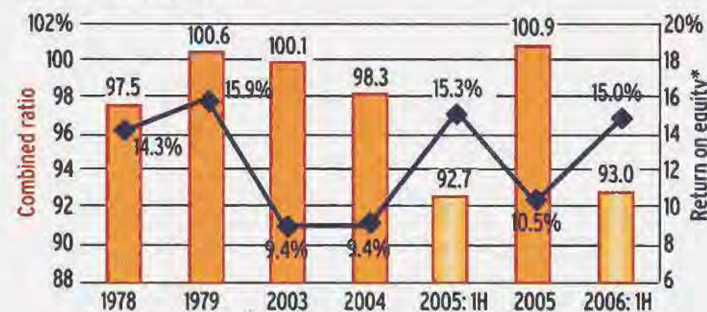
Plus insurers face significantly higher property catastrophe reinsurance costs, market experts noted (see chart).

Of course, an ample infusion of capital could relieve the property

See MARKET / Next page

ROE goals

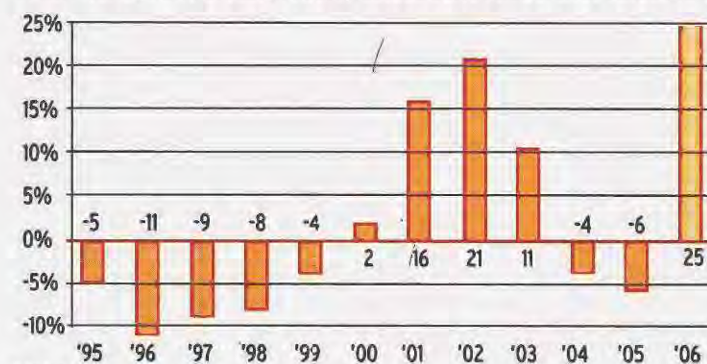
Combined ratios today must be below 95% to generate Fortune 500 return-on-equity levels.



*2005/06 figures are return on average statutory surplus.
Source: Insurance Information Institute, A.M. Best Co. Inc. and ISO Data Inc.

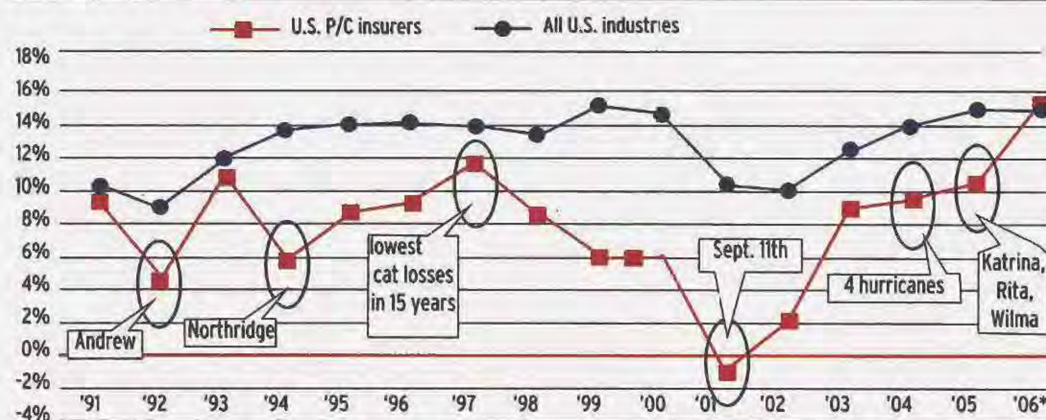
Cat reinsurance prices surge in 2006

In hurricane-prone areas, property catastrophe reinsurance rates are up.



2005, 2006 are estimates
Source: Insurance Information Institute

P/C vs. all U.S. industries in return on equity



*2006 P/C insurer ROE based on annualized first-quarter results.
Source: Insurance Information Institute

Public cat program unnecessary: AIA

By JERRY GEISEL

WASHINGTON—While the insurance market is "under stress" in several Atlantic and Gulf Coast states, a new public insurance program is unnecessary, an insurance industry trade association says.

In a new report issued a year after Hurricane Katrina, the American Insurance Assn. says the private insurance market has sufficient capacity to handle natural catastrophes.

"Despite last year's record-

breaking losses, private sector capacity for dealing with natural disasters has grown and is adequate to spread and manage this risk," the Washington-based AIA said in the report, "Natural Catastrophe Agenda—to Reduce Loss and Promote Stability."

While reinsurance prices have climbed, "there is no capacity crunch, and even the leading proponents of cat funds have secured significant amounts of private reinsurance coverage," the AIA said.

While rejecting public natural catastrophe insurance programs such as state catastrophe insurance programs reinsured through a federal program, there are several steps both state and federal lawmakers can take that will improve market conditions, the AIA says.

For example, strong statewide building codes are needed for the entire Atlantic and Gulf Coasts. Additionally, building codes must "stay current and consistent with the latest mitigation technologies."

Enacting building codes has to be accompanied by enforcement of those codes. Indeed, studies conducted after Hurricane Andrew struck South Florida in 1992 found that lax code enforcement contributed to the damage tally, the AIA said.

Regulatory reforms also are essential to create the stable business climate insurers say they need to write business in hurricane-prone areas of the United States, the AIA says. For example, all states should allow the use of computer catastrophe modeling in rate making.

"Just as insurers use models to manage catastrophe risk, states should accept their use in the rate making process," according to the AIA report.

Several states oppose such models, especially if they indicate that higher rates are necessary. But ignoring "scientific models is another form of artificial rate suppression that...ultimately undermines the role of the private sector in managing catastrophe risk," according to the report.

Legal reforms also are necessary, the AIA said, noting the problems insurers face in "an uncertain legal environment, particularly where cases are tried by hometown juries."

To address that problem, Congress should establish court jurisdiction in a centralized federal court to handle natural catastrophe claims that reach a specified magnitude, the AIA said.

Tax law changes also are needed, such as providing employers with tax credits if they invest in protective measures that go beyond building code requirements.

Market changes not cyclical, brokers say

While risk managers overseeing catastrophe exposures of any type certainly understand the tough property catastrophe insurance market they face, many do not understand that the market has changed structurally and will not soften again to 2005 conditions, brokers say.

Failing to accept this concept could lead to inadequate protection for corporate facilities over the long term and, as a result, unhappy senior management, they said.

KATRINA: ONE YEAR AFTER

In the tight property catastrophe insurance market, capacity has shrunk by as much as 80%, and it costs two to five times as much as it did a year ago. On top of record catastrophe losses the past two years, recent modifications in catastrophe models and insurer rating agencies' risk-based capital formulas have driven those market changes, market experts say.

"It's one of the most complicated markets I've seen in years—and maybe ever," said Bob Howe, global director of property operations for Marsh Inc. in New York.

But "clients are not as acutely aware of how deeply these issues penetrate the marketplace" as they are that the market is tight, Mr. Howe said.

Broker executive Gary Marchitello agrees that a majority of risk managers perceive the market change as a cyclical problem rather than a structural change with long-term implications.

The problem with that view is "you don't want to keep surprising management with capacity reductions and price increases" year after year, said Mr. Marchitello, a managing principal and the property practice leader for New York-based Integro Ltd.

Aaron Davis, director of the national terrorism and property resources practice at Aon Risk Services Inc. in New York, agreed. "You need to manage expectations."

While market conditions may leave many risks with inadequate coverage, risk managers still can take several steps to better protect their organizations, brokers said.

"If it's a structural change in the market, then the prudent recommendation to management would be a redeployment of capital to risk mitigation as opposed to risk transfer," Mr. Marchitello said.

"Risk avoidance is the ultimate risk mitigation method," which would mean deciding not to locate new facilities in wind-prone areas, he said.

For facilities already located in wind-prone areas, capital should be directed to various loss prevention techniques, which have "grown by leaps and bounds" in recent years, he said. Those include anchoring roofs, replacing windows with hardened glass and securing onsite power plants "as though they were bunkers" by using berms or sandbags, Mr. Marchitello said.

Risk managers are "only at the halfway point in terms of what they should do" to protect facilities in wind-prone locations, he said.

Besides risking damage to facilities without adequate insurance to cover losses, failing to harden facilities could invite lawsuits by unhappy shareholders, Mr. Marchitello said.

Risk managers also can improve their odds of securing the limited capacity that is available in the market, brokers said.

Notably, "get a far better handle on your exposure base," including total insured values, business interruption, contingent business interruption and extra expense exposures, Aon's Mr. Davis urged.

Provide the best possible information to feed into brokers' and insurers' catastrophe models, he said.

Mr. Howe agreed.

"It's about gaining control" of the limited capacity, he said. "We need to present the client properly." Having the best and most current information makes the underwriting process easier and improves the risk manager's odds of being considered ahead of others, which is crucial when capacity is so tight, Mr. Howe said.

"We want to be the first in line" for that capacity, he said.

Risk managers also should access the global marketplace for coverage, brokers advised.

"You want to generate competition, and the way to generate maximum competition is by accessing the greatest breadth of the marketplace," Mr. Davis said.

That is something that not only multinational corporations but also large domestic companies should do, Mr. Howe said.

And getting started on renewals early is critical in such a tight market, Mr. Marchitello asserted.

"It would not be overstating it at all to say that if your renewal is in six months, you might want to be in the market right now," he said.

—By Dave Lenckus

Market: Cat capacity unlikely to improve soon

Continued from previous page

catastrophe insurance capacity crunch.

And, billions of dollars of new capital have flowed into the property/casualty market over the past year, according to various sources.

On the strength of a $48.8 billion profit in 2005, U.S. property/casualty insurers boosted industry surplus by $36.3 billion—a 9% gain from year-end 2004, according to Best.

In addition, between September 2005 and July 28, at least 19 insurers and reinsurers announced plans to raise a collective $10.35 billion of capital, and 15 startup companies planned to raise $10.25 billion more, according to III figures.

But that capital boost of more than $56 billion likely will not provide much relief, industry experts say.

"A large percentage of it is not functional capacity," because it has been directed to reinsurers or shores up insurers' balance sheets but does not allow them to offer additional capacity, Aon's Mr. Davis said.

And risk managers cannot assume that last year's surplus growth will be deployed to support property catastrophe business, said Mr. Nakada of RMS.

Even considering the industry's entire capital growth over the past year, it is nowhere near sufficient under the revised risk-based capital formulas and catastrophe models, Mr. Nakada said.

Taking the Standard & Poor's Corp. requirement for figuring the probability of a one in 250-year hurricane loss and running it through both the earlier and latest version of the RMS model, the later model generates an industry loss estimate of $171 billion, which is $55 billion greater, Mr. Nakada said. That means the industry would need at least $55 billion of additional capital.

But since insurers typically capitalize to around 150% of the S&P base requirement to earn a higher rating, the difference between the two models would have to be multiplied by 150% to $82.5 billion.

Add last year's $60 billion of "capital that was destroyed" and then subtract the new capital that has been generated over the past year, and the result is that the industry needs more than $120 billion of new capital to get back to where it was before the 2005 hurricane season, he said.

Shaving billions of dollars from that figure to account for the tax treatment of insurers' catastrophe losses still would not change the picture substantially, he said.

Even an insurance industry representative who said he would not characterize the property catastrophe market as structurally different agreed that market capital does not currently match insurance buyers' exposures.

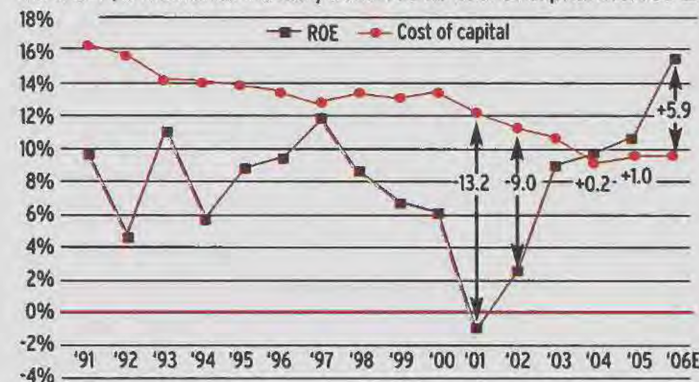
"The problem is that capital has to get an adequate return on investment," or it will be deployed elsewhere, said Greg Heidrich, senior vp of policy development and research at the Property Casualty Insurers Assn. of America in Des Plaines, Ill. "We'll see" if the market can provide that return, he said.

For now, the market is "just stepping back, because things changed faster and more than we expected them to," Advisen's Mr. Bradford said. It has to "figure out how to underwrite the business, allocate capital and price it."

When that happens, "expect it to come back, but with higher rates and more restrictive terms" than in 2005, he said.

U.S. ROE vs. equity cost of capital

The U.S. P/C insurance industry achieved its cost of capital in 2003-2005.



Source: Insurance Information Institute

Capital raising by insurance start-ups

As of July 28, in millions of dollars.

Company	Amount
Harbor Point Ltd.[1]	$1,500
Amlin Bermuda Ltd.	$1,000
Flagstone Reinsurance Ltd.	$1,000
Validus Holdings Ltd.	$1,000
Lancashire Holdings Ltd.[2]	$1,000
Augsburg Re	$1,000
Ariel Reinsurance Co. Ltd.	$750
Aeolus Ltd.	$500
Hiscox Bermuda	$500
New Castle Reinsurance Co. Ltd.	$500
Arrow Capital Reinsurance Co. Ltd.[3]	$500
XL Capital Ltd./Highfields Capital Management L.P.[4]	$500
Greenlight Capital Management L.P.	$220
Omega Specialty Insurance Co. Ltd.	$180
Ascendant Reinsurance Ltd.	$100

1 Chubb and Trident are funding Harbor Point. Announced amounts may differ from sums actually raised. 2 Stated amount is $750 million to $1 billion. 3 Arrow Capital formed by Goldman Sachs. 4 XL Capital/Hedge Fund venture. Source: Insurance Information Institute; Investment Bank Reports.

Top five costliest insurance losses

Property and business interruption losses, excluding life and liability losses, in millions

Rank	Date	Country	Event	Insured loss in 2005 U.S. dollars[2]
1	Aug. 24, 2005	U.S., Gulf of Mexico, Bahamas, North Atlantic	Hurricane Katrina; floods. damage to levees and oil rigs	$45,000
2	Aug. 23, 1992	U.S., Bahamas	Hurricane Andrew	$22,274
3	Sep. 11, 2001	U.S.	Terrorist attacks on WTC, Pentagon, other buildings	$20,716
4	Jan. 17, 1994	U.S.	Northridge earthquake (magnitude 6.6)	$18,450
5	Sep. 2, 2004	U.S., Caribbean: Barbados, et al.	Hurricane Ivan; damage to oil rigs	$11,684

(2) Adjusted to 2005 dollars by Swiss Re.
Source: Swiss Re, sigma, No. 2/2006.

Lockton: Acquisition would boost broker's ability to serve international clients

Continued from page 1

an option for risk managers of multinational companies who want their brokers to have their own global operations yet want an alternative to Marsh Inc., Aon Corp. and Willis Group Holdings Ltd., said Lockton Chairman David M. Lockton.

"I think for those people, we've now created a whole new alternative broker that didn't exist before. Other than the big three, there is no other broker that has owned offices throughout the world," he said.

At the same time, while "we have been successful in becoming the broker for just over 100 of the Fortune 1,000 U.S. companies, we have little penetration—since we didn't have offices overseas—in the 1,000 largest overseas-based companies, and we expect to make inroads there," Mr. Lockton added.

"The transaction benefits us in two ways," Peter Moyo, group chief executive of Alexander Forbes, said in a statement. It not only allows the broker to strengthen its balance sheet, but it also allows the firm to "focus our full attention on the plans we have under way for our remaining operations."

"We remain committed to our flagship risk and insurance services businesses in Africa and firmly believe that we will continue to offer our clients the best solutions both locally and internationally," Mr. Moyo said.

> "The insureds are going to love this, because it gives them an alternative to Marsh, Aon and Willis."
>
> **Patrick T. Linnert**
> **Marsh Berry & Co.**

In June, Alexander Forbes, whose shares are traded on the South African stock exchange, announced it was considering a possible sale of the firm to private equity partners as well as a possible separate capital infusion from outside investors in AFIRS (*BI*, June 12).

Following receipt of a "number of expressions of interest," the board concluded that selling its entire interest in the subsidiary to Lockton was in the best interest of its shareholders, the brokerage said last week in an advisory to the stock exchange.

It also noted that its discussions with private equity firms relating to the sale of the entire firm "are continuing, and shareholders are advised to continue to exercise caution when trading in the company's securities until a further announcement is made."

"We think we've caught the company at a perfect time," Mr. Lockton said. "We have a lot of faith" in AFIRS' leadership and believe it will be "a stronger organization being a part of Lockton."

He also noted that there was some concern that Alexander Forbes might be willing to sell AFIRS, "and if that was going to happen, we wanted to make sure we were the buyer."

Long-term relationship

Lockton first forged a relationship with Alexander Forbes and AFIRS about 10 years ago when it set up its network of international broker partners to service its global clients. More than 90% of Lockton's clients today with U.K. operations work with AFIRS, Mr. Lockton said.

Under terms of the deal, Lockton is to purchase a 51% majority ownership in AFIRS, which would be renamed Lockton International Holdings Ltd. and remain based in London.

Trident III L.P., an investment fund managed by Greenwich, Conn.-based Stone Point Capital L.L.C., owns the remaining minority interest. Lockton has call options on Trident's investment over the course of the next six years, which it intends to exercise and eventually own 100% of the operation, Mr. Lockton said.

The purchase includes AFIRS' insurance brokerage operations in corporate risk, professional indemnity, property, construction, aviation, marine, energy and political risk.

In addition to retail brokerage, AFIRS also provides reinsurance brokerage and wholesale London brokerage services, two new areas for Lockton.

Stewart McCulloch, chief executive officer of AFIRS, is to become CEO of Lockton International, and Mike Hammond, former chief executive of London-based Jardine Lloyd Thompson Group P.L.C.'s risk solutions unit, who joined AFIRS in May as its deputy chairman, is to become chairman.

Observers say the deal makes sense for Lockton and should be welcomed by insurance buyers.

"This is a bold step for Lockton, but certainly a logical one as they need to grow their international capabilities and support in order to retain their current client base as well as expand and compete with the big three," said Timothy J. Cunningham, a principal with insurance brokerage adviser OPTIS Partners L.L.C. in Chicago.

While the deal will more closely match Lockton's service capabilities with Marsh, Aon and Willis, Lockton still will have to compete for the business, Mr. Cunningham added.

"The insureds are going to love this, because it gives them an alternative to Marsh, Aon and Willis," said Patrick T. Linnert, a senior vp with Concord, Ohio-based Marsh Berry & Co.

Sarah Veysey contributed to this report.

Health care: Drive to mandate coverage levels by large employers fizzling out

Continued from page 1

But most of the bills, according to the National Conference of State Legislatures, never made it out of the committee to which they were referred, and died when the state's legislative sessions ended. A handful of bills are technically alive, but legislative analysts say it is unlikely that any of those proposals will pass in their current forms.

"The vast bulk of bills are certainly dead this session," said Steve Cannon, outside general counsel for the Arlington, Va.-based Retail Industry Leaders Assn.

That is undoubtedly a big relief to multistate employers that, if large numbers of states had passed such bills, would have faced a maze of different health care plan spending requirements, which would have made it difficult for some to offer a uniform health care benefits package and would have complicated the administration of their health care plans.

"Employers could have been seriously affected," said Linda Bergthold, a senior consultant with Watson Wyatt Worldwide in Universal City, Calif.

One of the biggest—perhaps the biggest—reasons that the measures went nowhere was that the Maryland model quickly came under legal attack. Soon after the Maryland Fair Share Health Care Fund Act was passed, the RILA, of which Wal-Mart is a member, filed suit and challenged the law, arguing that it was pre-empted by the federal Employee Retirement Income Security Act. ERISA pre-empts state laws and rules that relate to employee benefit plans.

U.S. District Court Judge J. Frederick Motz agreed with that assessment, ruling that such a state health care law violates the fundamental purpose of ERISA pre-emption: to permit multistate employers to maintain nationwide health care plans with uniform benefits.

Just the filing of the suit against the Maryland law by the retailers put Fair Share bills introduced in some of the other states on the back burner.

"Fair share" health care bills fall short

Of two dozen bills introduced, only one passed and five are still pending.

* Federal judge later ruled that the law violates the Employee Retirement Income Security Act.
Source: National Conference of State Legislatures

"Legislators realized the Maryland law was being challenged. They were going to wait until the result of the litigation" came in, said Laura Tobler, an NCSL health care analyst in Denver.

"The litigation had a dampening effect on the legislation," the RILA's Mr. Cannon said.

By the time the Baltimore federal judge handed down his mid-July ruling striking down the Maryland law, many state legislative sessions had expired, effectively killing those proposals.

Business lobbying also played an important role in state legislators deciding not to take up similar bills. "The lobbying power of business was very effective. They argued that these bills were job-killers. And that had a big emotional impact," Ms. Bergthold of Watson Wyatt said.

"Lawmakers saw that these bills would discourage business from coming to their states or expanding or relocating within their borders," said a Wal-Mart spokeswoman.

State lawmakers also were influenced by business group arguments that the measures wouldn't do anything to expand health care coverage.

"Legislators realized that this would not be a good long-term strategy to expand coverage," said Kathryn Wilber, health policy legal counsel for the American Benefits Council in Washington.

In some cases, influential state lawmakers knew Fair Share legislation would not pass legal muster and refused to let such measures even be considered at the committee level.

For example, in Minnesota the chairman of the House Insurance Committee knew the measure would not stand up in court and didn't see much point in considering it, said Cindy Goff, director of public policy at Blue Cross & Blue Shield of Minnesota in Eagan, Minn.

The Maryland court ruling may have been the coup de grâce for bills that were still pending at the time of the ruling, some say.

"Most of these bills will go back to the drawing board. Legislators will accept" that the Fair Share approach conflicts with ERISA, the NCSL's Ms. Tobler said.

"It will be hard to bring back Fair Share" in light of the court ruling, Ms. Bergthold said.

While the Fair Share approach may be dead, that doesn't mean that states will abandon their health care reform efforts. For example, states are likely to watch carefully to see whether other, much broader reform measures, such as the one Massachusetts lawmakers passed this year, successfully expand coverage before proceeding, Ms. Bergthold said. The Massachusetts law, among other things, subsidizes health insurance premiums of lower-income residents and requires all residents to have health insurance coverage, if affordable coverage is available.

In New Jersey, for example, business groups are expecting Gov. Jon Corzine to propose soon a comprehensive reform measure. In Michigan, Gov. Jennifer Granholm already has outlined a plan—based on the Massachusetts law—that would subsidize premiums for the low-income uninsured as well as create an exchange in which small employers and individuals could buy health insurance on a pretax basis.

"I'm optimistic that lawmakers will look at comprehensive reform," said Christine Stearns, vp of health and legal affairs for the New Jersey Business & Industry Assn. in Trenton.

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Crawford: Broadspire purchase adds to TPA edge

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that adds to the leadership position of Crawford & Co. in the third-party administration arena and gives us the increased advantage of doubling the scale of these operations."

With the inclusion of Broadspire, which has expected 2006 revenues of $200 million, Crawford predicts its total revenues will top $1 billion, Mr. Crawford said.

"We are bringing a large and profitable business into our operations," Mr. Crawford said. "Combined, we will have over $350 million in the self-insured arena," he said, noting that Crawford has been "working hard on the self-insured market. That's the one that was weak."

The merger will further offer opportunities for the company to improve profitability, and attract new business, Mr. Crawford said.

Broadspire, which earlier this year sold its disability portfolio to Hartford, Conn.-based Aetna Inc., will see some advantages too, according to its top executive.

"This transaction is a huge win for both companies," Dennis Replogle, Broadspire's president and CEO, said in a statement. "In particular, clients will see greater value and performance as the best components of both organizations are combined to provide a dynamic suite of enhanced products and services."

Additionally, Broadspire will keep its headquarters in Plantation, Fla., and retain its name.

Instead of changing the Broadspire name, the Crawford Integrated Services unit is to be rebranded—a decision consistent with Crawford's strategy of providing a distinct, clearly recognizable identity for each member of the Crawford family, Mr. Crawford noted during the conference call.

'Aggressive' integration

What remains unclear is whether the merger will mean cuts for Crawford's 7,500 employees worldwide and Broadspire's more than 1,700 employees that operate from about 40 claim offices.

"Right now there is no number" a Crawford spokeswoman said. "A fairly aggressive integration plan will start the day of the closing," she said.

Mr. Crawford noted during the conference call that integration considerations will be key for the two companies, which do not share any customers and operate using different computer systems and technology.

"Our early take on (Crawford's) proposed acquisition of Broadspire Services is favorable, as we believe the deal will be accretive to (Crawford's) earnings in the first year and further augment Crawford's status as a leading third-party administrator of claims management services to self-insured companies," said David O. Lewis, an Atlanta-based analyst at SunTrust Robinson Humphrey, in a note to investors.

According to Mr. Lewis, the highlight of Crawford's planned purchase of Broadspire is "the boost it could bring to the acquirer's self-insured business, which has been under pressure due to a reduction in existing client claims volume."

In 2005, Crawford's self-insured revenue was down 3.6% to $152.5 million compared to 2004, and for the first half of 2006, self-insured revenue fell 6% over the year-earlier period to $73.6 million, Mr. Lewis noted.

N.J. governor signs health care reporting bill

By JOANNE WOJCIK

TRENTON, N.J.—Employers in New Jersey with 50 or more employees or employee dependents enrolled in state-supported health care programs for the poor will be singled out under a measure signed into law by Gov. Jon S. Corzine.

The measure, S. 539, signed Monday requires the New Jersey Department of Health and Senior Services to release an annual report on employers that have at least 50 employees and/or employee dependents enrolled in either the state Medicaid program or in FamilyCare, a state program for low-income families who lack employer insurance.

The report, which is due on Sept. 1 of each year beginning this year, is to include the name and address of the employer, the number of FamilyCare enrollees and Medicaid recipients, the number of its employees' spouses and dependents enrolled in either program, whether the company provides health insurance and the cost to the state for providing health care to the employer's workers and families.

While the New Jersey State AFL-CIO supported the measure, the National Federation of Independent Business and the New Jersey Business & Industry Assn. opposed it. The NFIB warned that it could lead to mandated health insurance. The New Jersey business group described the bill as "nothing more than an effort to harass businesses at a time when most are already struggling to keep up with skyrocketing health insurance costs."

According to New Jersey Policy Perspective, a nonpartisan organization that conducts research and analysis on state issues, 51 of the state's largest employers have 100 or more employees or dependents enrolled in FamilyCare.

Under a separate health care-related measure signed by Gov. Corzine Monday, New Jersey residents will be able to compare prescription drug prices at various pharmacies throughout the state via the Internet or a toll-free telephone number.

The prescription drug transparency measure, which is scheduled to be implemented this fall, will list retail prices for the 150 most frequently prescribed drugs at pharmacies around the state. Pharmacies will be required to report drug prices each week to the state.

BI Stock Index [8/21 - 8/28]

Up-to-the-minute data for all 85 companies that comprise the *BI* Stock Index can be found at *www.businessinsurance.com*

Percentage change of *BI* Stock Index vs. key indicators

Index	Value	Change
BI Stock Index	2980.77	-0.46
Dow Jones	11284.05	-0.86
S&P 500	1295.09	-0.55

Largest gains		Largest losses	
UnitedHealth Group	2.79%	Meadowbrook Insurance	-10.48%
Fairfax Financial	2.69%	Gainsco Inc.	-10.25%
Aetna Inc.	2.24%	Argonaut Group Inc.	-5.28%
Hub International	2.12%	Everest Re Group	-5.20%
UnumProvident Corp.	2.09%	Zenith National	-4.35%

Weekly change by market segment

Segment	Change
Brokers	-0.61%
Insurers/Reinsurers	-1.53%
Managed Care Organizations	0.41%

Source: FinancialContent Inc. (*http://financialcontent.com*)

Late News

Continued from page 1

division, meanwhile, will be renamed personal insurance, the company said in a statement. Among other things, the changes will provide producers and customers with easier access to St. Paul's product offerings and maximize the insurer's "franchise potential," St. Paul Chief Operating Officer Brian MacLean said in the statement.

Family health premiums exceed $10,000 yearly: BLS

Group health insurance premiums for family coverage now exceed $10,000 a year, according to a new survey. The Bureau of Labor Statistics survey found that among employers with at least 100 employees, monthly premiums for family coverage averaged $913.75, or $10,965 on an annual basis. Of the $913.75 monthly premium, employers, on average, pay $652.34 and employees pay $261.41. For single coverage, the total monthly premium among employers with at least 100 employees averages $330.55—or nearly $4,000 a year—with employers paying, on average, $259.51 and employees chipping in $71.04. The survey is based on information collected from 10,370 employers.

Judge rejects appeal of reimportation ruling

A Maryland judge has denied a request by Montgomery County, Md., to force the U.S. Food and Drug Administration to issue a waiver allowing county employees to reimport prescription drugs from Canada. The county filed the lawsuit in February after the FDA denied the county's request for a waiver under the Medicare Prescription Drug Improvement and Modernization Act, citing safety concerns. Granting such waivers is within the discretion of federal government officials in accordance with the language of the MMA, the judge ruled. The county is currently reviewing its options, a spokeswoman said.

BB&T to purchase premium finance firm

BB&T Corp. said it will purchase insurance premium finance company AFCO Credit Corp. and its Canadian affiliate, CAFO Inc., from Pittsburgh-based Mellon Financial Corp. The transaction, the terms of which were not disclosed, is subject to regulatory approval and is expected to be completed during the first quarter of 2007, BB&T said in a statement. BB&T said the deal would make it the second-largest provider of insurance premium financing in the United States and the largest in Canada.

Tenneco freezes DB pension plans

Auto parts manufacturer Tenneco Inc. is freezing its defined benefit pension plans and beefing up its 401(k) plans, the company announced last week. Under the freeze, employees after Dec. 31 will no longer earn benefits through the defined benefit plan in which they are enrolled. Starting Jan. 1, 2007, Tenneco will make additional contributions to its existing 401(k) plans, with the contribution amounts increasing with employee age. Tenneco, which last year reported $4.4 billion in revenues and $58 million in net income, said the pension changes will save about $11 million annually, starting next year. Its U.S. pension plans, as of Sept. 30, 2005, had $332 million in liabilities and $196 million in assets.

IBM plaintiffs request cash balance ruling review

Plaintiffs are asking the full 7th U.S. Circuit Court of Appeals to review a ruling that IBM Corp.'s cash balance pension plan does not discriminate against IBM's older employees. Attorneys representing the plaintiffs, who are current and former IBM older employees, filed a petition last week asking the entire 11-member appeals court to review the Aug. 7 ruling handed down by a three-judge appeals court panel. Such requests are rarely approved, especially, as was the case with the IBM ruling, when an appeals court's panel decision is unanimous, legal experts say.

Benfield opens Taiwan office

Benfield Group Ltd. has opened a branch office in Taipei, Taiwan. London-based broker Benfield, which already has offices in China, Singapore and South Korea, said in a statement that the new office was intended to "service its growing customer base in the territory and to further enhance its presence in greater China." Jentzu Pan has been appointed to the post of general manager of Benfield Taiwan. He previously was responsible for the reinsurance operations of Taipei-based Cathay Century Insurance Co. Ltd.

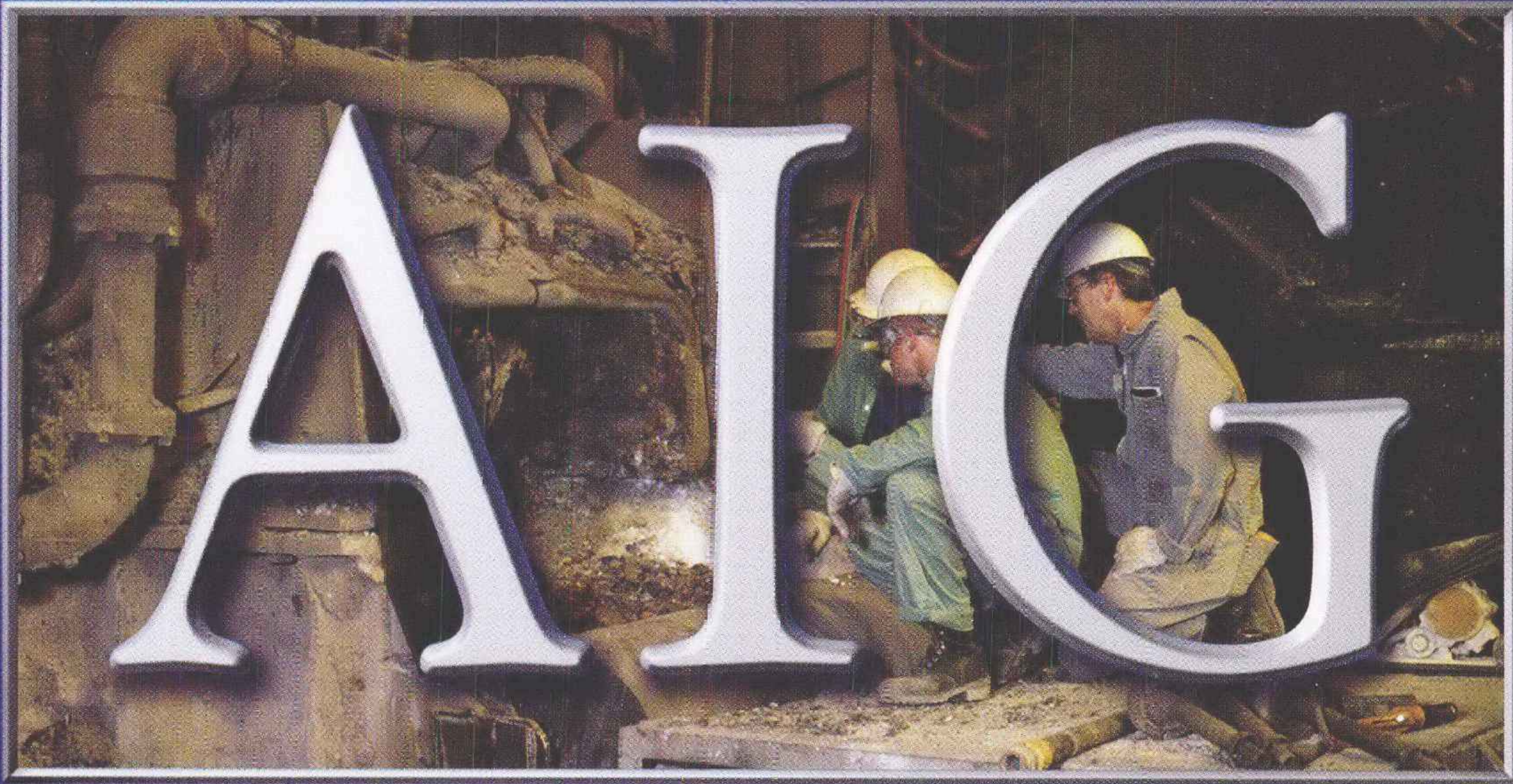
Gallagher TPA unit subpoenaed again

Gallagher Bassett Services Inc. has received a subpoena from Illinois Attorney General Lisa Madigan, the third-party administrator said in a filing last week with the Securities and Exchange Commission. Gallagher Bassett, which had previously received similar subpoenas from the attorneys general of New York and Connecticut, did not disclose the nature of the request but said the subpoena did not relate to parent Arthur J. Gallagher & Co.'s brokerage operations. Gallagher Bassett said it is cooperating fully.

At *BusinessInsurance.com*

New **Online Poll:** Do you intend to soon add an automatic enrollment feature to your 401(k) plan?

Items in the Late News column originally appeared in *BI*'s Daily News feature on *www.businessinsurance.com.* Visit the *BI* Web site to sign up to receive *BI*'s Daily News by e-mail.



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