

Business Insurance

August 7, 2006

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Late News

CSU hurricane team lowers 2006 forecast

Hurricane forecasters at Colorado State University have cut the number of named Atlantic tropical storms they expect to form this year to 15 from the 17 forecast on May 31. On Thursday, the team also cut the number of hurricanes expected to form to seven from nine. But hurricane activity this year should still be above the long-term average, they said. The team cut its projected numbers due to indications that "conditions are less favorable for tropical cyclone development in the tropical Atlantic." Three named tropical storms have formed during the current season, which ends Nov. 30. None have grown into hurricane-strength storms.

Court overturns \$105 million verdict

The Superior Court of New Jersey Appellate Division has overturned a \$105 million verdict against ARAMARK Corp. in an alcohol liability case and remanded the case for a new trial. A Bergen County, N.J., jury

See **LATE NEWS** / page 31

Congress approves pension reform bill

Provisions set out funding rules; cash balance plans gain shield

By JERRY GEISEL

WASHINGTON—Sweeping pension reform legislation is on its way to President Bush for his signature.

In a 93-5 vote last week, the Senate gave its approval to a measure, H.R. 4, that cleared the House late last month.

The passage of the bill, which the president said he will sign, ends months of uncertainty on whether legislators would reach a final agreement before the August recess. Passage of the measure had been delayed for weeks as legislators squabbled over such issues as whether commercial airlines would be given more time to fund their massive pension plan obligations and whether unrelated tax provisions would be added to the bill.

But with last-minute agreements reached on those issues, both branches passed the bill, which includes the most significant changes of pension rules in three decades.

Indeed, the measure—officially the Pension Protection Act—

changes how much time employers have to fund their pension plans, how much they can contribute to their plans, the interest rate methodology used to value liabilities and whether they can offset plan contributions by extra contributions they previously made.

Additionally, the bill provides legal certainty for employers that set up new cash balance plans, which was once the fastest growing type of defined benefit plan until a flurry of lawsuits were filed against plan sponsors, charging that the plan design discriminates against older employees. The legislation shields new plans from age discrimination suits.

The legislation also contains special interest provisions. The best-known are ones that give commercial airlines that freeze their pension plans much more time—17

What's in it

The bill would:

- Require employers to fully fund pension obligations within seven years.
- Create new interest rate methodology for valuing plan liabilities.
- Stop employers with underfunded plans from boosting benefits.
- Provide legal certainty for new cash balance plans.
- Make Roth 401(k) accounts and 401(k) catch-up contributions permanent.

See **PENSIONS** / page 30

CAPTIVE COUNTRY VERMONT

25 years after law, a top domicile rules

By JERRY GEISEL

More than a quarter of a century later, Reg Beane remembers a phone call he received from Burt Carbino, a prominent New York risk manager.

At the time of that phone call, Mr. Beane, then director of governmental affairs at the Risk & Insurance Management Society Inc., had "tucked in my top left desk drawer" draft captive domicile legislation.

The intent of the legislation, crafted at RIMS' request by a young New York attorney named John Sarchio, was simple: give U.S. corporations interested in setting up captive insurance companies a domestic alternative to offshore domiciles, such as Bermuda and the Cayman Islands.

Mr. Beane, now the president of First Commercial Insurance Co., a small workers compensation insurer in Miami Lakes, Fla., had floated the proposal by several risk managers in Colorado, which, nearly a decade earlier, had become the first U.S. state to pass captive legislation.

But Colorado had found few

takers and licensed only a handful of captives. The reason: Its captive statute was too restrictive to make the domicile attractive.

The proposal in Mr. Beane's desk drawer took a different approach, eliminating such restrictions as a requirement that captive sponsors prove that insurance was not available in the traditional market before they could establish a captive, which had crippled Colorado's appeal as a domicile.

Indeed, H. Lincoln Miller Jr., a New York insurance broker, who

See **VERMONT** / page 22

Vermont captives by type

(As of July 1, 2006)

Pure captives	416
Risk retention groups	77
Industrial insured	25
Association	16
Sponsored	14
Pure (branch)	3

Source: Vermont Department of Banking, Insurance and Health Care Administration

St. Paul Travelers settles bid-rigging charges

\$77 million payout to end 3 state probes

By RUPAL PAREKH

ST. PAUL, Minn.—St. Paul Travelers Cos. Inc. last week became the latest insurance firm to enter a settlement with state regulators on bid-rigging and other charges—a \$77 million agreement that is not

Who gets what

St. Paul Travelers Cos. Inc.'s must make payments totaling \$77 million:

- \$37 million in client restitution
- \$24 million to New York
- \$8 million to Connecticut
- \$8 million to Illinois

expected to materially affect its bottom line.

The St. Paul Travelers' agreement

ends investigations into the company by attorneys general in New York, Connecticut and Illinois, who accused the insurer of improper business practices, which include paying undisclosed contingent commissions to agents and brokers to steer business to St. Paul; engaging in so-called "reinsurance tying" agreements, in which reinsurance arrangements are linked to insurance placements; and colluding

with several other insurers in a scheme led by New York-based Marsh Inc. to rig bids for excess casualty insurance.

Marsh & McLennan Cos. Inc., in February 2005, paid \$850 million in client restitution to settle bid-rigging and steering charges brought by New York Attorney General Eliot Spitzer (BI, Feb. 7, 2005).

The settlement also resolves

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Inside



DANGEROUSLY HOT

How to reduce risks of working in high heat.

PAGE 3

'BIG DIG' COVERED

Officials outline insurance after fatal accident.

PAGE 3

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SPOTLIGHT

ALTERNATIVE RISK TRANSFER

Cat bond issuance setting records; ART market offers flexible options; reinsurance scarce for public entities.

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BI RANKINGS

Alternative risk facilities PAGE 12
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Public entity risk pools PAGE 16

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Inside

RenRe offers to settle finite charges with SEC

Reinsurer would pay \$15 million in civil penalties, while admitting no wrongdoing. **Page 4**

Captive controversy heats up in New York

WTC captive is criticized for fighting claims from workers. **Page 4**

Pension reform bill's consequences unknown

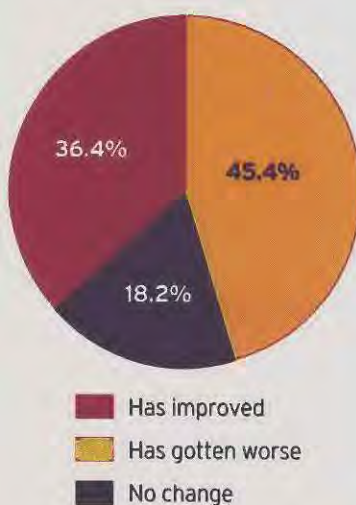
An editorial says the measure has many good points, but its impact can't be predicted. **Page 8**

Canadian company prepares for pandemic

Microbix Biosystems makes its plan available for free to other organizations. **Page 4**

Online poll [7/31-8/4]

Compared to five years ago, would you say state regulation of the insurance industry:



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Reporting on corporate risk and employee benefit management news

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Heat waves deadly; risks avoidable

By MARK A. HOFMANN

Beating the heat can be a matter of life and death during the kind of record-shattering heat wave that crept across most of the country during recent weeks.

That's true even though heat-related workplace fatalities have declined in recent years. According to the Bureau of Labor Statistics, 18 workers died of heat-related causes in 2004, the last year for which there is complete data, compared to 34 five years earlier. But the recent heat wave should underscore the importance of protecting workers against a widespread exposure.

And there's no denying that the threat affects a considerable number of workers. In fact, "anybody who's working in an un-air-conditioned structure" can be exposed to heat-related illness, said Ted Christensen, product director for Boston-based Liberty Mutual Insurance Co. in Hopkinton, Mass.

Yet, say experts, relatively simple steps—drinking plenty of the right kinds of fluids, wearing appropriate

clothing and just not overdoing it—can provide considerable protection against heat-related problems.

Heat-related ailments have three stages, said Mr. Christensen.

Heat cramps can lead to heat exhaustion, which in turn can lead to heat stroke, he said. "One of the things we stress to all supervisors is they know the symptoms of heat exhaustion and heat stroke."

Heat exhaustion symptoms include thirst, tiredness, weakness and dizziness, occasional headaches and, as it gets worse, possibly nausea, diarrhea and even fainting, he said. "When you get to those last couple, you're right at the edge between exhaustion and heat stroke," he said.

Heat stroke is life threatening and can be marked by hot dry skin, confusion, delirium and loss of consciousness, said Mr. Christensen.

Heat stroke "basically occurs when the body's temperature gets up above 105 degrees. At that point, the body stops sweating," said Allen Abrahamsen, assistant vp-construction services at ACE USA's ESIS Inc. unit in Philadelphia.



Heat safety tips

Some workplace procedures can help reduce heat exposure:

- Acclimate workers to hot environments by gradually exposing them to the work in progressively longer periods.
- Replace fluids by providing cool—50 to 60 degrees Fahrenheit—water or any cool liquid except alcoholic beverages.
- Reduce physical demands.
- Provide recovery areas.
- Reschedule hot jobs for the cooler part of the day.
- Monitor workers who are at risk for heat stress.

Source: Occupational Safety and Health Administration

PHOTO: ROBERT CAPLIN/BLOOMBERG/LANDOV

Education about the nature of the peril is key, said Mr. Abrahamsen.

Unless employees understand the reasons for some work practices, the chances are not very good that they're going to follow them, he said. "I think it's human nature—you want to understand something you're being told," he said

"The big picture is just making our members aware of the high risk," said Roy Jensen, risk management services director for Lisle, Ill.-based Park District Risk Management Agency, an Illinois public entity pool with around 145 members.

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Hurricane damage to Pinnacle Entertainment's casino in Biloxi, Miss., resulted in a \$346.5 million claim that is at the center of a dispute.

Casino sues insurers over Katrina claim

By DOUGLAS McLEOD

LAS VEGAS—Casino owner Pinnacle Entertainment Inc. has sued three of its excess property insurers for allegedly refusing to pay their shares of the company's \$346.5 million claim for damage that Hurricane Katrina wrought on its Biloxi, Miss., hotel and casino.

Pinnacle, which operates several casinos in the United States and abroad, filed suit last week in U.S. District Court in Las Vegas against Allianz Global Risks US Insurance Co., Arch Specialty Insurance Co. and RSUI Indemnity Co.

The suit, charging bad faith, alleges that the excess insurers have failed to pay the loss even though Pinnacle's policies specifically cover hurricane-related flood losses. The insurers have also wrongly attempted to curtail the company's business interruption coverage, the suit alleges.

In a statement, Allianz disputed Pinnacle's position. "Allianz's policy does not cover flood damage,

Allianz believes the allegations in Pinnacle's complaint to be without merit, and plans to defend itself vigorously," the insurer said.

Arch expressed disappointment over the Pinnacle charges but declined to comment on the suit, saying in a statement that it "is committed to paying all appropriate and properly documented and submitted claims."

An RSUI spokesman declined to comment on the dispute.

When Hurricane Katrina made landfall last Aug. 29, it severely damaged Pinnacle's Biloxi-based Casino Magic hotel and destroyed its adjoining floating casino, the suit says.

Las Vegas-based Pinnacle had a \$400 million property program, with an initial \$100 million divided among several insurers, including Westport Insurance Corp., Westchester Surplus Lines Insurance Co., American Guarantee & Liability Insurance Co., Essex Insurance Co., Mt. Hawley

Boston's MTA outlines 'Big Dig' coverages

Tunnel closed since fatal mishap

By DOUGLAS McLEOD

BOSTON—The Massachusetts Turnpike Authority has told state legislators that it has \$550 million in property coverage and \$250 million in liability coverage to handle losses arising from the collapse last month of concrete ceiling panels in Boston's "Big Dig" project.

In a chart titled "Insurance Related to I-90 Connector Accident," provided to lawmakers, the MTA reported it has an all-risk property program with a limit of \$550 million over a \$10.5 million retention that would cover a tunnel ceiling collapse.

Lost toll revenue is also covered by the all-risk program after a seven-day waiting period, the MTA said.

The authority also reported it has liability coverage with a \$50 million per-occurrence and policy-aggregate limit, along with a separate program with a \$200 million limit covering construction and completed operations at the Big Dig. In addition to the MTA and the Massachusetts Highway Department, the \$200 million program insures lead contractor Bechtel/Parsons Brinckerhoff and other "enrolled contractors," the MTA reported early last week.

The memo to legislators does not identify the insurers participating in the program or how much of the various limits may

already have been exhausted by claims on the trouble-plagued \$14.6 billion project.

An MTA spokeswoman could not be reached for comment.

A Boston woman was killed July 10 when the car in which she was a passenger was struck by three-ton concrete panels that had separated from the ceiling of the Interstate 90 tunnel in South Boston. The panels were suspended from the concrete ceiling with a system using bolts inserted in concrete and secured with epoxy.

The I-90 tunnel has been closed since the accident, and traffic in the Ted Williams Tunnel to Logan International Airport has been restricted while engineers inspect and begin reinforcing the ceiling structures. Portions of the I-90 tunnel may be reopened by Labor Day, while others may be closed for months, Gov. Mitt Romney has said.

While the MTA reported its insurance limits, it is unclear whether losses from the tunnel accident will ultimately be absorbed by the MTA or by others involved in the project, including Modern Continental Construction Co., the Cambridge, Mass., contractor for the I-90 tunnel; and Gannett Fleming Inc. of Camp Hill, Pa., which designed the bolt-and-epoxy ceiling structures.

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See **PINNACLE** / page 27

RenRe proposes SEC settlement over finite risk

U.S. attorney investigation, class action still pending

By RUPAL PAREKH

PEMBROKE, Bermuda—RenaissanceRe Holdings Ltd. last week said it offered the U.S. Securities and Exchange Commission a \$15 million settlement to end probes regarding the company's finite risk-related restatement of earnings.

Under the proposed settlement—under which RenaissanceRe would not admit or deny any wrongdoing—the reinsurer would pay the SEC \$15 million in civil penalties and would disgorge \$1, the Pembroke Bermuda-based company said in a statement. In addition, Re-

naissanceRe said it will hire an outside consultant to review the reinsurer's internal controls and policies, among other things.

SEC staff members have recommended the settlement offer to the SEC commissioners for approval.

"While it's not a rubber stamp, the process of bringing a recommendation to the commission usually includes some understanding or reasonable belief that the commission will accept the settlement," said Jacob S. Frenkel, a former SEC enforcement lawyer who is now a partner at Shulman, Rogers, Gandal, Pordy & Ecker P.A. in Rockville,

Md. "There certainly have been instances where the commission has told the staff 'no,' but the nature of the discourse before actually putting the settlement before the commissioners is one that lends itself to a reasonable level of confidence that the proposed deal will be" the final deal, he said.

The imposition of a \$1 disgorgement of ill-gotten funds typically "indicates that the company has taken appropriate steps, and quickly" to resolve the matter with the SEC, Mr. Frenkel noted.

If approved, the settlement would not, however, be a global set-

tlement. It would still leave pending an ongoing investigation by the U.S. Attorney's office for the Southern District of New York, and a consolidated securities class-action lawsuit against the company and certain current and former officers, RenaissanceRe said in its statement.

Filed last year in a U.S. district court in New York by the law firms of Goodkind Labaton Rudoff & Sucharow L.L.P. and Goldman Scarlato & Karon P.C., the shareholder suit alleges that the company and five current and former top executives violated federal securities laws by knowingly issuing false and misleading statements regarding the company's financial state, causing an inflation of the reinsurer's stock

price (BI, Aug. 1, 2005).

"If the proposed settlement is not approved, the company could be subject to different or additional remedies, both monetary and non-monetary, which could adversely affect the company's business or financial statements, perhaps materially," RenaissanceRe noted in the statement.

The reinsurer's decision to restate earnings for three years was largely related to transactions it entered into in 2001 with Inter-Ocean Holdings Ltd., a Bermuda-based finite risk reinsurer that entered runoff last year (BI, April 11, 2005).

RenaissanceRe, as part of its 2004

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What to expect when you're expecting more pregnancy bias claims

By JUDY GREENWALD

The number of pregnancy discrimination complaints filed with the U.S. Equal Employment Opportunity Commission declined in fiscal 2005 for a third straight year. Even so, complaints were up 31% vs. 1992 and some EEOC officials expect that number to increase this year.

Awareness of the law, a consistently applied policy, training and thorough documentation can help employers avoid pregnancy discrimination claims, say observers (see story, page 5).

"Let's face it. You're much better off

keeping a valuable, trained employee than you are allowing all the time and money you've expended training the employee go to waste and starting all over again," said David Long-Daniels, an employer attorney with Greenberg Traurig L.L.P. in Atlanta.

Discrimination on the basis of pregnancy, childbirth or related medical conditions is considered unlawful sex discrimination under the 1978 Pregnancy Discrimination Act, which is an amendment to Title VII of the Civil Rights Act of 1964.

Discrimination can include instances where the employee is either fired or not hired because of her pregnancy as well as cases where she is denied certain assignments or job promotions, or otherwise somehow financially penalized because of her pregnancy.

In addition to the PDA, charges of pregnancy discrimination can also fall under the Family & Medical Leave Act, the Americans with Disabilities Act and parallel state laws.

In fiscal year 2005, the EEOC received 4,449 charges of pregnancy-based discrimination. That's below the peak of 4,714 in fiscal year 2002.

While 2005 registered the third straight year of declining pregnancy discrimination complaints, Mary Jo O'Neill, Phoenix, Ariz.-based EEOC regional attorney, said she expects the number of complaints to rise this year.

Often, these cases are legally uncomplicated, said Jocelyn Frye, general counsel at the Washington-based National Partnership for Women & Families: A young

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Controversy over WTC captive

Insurer draws criticism for fighting workers' claims

By DOUGLAS McLEOD

NEW YORK—Complaints about the handling of Ground Zero workers' health claims by a captive insurer set up to cover New York City and its World Trade Center contractors has led to a testy exchange of letters between New York Insurance Superintendent Howard Mills and the captive's chief executive.

WTC Captive Insurance Co. Inc. was licensed in December 2004 to provide liability coverage—unavailable from commercial insurers—to the city and contractors working to clear the World Trade Center site after the Sept. 11, 2001, terrorist attacks. The captive was funded with a \$1 billion grant from the Federal Emergency Management Agency.

Since then, though, tensions have risen over the captive's stance in defending the city and its contractors against more than 8,000 claims filed by some of the 44,000 workers at the site.

Several politicians, including Democrats Rep. Jerrold Nadler and Sen. Charles E. Schumer, have faulted WTC Captive Insurance in recent days for fighting workers' claims. Rep. Nadler last week asked the Department of Homeland Security to investigate the captive's claims

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WTC Captive Insurance Co. says it has an obligation to defend New York against Ground Zero claims.

IRS' final regulations on HSAs OK health assessment incentives

By JERRY GEISEL

WASHINGTON—Final Internal Revenue Service regulations open the door for employers with health savings accounts that are part of flexible benefit plans to give employees financial incentives to participate in health assessment and disease management programs.

Benefit experts had feared that the IRS closed the door last year to such incentives—which a growing number of employers believe are a vital first step to helping employees improve their health—when it proposed HSA "comparability" rules. Those rules cleared up various uncertainties, including

whether employers can advance-fund HSA contributions and how employers can, if they so desire, continue to contribute to an employee's HSA after the individual leaves the company (BI, Sept. 12, 2005).

But the proposed regulations also created a big uncertainty in saying that conditioning employer HSA contributions on participation in health promotion programs would not pass muster.

However, the regulations did propose—with a new restriction—that employers that make HSA contributions as part of a flexible benefit plan could condition an HSA contribution on employee participation in health promotion

programs.

In fact, another part of the proposed regulation—giving an example of an HSA contribution through a flexible benefit plan—suggested that practice be allowed but only if the employer also gave the employee the option of receiving cash or other nontaxable benefits in lieu of the HSA contribution. Such "cash-out" designs are very unusual.

But the final regulations eliminate any uncertainty on what restrictions employers whose HSAs are part of flexible benefit plans face in encouraging employees, through financial incentives, to

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INSURING PROGRESSSM

Preventing pregnancy bias claims

By JUDY GREENWALD

Awareness of the law, a consistently applied policy, thorough documentation and adequate training can minimize the chances of employers being hit with pregnancy discrimination claims, say observers.

"No. 1, they really need to educate themselves about what's legal and illegal" under the 1978 Pregnancy Discrimination Act and make sure that anyone with hiring or firing authority "is pretty tuned in to what the PDA prohibits. I think that would go a long way" toward avoiding problems, said Mary Jo O'Neill, Phoenix-based regional attorney for the U.S. Equal Employment Opportunity Commission.

Pregnancy discrimination often is overlooked in employers' policies, said Elizabeth Grossman, New York-based regional attorney for the EEOC. Employers should look at

their policies "from the hypothetical view of a newly pregnant woman" to determine how clearly they state her rights, said Ms. Grossman.

Many times, a policy that appears to be neutral is, in fact, discriminatory, said Cynthia Calvert, an Ellicott City, Md.-based employer attorney, who is also deputy director and general counsel of the Center for WorkLife Law at the University of California's Hastings College of Law in San Francisco.

For instance, bonuses that are based on a minimum number of hours worked per year could discriminate against women who take time off for their pregnancies.

The rule is to provide the same accommodations to pregnant women "as you give to everyone else who has a short-term disability," said Holly English, an attorney with Post, Polak, Goodsell, MacNeill & Strauchler P.A. in Roseland, N.J.

"The heartbeat of most of these statutes is consistency," agreed David Long-Daniels, an employer attorney with Greenberg Traurig L.L.P. in Atlanta. "If you're consistent, you should be fine. If you're inconsistent, you're subjecting your company to a significant degree of exposure."

Training is important as well, say observers. "Like all other employment matters, you have to continue to train your staff, your managers and even your officers" about how the law works, said Mr. Long-Daniels.

"A lot of companies have policies on paper, and then they stick them in some employee manual and no one ever sees them again," said Jocelyn Frye, general counsel at the Washington-based National Partnership for Women & Families.

The policies have to be "communicated in a meaningful way," Ms. Frye said. "Make sure everyone understands what the rules are and take steps to comply with those rules."

One issue that training should address is being overprotective of the

pregnant employee, and the notion they should not be given certain assignments, say observers. This "often translates to a patronizing attitude" and can backfire on the employer, said Judith Keyes, an employer attorney with Davis Wright Tremaine L.L.P. in San Francisco.

"You can't take a paternal attitude. This is not your child," said Thomas P. Rebel, an employer attorney with Fisher & Phillips L.L.P. in Atlanta. "You're an employer and you're supposed to be treating this as neutrally as you can."

He pointed to the U.S. Supreme Court's 1991 decision in *United Auto Workers vs. Johnson Controls*, in which the court held that excluding women who are capable of bearing children from lead-exposed jobs violated the PDA.

A strong, proactive human resources department with a grievance procedure in place, which provides the opportunity for disputes to be handled informally, is important as well, said Ms. Calvert. But too often, employees who complain of discrimination are retaliated against, she said.

"There has to be a strong sense of understanding when a manager or

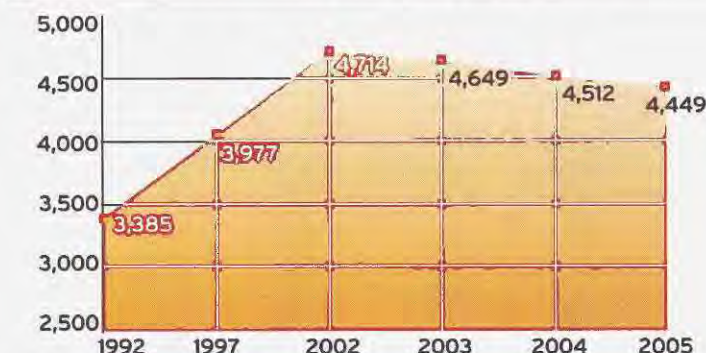
supervisor finds himself in a situation where he's lost a very valuable person" who is taking a leave that this is not a negative, but a matter of someone exercising her rights, said Mr. Long-Daniels.

"Employers really need to create a culture where it is not only OK to take the leave, but is encouraged," said Patricia Shiu, program vp at the San Francisco-based Legal Aid Society-Employment Law Center. "If you do that, then you can work with your employees in a way that allows for planning" for the leave.

Documentation is also critical, say observers. Jack Tuckner, a plaintiff attorney with Tuckner, Sipser, Weinstein & Sipser L.L.P. in New York, said he often hears reports of how "the pregnancy was just a fortuity. She was really a dreadful worker," which is why documentation of the reasons for a firing is important.

If an employee has performance problems, or there are other legitimate business reasons to terminate a worker or take away responsibilities, the smart employer is "very careful about documenting those reasons, so if you do get into trouble, you can justify that decision," said Ms. English.

Pregnancy discrimination on slow decline



Source: U.S. Equal Employment Opportunity Commission

Discrimination: Misinterpreting law can be pricey

Continued from page 4

woman announces she is pregnant and the next day she is—illegally—fired because of it.

This "reflects just a basic misunderstanding of how the law works or a complete lack of effort to make sure there's a policy in place" that addresses what can and cannot be

done, Ms. Frye said.

Suits costly

Charges of pregnancy discrimination can prove expensive for employers. Earlier this summer, it was announced that New York-based Verizon Communications Inc. will pay more than 12,000 current and former female employees \$48.9 million because they were denied service credits when they took pregnancy or maternity leave. The amount arose from the 2002 settlement of a class action involving women who had worked for Verizon predecessor companies NYNEX Corp. and Bell Atlantic Corp.

"I think more women are aware of their rights, and more women are coming forward to claim those rights," although underreporting of these claims remains an issue, said Elizabeth Grossman, New York-based EEOC regional attorney.

Furthermore, more women are the major, if not the sole, breadwinners in their family, observers say. This means if they become the victims of pregnancy discrimination, "they might be less likely to say, 'Well, I won't worry about it,'" said Holly English, an attorney with Post, Polak, Goodsell, MacNeill & Strauchler P.A. in Roseland, N.J.

"Many women are working longer into their pregnancies and are coming to work in shorter time periods after they've had a child," said Ms. Frye. "If you look at 20 or 30 years ago, half of the women in the workforce left their job when they became pregnant," she said. "A lot of women simply can't afford to do that now."

Women's decision to have a baby later in life is a factor as well, said Mr. Long-Daniels. If you decide to have a baby at 38, "you may be in a significant position, and the chances of recovering and finding a job that has a similar degree of re-

sponsibility and pay are a lot more challenging," he said.

Employers' focus on issues such as sexual harassment may result in "short shrift" of other issues, including pregnancy discrimination, said Ms. O'Neill. "We've had some cases where managers just didn't know it was illegal to fire or not hire a woman who is pregnant," she said.

Furthermore, some women wrongly feel they have an obligation to tell their employer when they are hired that they are pregnant, said Ms. O'Neill.

Incorrect stereotypes about pregnant women include ideas that "they won't come back, they're not really committed to their job" and the company will lose their expertise, so "it's going to be a waste training them," said Ms. O'Neill.

Expectation clash

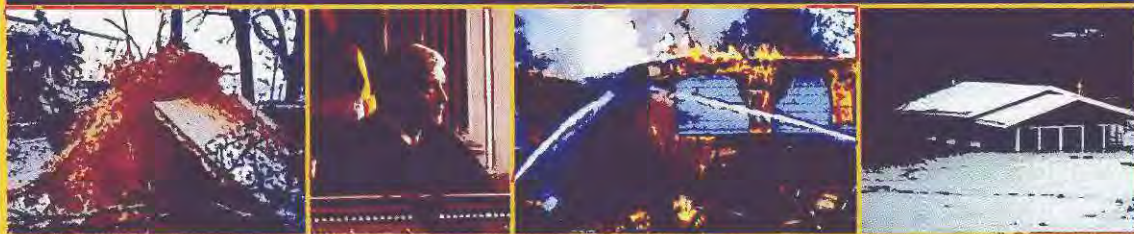
"We are seeing a clash of expectations," said Cynthia Calvert, an Ellicott City, Md.-based employer attorney who also is deputy director and general counsel of the Center for WorkLife Law at the University of California's Hastings College of Law in San Francisco.

"We're seeing younger women now having children who do expect to be able to balance work and family. They expect to be able to have a family and a career," she said. "That's a perfectly reasonable expectation, but I think we still have some workplaces that are not quite keeping up with the times."

There is often a workforce-workplace mismatch, where employers are still looking for a certain type of person who is willing to work overtime and relocate, she said.

"The problem is, that really doesn't describe very many people in today's workforce"—including even many young men, said Ms. Calvert.

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Editorial

Putting an end to bid rigging

ALLEGATIONS OF BID RIGGING have rightly shocked the insurance industry and its customers and have led to several large insurer settlements this year. Ensuring it never happens again, however, will take more than money.

St. Paul Travelers Cos. last week became the fourth insurer to settle charges relating to bid rigging. The company has agreed to pay \$77 million to resolve those and other allegations by three state attorneys general, including New York's Eliot Spitzer. Other insurers that have settled similar charges are American International Group Inc., Zurich Financial Services Group and ACE Ltd.

What the charges have in common is that the companies conspired with Marsh Inc. to provide false quotes. Testimony and e-mail communication cited as evidence suggest the insurers complied because Marsh had threatened to steer business to other companies.

Marsh & McLennan Cos. Inc., which agreed to pay \$850 million in February 2005 and dismantled the structures that it says led to the abuses, has insisted the wrongdoing was confined to a few employees handling

excess casualty business, and that appears to be so. Many would acknowledge Marsh is a different company today, but as the world's largest brokerage, it still has considerable clout. Marsh's current management has pledged to use that clout solely to its clients' advantage.

People may disagree on whether contingent compensation—which is perfectly legal, even if a conflict of interest—should be banned, but rigging bids is clearly illegal. Indeed, several former executives at Marsh and other companies have pleaded guilty to criminal charges.

So why didn't insurers blow the whistle? How could a small group of brokerage employees hold hostage some of the industry's largest companies? What stopped top management from demanding an explanation and an end to the activity?

We think we know the answer: fear and greed. Whatever else motivated Marsh and the insurers to put their own interests ahead of their clients', the industry must commit to standards of conduct that are totally transparent and devoid of any conflict of interest. Buyers shouldn't settle for less.

Pension reforms welcomed

AS TEMPTING AS IT might be, we want to avoid generalizations about what the impact of pension funding reform legislation will be on the nation's retirement plan system.

Prior predictions about earlier pension reform measures ultimately turned out to be wrong, fueling caution when assessing the latest reform measure that received final congressional approval last week.

For example, when Congress passed a major reform measure in 1994, Pension Benefit Guaranty Corp. officials projected that the bill could wipe out the agency's then \$2.9 billion deficit within 10 years.

In fact, the 1994 law did no such thing. After a few years of surplus, huge losses from plans sponsored by bankrupt airlines and steel producers put the PBGC back in the red—nearly \$23 billion as of last year. In fact, the agency's precarious financial condition and fear that a taxpayer-funded bailout might be necessary for the PBGC to honor its benefit obligations has been the driving force behind the latest effort to tighten funding rules.

PBGC officials were not alone in making incorrect predictions. We were wrong, too. Shortly after the 1994 legislation was passed, we called that effort "well-done," describing

it as a victory for the PBGC and the entire defined benefit plan system.

Obviously, we were wrong. And we don't think anyone can say or predict with any certainty what the long-term impact of the latest reform effort will be.

We can say we support some common-sense provisions in the current measure. For example, companies with significantly underfunded plans shouldn't be allowed to increase benefits. This bill stops that practice.

Similarly, there is little disagreement that employers need to fund their plans faster, giving assurance that there won't be a gap between assets and liabilities if a company fails. This bill requires companies to fund obligations over seven years, significantly faster than the current 30-year standard.

And we welcome the legislators' recognition of the legitimacy of cash balance plans and the protections from age discrimination suits given to new plans. We regret legislators didn't extend the protection to existing plans. Why a plan set up on Aug. 1, 2002, shouldn't receive the same protection as one set up on Aug. 1, 2006, is beyond us.

Still, we believe the latest reform effort will do far more to shore up the defined benefit plan system than doing nothing at all.

Schillerstrom



Letters

Seeing business through an ERM lens

To the editor: Last spring I registered in the MBA program at St. Peter's College, my alma mater, understanding that the cost of tuition is balanced by the value of the education. I decided to take a course in enterprise risk management. Taught by Professor Jack Hampton, the premise intrigued my accounting sensibilities. After all, the most effective way of evaluating a company is solely on a financial basis, right?

As part of the course, we examined Home Depot in an ERM framework. The company had just been named as the No. 1 Most Admired Specialty Retailer for 2006 by Fortune magazine, and The Harvard Business Review just published an article that held up Home Depot as a model for good management. Focusing on CEO Robert Nardelli's military style of management and the corporate culture it was nurturing, we identified serious cultural risks and reached the conclusion that it would not be advantageous to invest in the company's stock.

Since that time, the fallout has become more apparent. In July, the Wall Street Journal published an article subtitled "Home Depot Chief Executive Bob Nardelli still

doesn't get it."

ERM is providing some valuable tools to evaluate and navigate the current business climate, and St. Peter's is presenting some advanced course offerings to do just that. While taking a course in ERM may equal the cost of tuition, understanding the scope of ERM could prove to be priceless.

Peter A. Mele Jr.
Tenafly, N.J.

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Spotlight

ALTERNATIVE RISK TRANSFER

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Issuance of catastrophe bonds
still setting records / 20

Weather derivatives running hot

Energy sector among first to embrace risk tool

By ROBERTO CENICEROS

With a significant portion of the U.S. economy exposed to weather risks, more commercial entities are turning to derivatives to mitigate the exposure.

Weather derivatives generally cover low-risk, high-probability occurrences such as temperature fluctuations. Therefore, they differ from insurance contracts that protect policyholders against property damage caused by low-probability catastrophic storms.

Derivatives can, for example, reduce business revenue volatility stemming from temperature swings or unexpected precipitation levels.

With a weather derivative transaction, an energy company might protect itself against a cooler-than-normal summer that reduces the demand for electricity to run air conditioners. Or, a ski resort might hedge against too little snowfall that diminishes its ability to attract skiers.

Most of the early demand for derivative

arrangements has come from energy companies seeking to protect themselves against cooler- or hotter-than-average temperatures measured in cooling degree days or heating degree days. But there is growing availability and demand for arrangements that protect other types of entities, such as ski resorts or farm production, against fluctuations in precipitation, observers say.

Other factors are also driving the growth of derivatives. They include increased use of derivatives by hedge funds, increased availability of standardized derivative contracts through the Chicago Mercantile Exchange, and increased awareness that the arrangements offer a legitimate means for reducing business risk, proponents say.

Recent catastrophic storms, such as Hurricane Katrina, also are helping drive a general awareness of weather risks, said Brian O'Hearne, managing director of Swiss Re's environmental and commodity markets in New York.

Although storm damage to property is usually addressed through insurance purchases or cat bonds rather than

Recent catastrophic storms, such as Hurricane Katrina, also are helping drive a general awareness of weather risks.

Brian O'Hearne
Swiss Re



ART options' flexibility appealing

Buyers favor customization

By MARK A. HOFMANN

ART—like beauty—is in the eye of the beholder.

Alternative risk transfer's definition depends on who is viewing a transaction from what angle. For risk managers, ART generally means captive insurers and risk retention groups. For insurers, ART can mean ever more sophisticated means of transferring for securitizing risk, particularly when traditional reinsurance grows unacceptably expensive or scarce.

For risk managers and insurers alike, ART means finding a flexible way to cover new and existing risks in an effective and imaginative way and, as new risks proliferate, ART can be expected to become ever more important, say experts.

ART is "about understanding the risks better. They don't fit the mainstream mold," said Steve Saporito, managing director of the Willis Enterprise & Risk Finance Practice in Boston.

"I kind of think it's almost anything that's not a traditional marketplace," said John Andre, vp-property/casualty division of A.M. Best Co. Inc. in Oldwick, N.J. "It's evolving. We come up with different structures all the time."

For risk managers, captives and risk retention groups remain the most popular form of ART, according to market observers.

"There are some newer types of vehicles—but captives and risk retention groups are still the mainstay of the ART market," said Henry Widmer, assistant vp in Best's property/casualty division.

"I think the bottom line is we now have 5,000 captives operating in the world and we think in 10 years' time there will be 10,000. Captives are generally accepted risk financing vehicles," said James Swanke, managing principal of the Tillinghast unit of Towers Perrin in Minneapolis.

"We see a lot of interest in captives as a platform to access cat bonds, to set up sidecars—special-purpose vehicles—to cover catastrophe risk. They're new and being looked at by a few organizations," Mr. Swanke said.

The growth of enterprise risk management and increased interest by corporate boards in the use of captives also are

"The bottom line is we now have 5,000 captives operating in the world and we think in 10 years' time there will be 10,000."

James Swanke
Tillinghast

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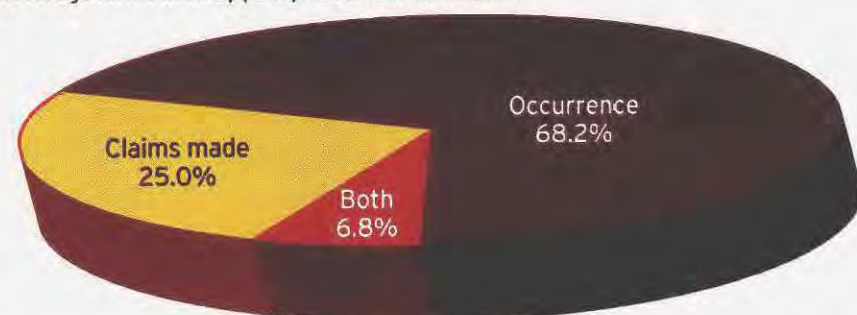
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BI RANKING

Liability triggers

Coverage forms used by policyholder-owned facilities



Source: BI survey

Onshore and offshore

Policyholder-owned facilities by domiciles



Source: BI survey

Largest policyholder-owned alternative risk facilities

Ranked by 2005 gross premiums written

Rank	Facility	Domicile	2005 gross premiums written	2005 participants	Business conducted by participants	Risks insured	Management company/Address	Phone/Fax/Web site	Contact
1	Oil Insurance Ltd.	Bermuda	\$2,620,806,000	85	Chemicals and mining, oil and gas exploration and production, petrochemicals, utilities	Control of well and third-party pollution liability, physical damage to property	OIL Management Services Ltd. 30 Woodbourne Ave., Third Floor, Pembroke, HM 08 Bermuda	441-295-0905 Fax: 441-295-0351 www.oil.bm	George Hutchings, senior vp/COO
2	Associated Electric & Gas Insurance Services Ltd.	Bermuda	\$1,144,079,000	474	Utility and related energy industries	D&O, excess liability, employment practices, excess workers compensation, fiduciary liability, professional liability, property	AEGIS Insurance Services Inc. 10 Exchange Place, Jersey City, N.J. 07302	201-521-1200 Fax: 201-521-9555 www.aegislink.com	Gilbert Gould, senior vp
3	Raffles Insurance Ltd.	Cayman Islands	\$185,727,540	244	Contractors, distributors, manufacturers	Auto liability, auto physical damage, general liability, workers compensation	Kensington Management Group Ltd. P.O. Box 10027APO, Grand Cayman, Cayman Islands, B.W.I.	345-946-2100 Fax: 345-946-2110 www.rafflesinsurance.com	Michael Gibbs, president-Kensington Management Group Ltd.; Jennifer Beard, executive vp-Captive Resources L.L.C.
4	American Contractors Insurance Group	Bermuda	\$114,915,000	37	Construction contractors	Auto liability, general liability, workers compensation	ACIG Insurance Co. 12222 Merit Drive, Suite 1660, Dallas, Texas 75251	972-702-9004 Fax: 972-687-0603 www.acig.com	William S. McIntyre, chairman
5	Affinity Insurance Ltd.	Cayman Islands	\$86,614,166	183	Contractors, distributors, manufacturers	Auto liability, auto physical damage, general liability, workers compensation	Kensington Management Group Ltd. P.O. Box 10027APO, Grand Cayman, Cayman Islands, B.W.I.	345-946-2100 Fax: 345-946-2110 www.affinityinsuranceltd.com	Michael Gibbs, president-Kensington Management Group Ltd.; Tom Ullrich, senior vp-Captive Resources L.L.C.
6	Churchill Casualty Ltd.	Cayman Islands	\$82,165,624	97	Contractors, distributors, manufacturers	Auto liability, auto physical damage, general liability, workers compensation	Kensington Management Group Ltd. P.O. Box 10027APO, Grand Cayman, Cayman Islands, B.W.I.	345-946-2100 Fax: 345-946-2110 www.churchillcasualty.com	Michael Gibbs, president-Kensington Management Group Ltd.; Sam Meccia, senior vp-Captive Resources L.L.C.
7	Oil Casualty Insurance Ltd.	Bermuda	\$77,231,000	78	Chemicals and mining, oil and gas exploration and production, petrochemicals, utilities	Excess general liability	OIL Management Services Ltd. 30 Woodbourne Ave., Third Floor, Pembroke, HM 08 Bermuda	441-295-0905 Fax: 441-295-0351 www.ocil.bm/ocil	Jerry Rivers, senior vp/COO
8	Temporary Services Insurance Ltd.	Cayman Islands	\$70,974,704	110	Temporary employment companies, staffing firms	Workers compensation	Kensington Management Group Ltd. P.O. Box 10027APO, Grand Cayman, Cayman Islands, B.W.I.	345-946-2100 Fax: 345-946-2110 www.tempsinsurance.com	Michael Gibbs, president-Kensington Management Group Ltd.; Luan Lee, vp- Captive Resources L.L.C.
9	Traffic Insurance Ltd.	Cayman Islands	\$47,936,655	57	Trucking companies	Auto liability, auto physical damage, general liability, workers compensation	Kensington Management Group Ltd. P.O. Box 10027APO, Grand Cayman, Cayman Islands, B.W.I.	345-946-2100 Fax: 345-946-2110	Michael Gibbs, president-Kensington Management Group Ltd.; Nicholas Hentges, executive vp-Captive Resources L.L.C.; Tim Gallagher, vp-Captive Resources L.L.C.
10	American Excess Insurance Exchange, Risk Retention Group	Vermont	\$47,109,000	17	Nonprofit health care systems	Excess hospital professional liability, general liability	Premier Insurance Management Services Inc. 150 Dorset St., PMB 238, South Burlington, Vt. 05403	802-863-4400 Fax: 704-733-4700 www.premierinc.com	Robert Dowdy, president

Source: BI survey

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B/RANKING

Liability triggers

Coverage forms used by rent-a-captive facilities



Source: BI survey

Types of rent-a-captive programs



* In fully funded programs, the rent-a-captive issues a policy and funds it up to the aggregate limit.
 † Traditional programs are written through a fronting company rather than by the rent-a-captive.
 Source: BI survey

Largest rent-a-captive facilities

Ranked by 2005 gross premiums written

Rank	Facility	Domicile	2005 gross written premiums	Estimated 2006 gross written premiums	2005 participants	Estimated 2006 participants	Risks insured	Management company/Address	Phone/Fax/Web site	Contact
1	Guardrisk Group of Cos.	South Africa	\$376,699,566 ¹	\$398,227,679 ²	346	325	Life, nonlife	Guardrisk Holdings Ltd. Alexander Forbes Place, 90 Rivonia Road, Fourth Floor, Sandton, 2146 South Africa	27-11-669-1100 Fax: 27-11-669-2528 www.guardrisk.co.za	Andre Gideon Jordaan, financial director
2	Universal Re-Insurance Co. Ltd.	Bermuda	\$175,000,000	\$190,000,000	130	140	All lines	Atlantic Security Ltd. Windsor Place, 18 Queen St., Hamilton, HM 11 Bermuda	441-295-5425 Fax: 441-295-5444	Hal Forkush, president
3	Universal International Reinsurance Co. Ltd.	Bermuda	\$133,000,000	\$145,000,000	65	70	All lines	Atlantic Security Ltd. Windsor Place, 18 Queen St., Hamilton, HM 11 Bermuda	441-295-5425 Fax: 441-295-5444	Hal Forkush, president
4	Alternative Re Ltd.	Bermuda	\$113,242,000	N/A	110	N/A	Auto liability, general liability, property, products and completed operations, workers compensation	Wessex House, 45 Reid St., Hamilton, HM 12 Bermuda	441-278-9245 Fax: 441-278-9249	Gavin P. Collery, president/COO
5	Lansdowne Insurance Co. Ltd.	Bermuda	\$59,000,000	\$60,000,000	64	70	Property/casualty	Allegro Insurance & Risk Management Ltd. Burnaby Building, 16 Burnaby St., Hamilton, HM 11 Bermuda	441-295-8495 Fax: 441-292-1196	Andy McComb, president
6	Hurst Holme Insurance Co. Ltd.	Bermuda	\$36,700,000	\$40,000,000	22	25	Property/casualty	International Advisory Services Ltd. 44 Church St., Hamilton, HM 12 Bermuda	441-295-3638 Fax: 441-296-1457 www.ias.bm	David P. Pickering, president
7	Marchmont Insurance Co. Ltd.	Bermuda	\$35,000,000	\$20,000,000	8	6	Health, life, pension, property/casualty	HSBC Insurance Solutions (Bermuda) Ltd. Insurance Building, 112 Pitts Bay Road, Hamilton, HM 11 Bermuda	441-292-5566 Fax: 441-292-8682 www.bfm.bm	S. Andrew White, assistant vp/manager
8	Quest (SAC) Ltd.	Bermuda	\$23,507,000	\$25,500,000	18	24	General liability, property, workers compensation, all lines considered	Quest Management Services Ltd. Skandia International House, 16 Church St., P.O. Box HM 2062, Hamilton, HM FX Bermuda	441-295-2482 Fax: 441-292-1143 www.questgroup.bm	Larry Turnbull, senior vp/treasurer
9	Wyndham Insurance Co. (SAC) Ltd.	Bermuda	\$19,250,000	\$25,000,000	4	9	Auto liability, business interruption, general liability, professional liability, property/casualty, workers compensation	Allegro Insurance & Risk Management Ltd. Burnaby Building, 16 Burnaby St., Hamilton, HM 11 Bermuda	441-295-8495 Fax: 441-292-1196	Andy McComb, president
10	Gettysburg National Indemnity (SAC) Ltd.	Bermuda	\$12,383,000	\$13,000,000	15	18	Property/casualty	Allegro Insurance & Risk Management Ltd. Burnaby Building, 16 Burnaby St., Hamilton, HM 11 Bermuda	441-295-8495 Fax: 441-292-1196	Andy McComb, director

¹ 2005 premium volume is converted from South African rand = \$0.1564 (2006), fiscal year ending 3/31. ² 2006 estimated premium volume is converted from South African rand = \$0.1434 (7/26/06)
 Source: BI survey

Visit www.businessinsurance.com for more information and to access the full searchable Directory of Rent-a-Captive Facilities.
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TARIFF REINSURANCES LIMITED

-and-

**IN THE MATTER OF THE FINANCIAL SERVICES AND MARKETS ACT 2000
TRANSFERS OF BUSINESS**

Notice is hereby given that by application dated 17 July 2006 British Engine Insurance Limited ("British Engine"), applied to the High Court of Justice of England and Wales, for (inter alia) an order under section 111(1) of the Financial Services and Markets Act 2000 (the "Act") sanctioning an insurance business transfer scheme (the "Scheme") providing for the transfer of insurance business by Alliance Assurance Company Limited, Cavendish Insurance Limited, Century Insurance Company Limited, Liverpool Marine and General Insurance Company Limited, The London Assurance, London Guarantee & Reinsurance Company Limited, National Vulcan Engineering Insurance Group Limited, Royal & Sun Alliance Insurance (Global) Limited, Royal & Sun Alliance Insurance plc, Royal & Sun Alliance Reinsurance Limited, Royal International Insurance Holdings Limited, The Sea Insurance Company Limited, Sun Alliance and London Insurance plc, Sun Alliance Insurance UK Limited, Sun Insurance Office Limited and Tariff Reinsurances Limited (the "Transferors") and for an order making provision under section 112 of the Act.

Copies of a report on the terms of the Scheme prepared by an independent expert in accordance with section 109 of the Act (the "Scheme Report") and copies of a statement setting out the terms of the Scheme and containing a summary of the Scheme Report may be obtained, free of charge, from Royal & SunAlliance, Leadenhall Court, 1 Leadenhall Street, London EC3V 1PP, during normal office hours (ref: Sue Lawrence; fax +44 (0)20 7337 5098; e-mail: inwards.re@uk.royalsun.com) or may be downloaded from the website www.royalsun.com/inwards-re-transfers.

The Norwegian supervisory authority has informed the parties to the transfer that a Regulation of 22 May 1996 on Transfer of Insurance Policies laid down by the Norwegian Ministry of Finance permits policyholders to cancel their policies in the event of a transfer of those policies and specifies a time limit within which that right may be exercised.

The application will be heard on 3 October 2006, before the Applications Judge at the Royal Courts of Justice, Strand, London WC2A 2LL. Any person (including an employee of British Engine or of any of the Transferors) who alleges that he or she would be adversely affected by the carrying out of the Scheme may appear at the time of the hearing in person or by Counsel. Any person who intends so to appear and any policyholder who dissents from the Scheme but does not intend to appear is requested to give written notice not less than 2 clear business days' prior to the hearing of such intention or dissent and of the reasons for it to the Solicitors named below.

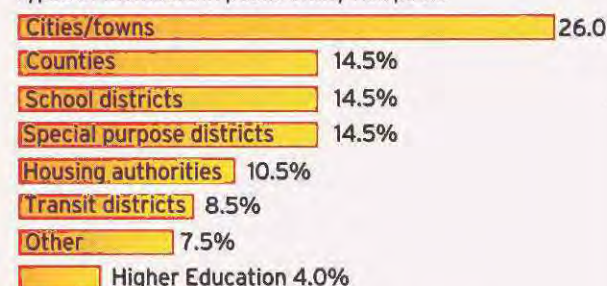
Clyde & Co, 51 Eastcheap, London EC3M 1JP.

Solicitors to British Engine (Ref: JQS/GEQ/0407324).

B/RANKING

Who's in the pool?

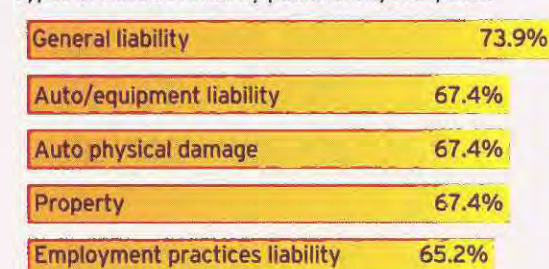
Types of members in public entity risk pools



Source: BI survey

Commonly covered risks

Types of risks covered by public entity risk pools.



Source: BI survey

What type of pools?



Source: BI survey

Largest public entity risk pools

Ranked by member contributions in 2005

Rank	Pool name/Address	Phone/Fax/Web site	Sponsoring organization	2005 member contributions	2005 members	Member type	Risks covered	Principal officer
1	Local Government Center (LGC) HealthTrust 25 Triangle Park Drive, P.O. Box 617, Concord, N.H. 03302-0617	603-224-7447 Fax: 603-224-5406 www.healthtrustonline.org	New Hampshire Local Government Center	\$293,340,386	301	Cities/towns/townships, counties, housing authorities, school districts, special districts, transit districts	Employee benefits	John B. Andrews, executive director/fund administrator
2	California State Assn. of Counties Excess Insurance Authority (CSAC EIA) 3017 Gold Canal Drive, Rancho Cordova, Calif. 95670	916-631-7363 Fax: 916-631-7112 www.csac-eia.org	None	\$280,470,039	197	Cities/towns/townships, counties, housing authorities, school districts, special districts, transit districts	Auto physical damage, auto/equipment liability, bonds, employee benefits, employment practices liability, general liability, property, workers compensation	Michael Fleming, CEO
3	Protected Insurance Program for Schools P.O. Box 4328, Torrance, Calif. 90510	310-212-0363 Fax: 310-212-0300 www.pipsjpa.org	None	\$194,060,759	54	Higher education, school districts	Workers compensation	Eloy Oakley, president
4	Assn. of Washington Cities Insurance Services Division 1076 S. Franklin St., S.E., Olympia, Wash. 98501-1346	360-753-4137 Fax: 360-753-0148 www.awcnet.org	Assn. of Washington Cities	\$150,000,000	281	Cities/towns/townships	Auto physical damage, auto/equipment liability, bonds, employment practices liability, general liability, medical accident coverage, property, public officials D&O and E&O liability, unemployment compensation, workers compensation	Stan Finkelstein, executive director
5	Texas Municipal League Intergovernmental Risk Pool P.O. Box 149194, Austin, Texas 78714-9194	512-491-2300 Fax: 512-491-2311 www.tmlrp.org	The Texas Municipal League	\$137,722,206	2,578	Cities/towns/townships, housing authorities, special districts, transit districts	Auto physical damage, auto/equipment liability, bonds, criminal defense expense reimbursement, employment practices liability, general liability, property, public officials D&O and E&O liability, workers compensation	R. Marvin Townsend, executive director
6	Texas Assn. of School Boards Risk Management Fund P.O. Box 301, Austin, Texas 78767	512-467-3510 Fax: 512-467-3619 www.tasb.org/risk	Texas Assn. of School Boards	\$101,923,268	1,229	Higher education, school districts, special districts	Auto physical damage, auto/equipment liability, bonds, employment practices liability, general liability, property, public officials D&O and E&O liability, unemployment compensation, workers compensation	Dubravka Romano, associate executive director-risk management services
7	Housing Authority Insurance Group ¹ 189 Commerce Court, Cheshire, Conn. 06712-0189	203-272-8220 Fax: 203-271-2265 www.housingcenter.com	None	\$94,669,000	939	Housing authorities, nonprofits	Auto physical damage, auto/equipment liability, bonds, criminal defense expense reimbursement, employee benefits, employment practices liability, general liability, property, public officials D&O and E&O liability	Dan Labrie, CEO
8	Texas Assn. of Counties Health & Employee Benefits Pool P.O. Box 2131, Austin, Texas 78701	512-478-8753 Fax: 512-478-1426 www.county.org	Texas Assn. of Counties	\$87,050,843	161	Counties, special districts	Employee benefits	Jim Jean, director-program administration
9	Connecticut Interlocal Risk Management Agency 900 Chapel St., Ninth Floor, New Haven, Conn. 06510-2807	203-498-3000 Fax: 203-773-6971 www.ccm-ct.org/insurance	Connecticut Conference of Municipalities	\$69,223,959	398	Cities/towns/townships, housing authorities, school districts, special districts, transit districts, local public agencies	Auto physical damage, auto/equipment liability, bonds, employment practices liability, general liability, medical accident coverage, property, public officials D&O and E&O liability, workers compensation	Bruce A. Wollschlaeger, executive vp/COO
10	BETA Healthcare Group Risk Management Authority 1443 Danville Blvd., Alamo, Calif. 94507	925-838-6070 Fax: 925-838-6088 www.betahg.com	None	\$65,040,000	89	Counties, special districts, nonprofit, 501(c)(3) health care facilities	Auto physical damage, auto/equipment liability, employment practices liability, general liability, medical accident coverage, public officials D&O and E&O liability	Thomas J. Wander, CEO

¹ Includes Housing Authority Property Insurance and Housing Authority Risk Retention Group

Source: BI survey

Visit www.businessinsurance.com for more information and to access the full searchable Directory of Public Entity Risk Pools. Business Insurance now offers the option to purchase the entire online directory as an Excel file or as a PDF.

Market: Newer types of alternative vehicles expanding risk transfer options

Continued from page 11

playing a role in the vehicles' popularity, he said.

"You're moving from using standard insurance products and moving into the capital markets. It is creating a whole new paradigm. For risk management people, it's exciting to include in the skill set the capital markets in addition to the traditional insurance," said Mr. Swanke.

"The structure of the risk transfer is not changing that much, but the risks are," said Paul Obolensky, president of AIG Insurance Management Services Inc., a New York-based unit of American International Group Inc. Risk managers are using ART to meet concerns such as supply chain disruptions and "all the things associated with offshoring," he said.

"During a soft market, people will tend to go back to the traditional markets to seek coverage but not necessarily in the same amount that the traditional market lost in the last hard market," said Best's Mr. Widmer.

Corporations are "increasingly willing to dabble in ART...as a way to employ record amounts of capital accumulating on their own balance sheets."

Claire Wilkinson
Insurance Information Institute

Larger commercial enterprises probably all have some sort of ART vehicle, "so they can turn it on and off as conditions merit," said Best's Mr. Andre.

"Corporations (i.e., noninsurers) themselves are also increasingly willing to dabble in ART—especially captives and risk retention groups—both to avoid what they perceive as excessive increases in the price of insurance but also as a way to employ record amounts of capital accumulating on their own balance sheets," said Claire Wilkinson, vp-global issues for the Insurance Information Institute in New York, in an e-mail comment.

For insurers, "ART solutions have become increasingly viable and necessary in the face of a constantly changing risk landscape that is testing the boundaries of traditional insurance and reinsurance market," Ms. Wilkinson wrote.

"Insurers and reinsurers have limited capital available to handle potential losses arising from future mega-catastrophes as well as dozens of other lines of insurance written across hundreds of millions of commercial and personal insurance policies. By laying off risk to the capital markets, ART has greatly expanded the industry's ability to finance catastrophic risk," read her e-mail.

"Ninety-nine percent of what we do represents transactions for insurance company clients," said Dan Malloy, executive vp, who is respon-

sible for specialty lines including ART at Benfield Group in New York.

"You clearly have right now an increased interest from our clients in products like subordinated debt, such as trust-preferred and surplus notes, and also sidecars and collateralized quota shares where investors are participating in the insurance business, and a lot of those new participants would be people like hedge

funds," he said. "You're bringing in new capital in the business and it's largely in the area of catastrophe exposure."

"You have new sources of capital with new structures coming in to address an area where the market is not in equilibrium," said Mr. Malloy. "We've placed a number of structured catastrophe covers which are alternatives to the annual prod-

uct that offers two limits, where you're paying an upfront premium and a reinstatement premium. We've done multiple-year covers that respond on a per-occurrence basis, multiple-year covers that respond on aggregate basis and quota shares that assume catastrophe risk."

Providing cover against natural catastrophes appears likely to be one

of the chief drivers of ART growth in the near future.

"If we have another bad wind season or the earth shakes in the wrong place, that could be one of them. What we have taken for granted as an industry for a long time, we may end up having to look at different structures to transfer

See MARKET / next page

A face.



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Fewer reinsurers mean harder work for pools

Underwriters now want more detail before taking on risk from public entity pools

By MICHAEL BRADFORD

A shrinking number of reinsurers interested in writing coverage and a downgrade that sent some insurers looking elsewhere have meant fewer reinsurance choices for public entity insurance pools.

Pools are working harder to prove they are good risks to reinsurers that are more closely scrutinizing the insurers they take on, industry sources say. Prices, meanwhile, are rising modestly for the coverage, although some property accounts may have a tough ride through renewals.

"What we've seen is more consolidation of those markets," said Michael Rhyner, executive director of the Michigan Municipal Risk Management Authority in Livonia, Mich. Rather than eight or nine traditional reinsurance markets that used to consistently write coverage for the public entity pools, fewer than a half dozen are now interested in providing meaningful reinsurance coverage amounts, he said.

"They're still out there, but there are fewer of them," Mr. Rhyner said of standard market reinsurers interested in reinsuring pools. "And they are becoming more specialized. There is a group of reinsurers who understand (public sector risks) and have an appetite for it."

There are fewer "players in the market," agreed Ann Gergen, associate administrator of the League of Minnesota Cities Trust in St. Paul, Minn. "We've seen a consolidation of reinsurers over the past five years."

In addition, reinsurers are asking for more detailed data from insurers, Ms. Gergen noted. The Minnesota Cities Trust has worked hard

to collect and manage information related to its insurer members "not only to better understand it ourselves, but to share it with our reinsurers," she said.

A necessity for pools seeking reinsurance is "getting complete and accurate underwriting information" to the reinsurers, said Tom O'Connell, senior vp in the public-sector group at Aon Risk Services in Chicago.

"The reinsurers really want to get their arms around the exposure a pool represents," Mr. O'Connell said. "They are asking for pretty detailed information." It's no longer enough for a pool to report that it insures a fleet of 700 automobiles, for example. "Now the reinsurers want to know the (vehicle identification numbers), what they're used for, the age and description" of the vehicles, he said.

"It's the same with workers compensation," said Mr. O'Connell. "Even excess carriers want to see payroll by class code—not just payroll. They are going to come in and audit, which is fine."

Also, the reinsurance market for some public entity pools was rattled last year when a financial ratings downgrade of NLC Mutual Insurance Co. caused some insurers that bought coverage from the Vermont-based captive to seek coverage from other sources. NLC is affiliated with the National League of Cities and provides property/casualty reinsurance for pools operated by state and municipal leagues.

In April 2005, Oldwick, N.J.-based A.M. Best Co. downgraded NLC's financial strength rating to B+ from A-, citing a "significant adverse loss development" and the company's largest annual under-

writing loss in 2004 as leading to the downgrade. In December 2005, Best further downgraded the rating to C++, and NLC has since been given an NR-4 rating.

An executive with NLC could not be reached for comment, but one industry source said the reinsurer may have lost "a good number of their clients" following the downgrades.

"The reinsurers really want to get their arms around the exposure a pool represents. They are asking for pretty detailed information."

Tom O'Connell
Aon Risk Services

David Sichel, deputy director of group services for external affairs and planning at the Vermont League of Cities and Towns, which operates the VLCT Property & Casualty Intermunicipal Fund, said, "We felt it would be prudent" to shop for other coverage when NLC was downgraded.

What the Vermont pool found was cheaper reinsurance on its property/casualty coverage risks from Discover Re. "We saved a considerable amount," Mr. Sichel said.

A spokesman for Discover Re said that while the Farmington, Conn.-based company structures reinsurance arrangements for public entity pools, such deals are a very small portion of its book of business.

The NLC downgrade "had every-

thing to do with it," said an executive with a state league municipal pool when asked why his pool abandoned the reinsurer. "It's been our practice to stay with A-rated paper," said the executive, who asked not to be identified.

Two other mutual reinsurers continue as stable pool reinsurance markets.

The loss of members at NLC Mutual did not translate into an increase in membership at Government Entities Mutual Inc., a Washington-domiciled captive that provides reinsurance to public entity pools. "We were not aggressive in seeking out those leaving NLC," said John Salisbury, president and chief executive officer at GEM.

"These commitments are for the longer-term," he said, and GEM did not want to encourage pools to break their commitments to NLC. Some of those that left NLC probably were "just looking at price" rather than for long-term relationships and returned to the traditional market, said Mr. Salisbury.

GEM's members renewed their property/casualty reinsurance at prices that generally were flat, Mr. Salisbury said, although GEM saw a slight rise in its retrocessional costs.

County Reinsurance Ltd., a Vermont-domiciled captive that offers workers compensation and other casualty coverage, is renewing coverages for its county insurance pool members at generally flat rates as well, according to Phil Bell, the Clemmons, N.C.-based executive director at CRL.

CRL does not offer property coverage. The pool considered doing so, but "it's a difficult time to get a property program started," said Mr. Bell. "We do have some members with catastrophe exposures," he said.

Reinsurance buyers that have no coastal exposures are generally find-

ing fairly level prices this year.

"Pricing, for the most part, has been pretty stable," said Aon's Mr. O'Connell, although "people with coastal property exposures are going to face a real challenge."

MMRMA's Mr. Rhyner said conventional wisdom would have it that prices should have risen as the number of standard-market reinsurers fell. "But we haven't seen that," he said. "Our prices on casualty renewals have been relatively stable."

The unidentified executive with the pool that left NLC said a July 1 casualty renewal was uneventful but the pool still was trying to complete its property reinsurance renewal late in the month. "Property is just rough," he said.

While there hasn't been a dramatic softening in property/casualty reinsurance rates since they significantly tightened several years ago, "in recent renewals we have seen some stability," said Mr. Rhyner.

Reinsurers that have remained in the market "are there to stay," said Mr. O'Connell. "Year in and year out, they're in that market. They've had to make some pricing adjustments over the years when times were difficult, but they've not been unreasonable."

And, Mr. O'Connell said, there are indications that some reinsurance markets that traditionally haven't written a lot of public entity coverage are becoming more aggressive and providing new capacity for pools. "We're pretty happy," he said, about that new coverage availability.

Market: More growth predicted for alternative risk transfer

Continued from previous page

that risk," said Rick Friedl, senior vp and head of business development for the global corporate structured solutions group of Zurich Financial Services Group Inc. in New York.

"The question is if this wildstorm season is mild, will the interest be sustained? We think if we have a serious winstorm season there's just bound to be heightened interest in cat bonds," said Willis' Mr. Saporito. "It's traditionally been a reinsurance mechanism; what's been happening

over the past few years is a growing interest in the retail part of the business. What we've been seeing since (Hurricane) Katrina are more inquiries coming in from retail clients," he said.

"Given the rising frequency and severity of catastrophic events worldwide, interest in alternative risk transfer solutions is likely to remain high in the years to come," the Insurance Information Institute's Ms. Wilkinson stated in her e-mail response.

"Hurricane Katrina in 2005 cost insurers \$40.6 billion, and insured catastrophe losses of \$100 billion in a single year are quite possible, triggering increased interest in ART vehicles such as catastrophe bonds," Ms. Wilkinson said, noting that "risk retention groups, currently restricted to insuring liability risks, are presently lobbying Congress for the right to expand into property coverages."

But potential growth will not be limited to natural catastrophe alone.

The "whole area of operational risks—risk emanating from people, processes and systems" may also give rise to increased use of alternative risk transfer vehicles, said Mr. Saporito.

Mr. Friedl added that "as the world becomes more global and if some countries start adopting the same litigious atmosphere as we do sometimes in the U.S., we might see traditional products being withdrawn a bit," creating an additional need for ART approaches.

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Weather: Derivatives' popularity rises with risks

Continued from page 11

through derivative deals, the increased concern about storm losses has an indirect impact on derivatives markets.

"It's obviously been helpful for our market to have an increased focus on how weather affects corporate earnings and (raises the question) is there a means besides traditional insurance products to manage some of that risk?" Mr. O'Hearne said.

The Washington-based international trade organization of companies that promotes derivative transactions, Weather Risk Management Assn., in an annual survey released in June, revealed that the notional value, or face value, of weather risk management contracts rose from \$9.7 billion to \$45.2 billion from April 2005 through March 2006.

This year has seen increased interest in "yield-based" transactions that address precipitation's impact on agricultural production, Mr. O'Hearne said. Arrangements are occurring for private entities that process farm products as well as for hu-

Recent growth in derivative arrangements is also coming from hedge funds. They have turned to weather deals to diversify their investments, noted Jeff Hamlin, director of weather risk solutions for Risk Management Solutions Inc. in Newark, Calif.

In addition to providing catastrophe modeling services, RMS also offers its weather derivative pricing and portfolio management system for companies that trade in weather.

Many of the new hedge fund trades are conducted through the Chicago Mercantile Exchange, Mr. Hamlin noted.

The CME reports that the notional value of its weather products reached \$22 billion through September 2005, with more than 600,000 contracts traded. That notional value is up sharply from \$2.2 billion in 2004.

Unlike organizations such as Swiss Re that can arrange privately negotiated deals between two parties referred to as over-the-counter contracts, CME's weather futures and options are standardized. They are temperature-based and traded in an electronic, auctionlike open market operating almost around



PHOTO: KRT

Energy companies are protecting against hotter- and cooler-than-normal weather as well as another year of above-average hurricane risks.

See WEATHER / next page

One advantage for certain types of derivative arrangements is that a party does not have to make premium payments up front.

Valerie Cooper
Weather Risk Management Assn.

manitarian goals.

Swiss Re, for example, is participating in an arrangement with the World Bank that has placed risks for global regions that are at risk of drought.

Instead of waiting to provide relief after disaster conditions follow a drought, the World Bank has structured arrangements that would pay at the end of a growing season that sees below-average rain.

That way, money for assistance is available as soon as it becomes apparent that a crop has failed rather than after people have begun to suffer, Mr. O'Hearne explained.

One advantage for certain types of derivative arrangements is that a party does not have to make premium payments up front as they do when purchasing an insurance policy, said Valerie Cooper, WRMA's executive vp.

For example, in a "clean swap" arrangement, a lettuce grower who needs cooler summer days for increased production might arrange to pay an amount by which his revenue exceeds his annual average if there are more cool days than normal, Ms. Cooper said.

But if it turns out to be a hotter summer than usual, the other party to the transaction would pay to make up for the farmer's below-average production and resulting revenue loss.

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DISCOVER RE

Catastrophe bond issuance continuing to set records

A 2005 bond expects to post \$190 million loss, but risks so far not scaring off would-be investors

By RUPAL PAREKH

A tight catastrophe reinsurance market is helping to spur record cat bond issuance, industry experts say.

Moreover, the cat bond programs launching today aren't simply more of the same; the market is widening to cover new perils and extend to new parts of the world, they say.

Although the news isn't all positive—the KAMP Re 2005 Ltd. bond is expected to result in a loss of \$190 million—investor backing does not seem to be waning.

Cat bonds are in a period of unprecedented growth, with issuance last year reaching a record \$1.99 billion, says a study by New York-based Marsh Inc.'s Guy Carpenter & Co. Inc. and MMC Securities Corp. units. That's a 74% jump from the \$1.14 billion of issuance the market saw in 2004, and a 13% leap beyond the previous record of \$1.73 billion in 2003.

Total risk capital, meanwhile, grew to \$4.9 billion by the end of 2005, up 21% from \$4.04 billion at year-end 2004, and a continued rise from the \$3.45 billion at year-end 2003, according to the study.

The average transaction size of cat bonds also increased last year, from an average issuance size of \$130.5 million in 2004 to \$199.1 million in 2005.

"We've already seen more (than last year's issuance) placed in the

first six months alone," said Christopher McGhee, managing director at MMC Securities in New York. "We're almost \$2.2 billion year-to-date, so in half the time, we've more than broken the record."

"There is no doubt in my mind that we are going to, at a minimum, double what we issued last year," said Judy Klugman, managing director and head of insurance-linked securities distribution at Swiss Re Capital Markets in New York.

Renewed interest in the cat bond market stems largely from devastating hurricanes in recent years, some observers say.

Cat bond transactions tend to "spike up and down with the large catastrophes," noted Peter Dickey, managing senior financial analyst at Oldwick, N.J.-based A.M. Best Co. Inc. "When you have a large event like Katrina, it'll spike up" because, at such times, rates for catastrophe reinsurance in the traditional market often harden, Mr. Dickey said.

Growth in cat bond issuance "is a direct result of the hurricane activity in the past two years, especially Hurricane Katrina," said Mr. McGhee. "The expensiveness and the scariness of reinsurance in the wake of the storms is leading more insurance companies to seek alternatives to the traditional mar-

ket, he said.

"I think this year, what's driving (cat bond issuance) more than anything else is the economics," said Tom Upton, managing director with Standard & Poor's Corp. in New York. The "cost of catastrophe reinsurance has gotten very high."

"This year, what's driving (cat bonds) more than anything else is the economics."

Tom Upton
Standard & Poor's Corp.

and many companies found it hard to place their entire risk portfolios in the traditional reinsurance market. "This is a way they can directly access the capital markets (to cover) their risks," Mr. Upton said.

And any capacity shortages in the traditional market are only magnified in the retrocessional market, observers say.

"The retrocessional market is dramatically tighter. Capacity in the retro market might be as low as 30% of what it was two years ago," though not inclusive of Berkshire Hathaway's National Indemnity Co., Mr. McGhee said. "Berkshire Hathaway has the financial resources to provide substantial ca-

capacity, easily in the hundreds of millions of dollars."

"There are real capacity constraints in the traditional markets and retrocession market" and there is also "a real concern with the counter-party credit risk that you have in the retrocession market," Swiss Re's Ms. Klugman said.

"The retrocession market is generally the same institutions that are in the reinsurance market, so the thought is for a very large event, will those counterparties in the retrocession market be able to satisfy their claims?" Ms. Klugman said. The benefit of cat bonds rather than insurance markets is "knowing that you have fully cash-collateralized protection," Ms. Klugman said.

"People are seeing cat bonds as a means for transferring risk, but secondly, the investor market is looking for diversification," said S. Ming Lee, executive vp, at Boston-based catastrophe modeling firm AIR Worldwide Corp.

The fact that the KAMP Re bond—a special-purpose vehicle established last August on behalf of Swiss Reinsurance America Corp.—is expected to trigger a loss of \$190 million is not a deterrent to investors, most observers say.

"One of the things that the KAMP Re bond has (borne) out is that cat bonds actually do work," Ms. Klugman said, since "this is the first time that we see a bond that in all likelihood will get triggered."

"A lot of sponsors are seeing that not only does the process work, but that investors aren't running for the hills," Ms. Klugman said.

Going forward, however, "issuance really depends on what happens in the way of catastrophes" this year, S&P's Mr. Upton said. "One thing we've learned from the last two years is to be prepared for surprises."

While the bond market is still dominated by so-called "peak insurance perils"—which are North Atlantic hurricane, European windstorm, Californian earthquake and Japanese typhoon—the cat bond market has expanded and innovated to accommodate new risks.

AIR's Mr. Lee said that new perils include Australian and Mexican earthquake. "We're seeing all types of triggers being used," including indemnity-bond, parametric and industry-loss indices, he said.

In addition to catastrophe risks, the first book of third-party liability risks was securitized in June 2005 through a \$405 million Avalon Re Ltd. transaction sponsored by Oil Casualty Insurance Ltd., a captive insurer for the petrochemical industry.

Industry interest in securitization for terrorism risks may be growing as well. Newark, Calif.-based Risk Management Solutions Inc. earlier this year launched the first terrorism risk bond, Golden Goal Finance Ltd., to cover the risk of event cancellation of the 2006 FIFA World Cup.

The rate paid by FIFA for issuance of Golden Goal Finance Ltd. was lower than the least expensive traditional insurance option, and the \$260 million issue was over-subscribed, FIFA said.

Weather: More entities turning to derivatives

Continued from previous page
the clock.

CME futures and options are available, however, only for certain population centers. But the CME says it has recently expanded the number of population centers in

the United States, Europe and Asia for which its weather products are available.

That, too, is driving the use of derivatives, Mr. Hamlin and other observers say.

The increased use of weather ar-

rangements, meanwhile, has a snowball effect by helping standardize more arrangements and, thus, bringing their cost down, Ms. Cooper said.

Their increased use is also making others more aware that the arrangements can help smooth out the impact of weather.

"This is just another step in being fiscally responsible in managing risk that affects companies," Ms. Cooper said.

Still though, property/casualty risk managers are rarely involved in arranging derivative deals, said David Hoog, head of weather and energy business for XL Financial Products and Services in Stamford, Conn. Derivative arrangements are handled mainly by commodity traders or commodity hedgers, Mr. Hoog said.

Christopher E. Mandel, assistant vp-enterprise risk management for United Services Automobile Assn. in San Antonio, agrees. The weather derivative area is a financial risk management specialty that is probably better handled by traders, Mr. Mandel said.

Regardless, the use of weather derivatives is expected to continue its growth path, proponents say, as the U.S. Department of Commerce estimates that at least \$1 trillion of the U.S. economy is sensitive to weather.

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COMINGS & GOINGS - INDUSTRY



Mr. Mullen



Mr. Dyer



Mr. Smith



Mr. Bonner

Agents/brokers:

Cherry Hill, N.J.-based Commerce Insurance Services Inc. has named **Kevin Mullen** executive vp to lead the employee benefits practice.

Previously, he was employee benefits consultant at The Graham Co.

Len Dyer has been named president of the Grand Rapids, Mich.-based office of Hylant Group. Before joining Hylant, he was executive vp and west Michigan branch manager of Arthur J. Gallagher & Co.

Integro Ltd. has named **Emory Boyd** as principal, client development and service, in the Atlanta office. He joins Integro from McGriff, Seibels & Williams, where he was a vp.

Also at Integro, **Ethan Crain** has been appointed managing principal and executive broker for the Boston-based arm of the broker's health care practice. Previously, he was an associate director, national health care alternative risk practice, and head of the New England health care practice for Aon Corp.

And **F. Patrick Baker** has been named

managing principal for Integro's aviation practice in New York. Previously, he was senior vp in Aon's aviation division.

Indianapolis-based WSIB Insurance Agency L.L.C. has named **Laura Hauenstein** as president of its motorsports division. Before her promotion, she was an executive vp.

Also at WSIB, **H. Don DeWitt** has been named executive vp of the motorsports division. Previously, he was program leader for the K&K Motorsports division of Aon.

New York-based Thesco Benefits L.L.C. has named **Eugene P. Smith** as senior vp of its Midwest operations in Chicago. Previously, he was a vp at Willis Group Holdings Ltd.

Insurers:

Jeffrey D. Stempora has been named senior vp, division officer and chief information officer of Erie, Pa.-based Erie Insurance Group. Previously, he was executive vp, chief strategist, chief information officer and global

head of strategy and strategic initiatives for technology infrastructure for Citigroup Inc.

New York Life Insurance Co. has named **John Cassagne** as senior vp in charge of the group membership association division. Previously, he was head of sales for group membership for the New York-based insurer.

The Hartford Financial Services Group Inc. has named **Harry Monti** as senior vp of benefit management services in its group benefits division. Before his promotion, he was a vp and leader of the claims operations for the Hartford, Conn.-based insurer.

Reinsurance:

Phil Bonner has been named leader of London-based Benfield Group P.L.C.'s credit and financial risk team. Previously, he was a senior underwriter for credit and political risk business at Atradius Credit Insurance N.V.

Servus Life Insurance Co., soon to be renamed XL Re Life America Inc. pending regulatory approval, has named **Michael Pado** as president, succeeding **Andy Batley**, who has become head of global business development in London. Previously, Mr. Pado, who will be based in the Stamford, Conn., office, was senior vp of sales and market research at Transamerica Reinsurance Co.

Other providers:

Robert Besancenez has joined the St. Louis office of Buck Consultants L.L.C. as a director in the health and welfare consulting practice. Previously, he was a vp and chief financial

analyst for Huntleigh McGehee Inc.

Also at Buck, **Alan Vorchheimer** has joined the New York office as principal in the retirement practice. Most recently, he was a principal in the human capital practice of Ernst & Young L.L.P.

And **Randy Tyson** and **Will Whittle** have joined Buck's personalized and electronic communications group as directors based in Washington and Sandy, Utah, respectively. Mr. Tyson previously was director, enterprise portal, for Ahold USA. Mr. Whittle joins Buck from Automatic Data Processing Inc., where he was service delivery manager for the health and welfare operations.

Robert M. Hanna has joined the Newark, N.J.-based law firm of Gibbons, Del Deo, Dolan, Griffinger & Vecchione P.C. as director at the firm's Newark and New York offices. Previously, he was chief of the securities and health care fraud unit for the U.S. Attorney's office for the District of New Jersey.

Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news of recently promoted, hired or appointed senior-level executives to: Joe Walker, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; jwalker@businessinsurance.com.

Photos should be sent to: Kathy Barnes, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; kbarnes@businessinsurance.com.



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Vermont: Captive growth exceeds expectations

Continued from page 1

had strong ties to Vermont, where he maintained a summer home, later described the law that emerged from Mr. Sarchio's draft this way: "There's nothing else like this in the U.S."

But the Colorado risk managers with whom Mr. Beane discussed the proposal were not encouraging. The political climate in Colorado, they told him, would not be receptive to such a proposal.

It was at that point that Mr. Beane received Mr. Carbinio's call. Mr. Carbinio explained that Mr. Miller, who was his broker, had good political connections in Vermont. Mr. Miller had, in fact, been interested for some time in expanding Vermont's insurance base, such as through a new electronic insurance exchange.

Mr. Miller, now the group chairman of USA Risk Group Inc. in Montpelier, Vt., brought the insurance captive idea to Al Moulton, Vermont's commissioner of economic development. Later, Mr. Moulton discussed it with Stewart Ledbetter, the commissioner of the Vermont Department of Banking and Insurance, and later George Chaffee, who in 1980 succeeded Mr. Ledbetter.

Mr. Chaffee, now retired, was quickly taken with the idea of Vermont as a captive domicile. "I understood the concept and the nature of the problem," he said.

Mr. Chaffee brought the proposal to Vermont Gov. Richard Snelling, who did not immediately embrace the idea. In fact, Gov. Snelling, at a later meeting with Mr. Chaffee and other backers of the proposal, peppered the group with tough questions.

"Some people came away from that meeting discouraged," said Mr. Chaffee, who was more optimistic, aware that Gov. Snelling's tough questioning was his operating style

and was not an indicator of opposition or support for a proposal.

In fact, a few weeks later, Gov. Snelling signed on.

"Go for it," Mr. Chaffee recalled Gov. Snelling telling him. "We had his blessing," Mr. Chaffee said.

That was the start of a campaign—whose leaders included Messrs. Moulton and Chaffee—to win the support of the Vermont Legislature, a campaign that at its core involved educating state legislators about what an insurance captive was and what the potential impact of becoming a captive domicile could have on the Vermont economy.

That campaign was wildly successful: When the Legislature passed the captive bill in 1981, it did so with just one dissenting vote.

Unstoppable movement

Now as Vermont celebrates the 25th anniversary of its captive law, its success and impact—not just in Vermont, but on the entire captive movement—goes far beyond what its early backers envisioned.

"Not in my wildest dreams did I think this would happen," Mr. Beane said.

"I never thought Vermont would become as big as it did," said Tom Duffield, a retired risk manager who was Archer Daniels Midland Co.'s vp of risk management and insurance at the time the Decatur, Ill.-based agribusiness giant set up a Vermont captive in 1983.

Today, Vermont, which currently has 552 captives, is the world's third-largest captive domicile and the largest captive center in the United States. Vermont, in fact, has more than three times as many captives as Hawaii, the second-largest U.S. domicile.

The state's top three captive regulators—Len Crouse, deputy com-

missioner-captive insurance division; Derick White, director of captive insurance; and Peter Raymond, director of financial examinations—together have 43 years of captive regulatory experience, which Vermont captive executives say is a longer tenure than senior regulators in any other domicile.

"The size and reputation of its



Atop the domestic heap

Vermont is larger by far than other major domestic domiciles

Domicile	Captives*
Vermont	542
Hawaii	158
South Carolina	122
District of Columbia	59
Nevada	58
Arizona	53

*For year-end 2005

professional regulatory staff does not exist anywhere else," said Pamela Davis, president and chief executive officer in Santa Cruz, Calif., for the Alliance of Nonprofits for Insurance Risk Retention Group, which has been operating in Vermont since 2001.

The state's reputation is such that for risk managers, the name Vermont is synonymous with captives, said Terri Wilfong, senior manager-risk and insurance services in Wilmington, Del., for pharmaceutical giant AstraZeneca, which established a Vermont captive 12 years ago.

Indeed, well over 40% of Fortune 100 companies—including well-known corporate names such as Alcoa Inc., Exxon Mobil Corp., Microsoft Corp., The Walt Disney Co. and Wal-Mart Stores Inc.—now have captives in Vermont, while the annual conference of the Vermont Captive Insurance Assn., which will be held this week in Burlington, has become the largest meeting of captive sponsors and service providers in the world, attracting more than 1,200 people.

The economic impact of having so many captives has been huge on Vermont, a state with a population of just over 620,000. A study by the Vermont Department of Economic Development found that in 2003 captives supported about 1,400 jobs, a figure likely considerably higher today as the state has licensed more than 100 captives since that study was conducted.

A model for others

But the impact of Vermont's captive law extends beyond the Green Mountain State. Vermont's success as a captive domicile has been a catalyst for a score of other states enacting similar measures, giving risk managers domicile choices that didn't exist 25 years ago.

"Other states have taken note of what Vermont has accomplished," said Jon Harkavy, vp and general counsel in the Arlington, Va., office of captive manager Risk Services L.L.C.

Luck—or as Mr. Sarchio, now a partner at Chadbourne & Parke L.L.P. in New York, puts it—"serendipity," is at least partly responsible for Vermont's success.

Certainly, Vermont benefited from the failure of states—Colorado and Tennessee—that beat Vermont to the punch in enacting captive statutes to update their laws to make them more competitive with Vermont.

Other states, most notably Delaware, did pass attractive

statutes, but then set up procedures that essentially closed themselves off to most captive sponsors. Delaware, for example, which passed captive legislation in 1984, for years was interested only in captives that agreed to employ a large number of staff in the state, captive managers said.

Vermont also was a beneficiary, as were other domestic domiciles, from several changes in federal law during the 1980s. Congress, for example, passed measures in 1984 and 1986 that largely eliminated the tax advantages associated with setting up captives offshore.

"After 1986, the tax advantages of being offshore diminished dramatically," said Gary Osborne, president of USA Risk Group Inc. in Montpelier.

Also in 1986, Congress expanded a 1981 law to allow special multiple-owner captives, known as risk retention groups, to fund members' casualty coverages, except workers compensation. A key condition set by Congress is that risk retention groups had to be licensed in the United States, giving Vermont and other states a market closed to offshore domiciles. Today, more than 230 RRGs operate in the United States, with 77 of them licensed in Vermont, far more than any other state.

Being the first domestic state with an attractive captive statute gave Vermont the lead in winning captives sponsored by employers that already had captive programs offshore but were eager to bring those programs ashore once they had the ability to do so.

"Vermont was much more convenient than Bermuda," recalled retired Alcoa financial executive Harold Meeks, who was Alcoa's assistant treasurer when the aluminum producer set up its Vermont captive in 1983 and became the first Fortune 100 company to do so.

"As our program was growing, it

See VERMONT / page 24



No. 3 in the world*

Vermont is among the largest major domiciles worldwide

Domicile	Captives*
Bermuda	987**
Cayman Islands	733
Vermont	542
British Virgin Islands	380
Guernsey	382
Barbados	301**
Luxembourg	208
Dublin	207
Turks & Caicos	166***
Isle of Man	165

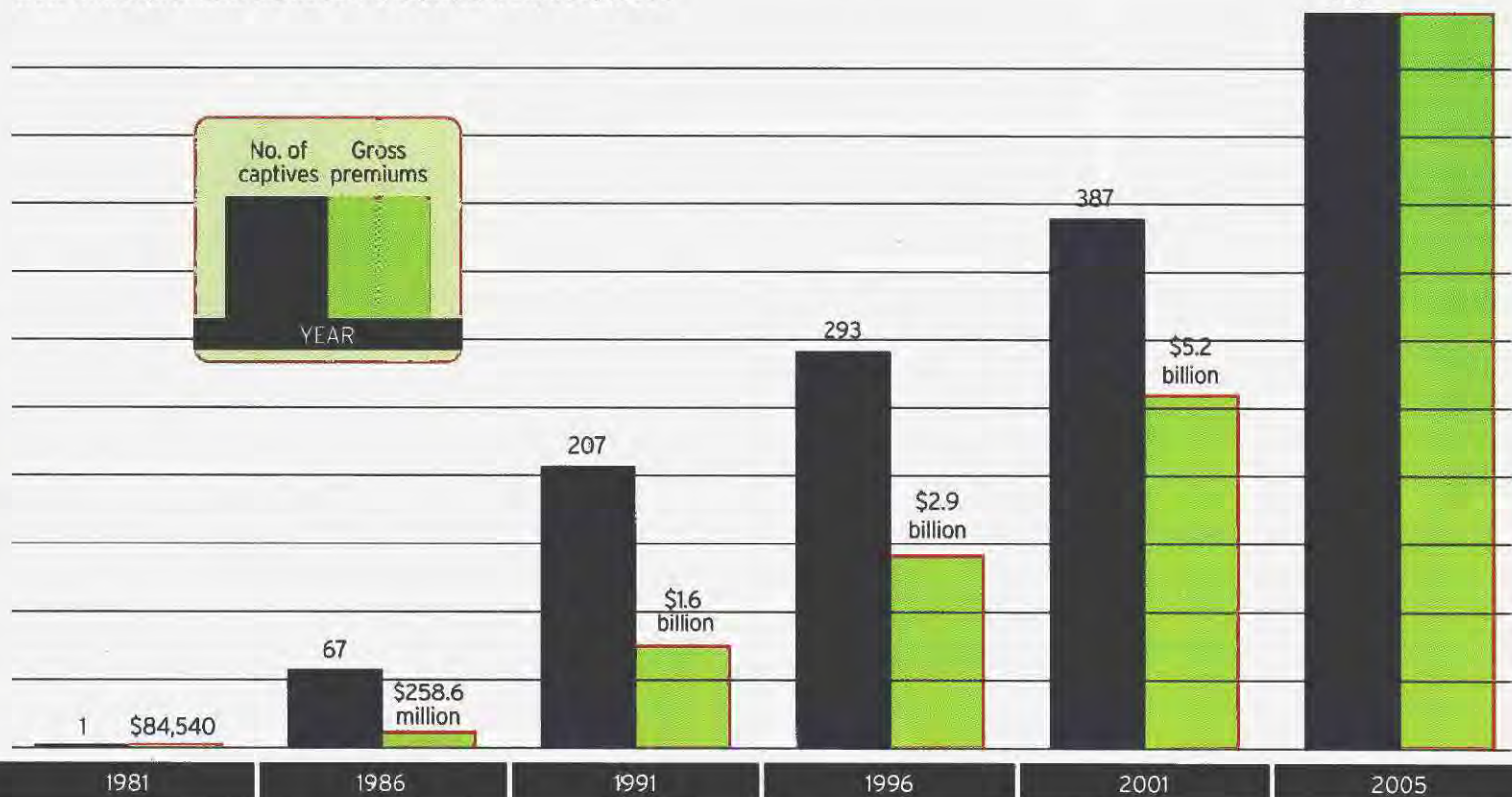
*For year-end 2005

**B/estimate

***Excludes credit life insurers

Tracking Vermont's captive growth

Gross written premiums and number of captives, 1981 through 2005



Charting Vermont's captive insurance history:

1981

■ Vermont Gov. Richard Snelling signs legislation giving employers interested in establishing captives the first highly attractive domestic domicile. Under the new law—the Special Insurer Act of 1981—captive parents do not have to prove, as is the case in other domestic domiciles, that insurance is not available in traditional markets, while rate and form regulatory approval is not required.

■ Vermont Department of Banking and Insurance licenses its first captive, First Charter Insurance Co., set up by tire manufacturer BF Goodrich Co. to reinsure property risks.

1982

■ Elixir Industries, a Gardena, Calif.-based mobile home component manufacturer, becomes first company to transfer risk from an existing captive to its new Vermont captive.

1983

■ Aluminum producer Alcoa Inc. is first Fortune 100 company to set up a Vermont captive.

1984

■ George Chaffee, Vermont's first captive regulator, resigns as insurance commissioner to join a captive management company.

1985

■ Vermont, with 28 captives, overtakes Colorado to become the largest U.S. domicile.

■ Vermont Captive Insurance Assn. is formed.

1986

■ Congress expands the Risk Retention Act to let risk retention groups fund all casualty risks, except workers comp. This boosts the appeal of RRGs, which over time flock to Vermont.

1987

■ MEDMARC Ltd., a Bermuda-based reinsurer of product liability coverage for medical equipment manufacturers, is the first captive to come ashore to Vermont as a risk retention group.

1988

■ Legislation is enacted earmarking a portion of premium taxes paid by Vermont captives to be used exclusively for captive regulation.

1989

■ Vermont legislature approves a bill that slashes premium taxes paid by large captives.

1990

■ Premium volume generated by Vermont captives crosses the \$1 billion mark.

1993

■ Legislation is passed dramatically reducing Vermont captive premium taxes.

2000

■ Columbia Energy Group wins U.S. Labor Department approval to fund employee benefit risks through its Vermont branch captive, setting the stage for other employers to do the same.

2001

■ Peter Turner Insurance Co., a captive sponsored by the Roman Catholic Diocese of Brooklyn, N.Y., becomes the 500th captive to be licensed by Vermont regulators.

2002

■ Vermont overtakes Guernsey to become world's third-largest captive domicile, ranking just behind Bermuda and the Cayman Islands.

2003

■ Captive premium tax in Vermont is capped at \$200,000 per year.

2004

■ Vermont licenses 77 captive entities, the most ever in one year.

2006

■ Vermont celebrates the 25th anniversary of its captive law.



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Between the Lines

Compiled by Joanne Wojcik

Employer lawyer nominated for labor post

Paul DeCamp, who has spent his career defending employers against allegations of labor and employment violations, may soon be charged with enforcing the nation's wage and hour laws.



Employer attorney Paul DeCamp has been nominated to enforce federal wage and hour laws.

Just two years ago, Mr. DeCamp, who has been nominated by President Bush to serve as the head of the U.S. Labor Department's wage and hour division, helped Wal-Mart Stores Inc. appeal a 2004 federal court ruling that created the largest employment discrimination class action in history. The nationwide class in *Dukes vs. Wal-Mart Stores Inc.*, which is pending in the 9th U.S. Circuit Court of Appeals, includes 1.6 million women who claim they were denied raises and promotions that were given to their male counterparts.

During a hearing last week before the Senate Health, Education, Labor and Pensions Committee, Sen. Edward Kennedy of Massachusetts said he was concerned that Mr. DeCamp may "not support the goals of many of the statutes" that he would be enforcing if he lands the job.

The Senate committee is expected to vote on Mr. DeCamp's nomination after members return from their August recess.

A sign of the premium?

A recent discovery by a consumer price comparison Web site may lead underwriters to start using the 1960s cliché pick-up line "What's your sign?" when rating auto insurance policies.

Sagittarians, those born between Nov. 22 and Dec. 21, have 7%



fewer auto insurance claims and are convicted on 8% fewer driving citations than the average driver, according to a study by moneysupermarket.com, which is based in the United Kingdom. Those born between March 21 and April 19, under the sign of Aries, file 9% more claims and rack up 6% more convictions on driving citations.

"Some drivers will read more into this than others, but it's fair to say we were surprised how closely this year's claims and conviction statistics mirrored traditional star sign traits," said Richard Mason, director of insurance at moneysupermarket.com, in a press release.

Indeed, the findings are somewhat logical in astrological terms, given that individuals born under the sign of the archer are considered to be precise and tolerant while those born under the sign of the ram are often characterized as quick-tempered and impatient.

Most obese people say they eat healthy

Maybe we really aren't what we eat.

More than 75% of obese Americans say they eat healthy, and about 40% say they engage in vigorous exercise, according to Thomson Medstat's 2006 PULSE survey.

And despite frequent assertions that fast-food is a major contributor to the nation's obesity epidemic, McDonald's isn't even on the menu for a sizable number of overweight Americans. In fact, 43.1% of those responding to the survey said they didn't eat fast-food on a weekly basis. Moreover, just 3.6% said they usually "supersize" those meals.

Overweight and obese people also don't necessarily have sedentary lifestyles. About half of the survey respondents said they exercise three or more times per week.

Tips and feedback from readers are welcome. Please send information to jwojcik@businessinsurance.com.

Vermont: Regulators seen as tough, fair, flexible

Continued from page 22

was becoming just too cumbersome to operate offshore," said Jaxon White, chairman, president and CEO of Medmarc Insurance Group in Chantilly, Va. Medmarc, then known as Medmarc Ltd., a provider of product liability coverage to medical equipment manufacturers, in 1986 became the first captive to come ashore under the newly expanded U.S. Risk Retention Act. Medmarc later was reorganized as an admitted insurer in Vermont.

While an attractive law and timing were key in Vermont's success, those factors are overshadowed by what captive sponsors and risk managers say is the No. 1 reason Vermont boomed as a captive domicile: its regulatory approach.

Pro-business regulation

Captive sponsors and managers, without exception, describe that approach as tough, fair and flexible, and exactly what they are looking for from a captive domicile.

"We welcome tough regulation. We do not shy away from it. But they are not in the business of creating bureaucratic roadblocks," said Ms. Davis of the Alliance of Non-profits for Insurance Risk Retention Group.

"It is a unique combination. Vermont regulators are pro-business, which they combine with strong and fair regulation," said Ray Oberg, who for many years ran M&M Insurance Management Services Inc.'s Vermont office—the state's biggest captive manager—and now is the controller for hedge fund Aladdin Capital Holdings L.L.C., in Stamford, Conn.

Indeed, as Richard Heydinger, retired director of risk management services for Hallmark Cards Inc., which set up a captive in Vermont in 1984, recalled, "If you had a solid business plan, Vermont regulators were great supporters. If there was, however, any sleight of hand, you'd be out of there in a hurry."

The accessibility of regulators, say captive sponsors, also has been a key factor in Vermont's success.



Vermont Gov. Richard Snelling (seated) at the 1981 signing of the state's captive legislation with (left to right): Dean Rowden, Vermont Bankers Assn.; Chris Barbleri, Vermont Chamber; Gar Anderson, Hospitality and Travel Assn.; Rep. John Farmer; Sen. Peter Welch; Lincoln Miller, lobbyist; George Chaffee, commissioner, Banking and Insurance; Rep. Anne Just; Rep. Stu Hunt; Rep. John Zamplari; Rep. Susan Auld; Harry Behney, secretary, Agency of Development and Community Affairs; Rep. Peter Giuliani.

"It starts with availability and accessibility. You call Len Crouse and say, 'Can we meet the day after tomorrow?' It will happen. They are very approachable," said Gary Baxter, who retired several years ago as assistant treasurer/director of insurance for Weyerhaeuser Co., the big Federal Way, Wash.-based forest products maker that set up a Vermont captive in 1983.

At the same time, from the very beginning, there has been a consistency and continuity of support for the captive industry from state lawmakers and regulators.

That support has not wavered, regardless of whether a Republican or a Democrat was governor, which party controlled the Legislature or who was the top captive regulator.

"The interest has come and gone elsewhere. In Vermont, the interest in captives is stable and companies love stability," said Roger Phelps, the retired president of Alcoa's captive, Three Rivers Insurance Co.

That support continues today at the highest level.

"The past 25 years have provided the blueprint for the next 25 years—regulation that is knowledgeable, consistent and forward-thinking. We'll continue to keep customer service foremost in mind and make sure that our legislation keeps pace with the changing needs

of the industry," said Vermont Gov. Jim Douglas.

Captive executives say state support comes from officials' understanding of the importance of the captive industry to Vermont.

"The revenues generated by captives mean something to a small state. As a result, legislators and regulators are very receptive to new ideas to make the captive law better," said Brian Donovan, Arlington Heights, Ill.-based president of Vermont-domiciled STICO Mutual Insurance Co., a Risk Retention Group, that provides pollution liability coverage to storage tank manufacturers and installers.

For example, Mr. Donovan noted, state legislators on several occasions have passed bills lowering premium taxes on captives, heeding warnings that such reductions were necessary to keep Vermont competitive with other domiciles. Even so, Vermont still collects nearly \$23 million annually in captive premium taxes.

"They listen here," Mr. Donovan said.

And Vermont officials say they will continue to listen to keep the state's leading position in the captive insurance market.

"Our door is always open. We promise to continue to lead," Gov. Douglas said.

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Canadian companies share pandemic plans

Only 4% have set up programs

By GLORIA GONZALEZ

Microbix Biosystems Inc. was well into its preparations for a possible pandemic when officials at the Toronto-based virology company began asking their suppliers what they were doing to prepare for a potential outbreak.

They received a number of blank stares in response.

The absence of concrete pandemic response plans among its suppliers led President and Chief Executive Officer William Gastle to the realization that many Canadian companies were not as prepared for a possible pandemic as Microbix, so the company decided to make its plan available for free to other organizations in the hope that this would spur them into action.

"If companies don't have a plan in place when the pandemic hits, it's too late," Mr. Gastle said. "They're exposed."

The need for Canadian companies to take the initiative to prepare for a possible pandemic, such as an avian flu outbreak, is evident in a recent survey by the Conference Board of Canada in Ottawa that showed that only 4% of Canadian organizations have developed concrete plans to deal with such an event. The survey, released in June, found that 71% are working on a plan, but 80% of those started the work only within the last year,

which means that they are in the early stages of developing pandemic plans. In addition, a sizeable number of companies—25%—do not have a pandemic plan and are not working on one.

A key reason for the lack of pandemic preparation in Canada is the absence of an immediate threat, said Christopher Hallamore, senior research associate and the author of the Conference Board's report on pandemic preparedness.

"We have not yet seen an avian flu outbreak in North America, and that has not really brought it home for most organizations that this is a possibility and we need to prepare for it," Mr. Hallamore said.

Another contributing factor is that Canadian organizations are finding it difficult to gauge the impact of a possible pandemic since the last major outbreak of influenza in this region occurred in 1968. The outbreak of severe acute respiratory syndrome in Toronto in 2003 affected 438 people, 44 of whom died. In contrast, the government agency Health Canada estimates that a flu pandemic could claim between 11,000 and 58,000 lives.

"It's hard for people to conceptualize when they haven't seen it and when the outbreaks happen so far away from us," Mr. Hallamore said.

Complacency, though, is a mistake that Canadian employers can not afford to make since a pandemic in Canada is inevitable, experts say.

"We're all living on borrowed time because we know it has hap-



Despite fears of a bird flu pandemic, domestic fowl markets such as this one in Stouffville, Ontario, continue operating in Canada.

pened in the past and will happen in the future," Mr. Gastle said.

While the vast majority of Canadian companies are ill-prepared for a pandemic, a few organizations have taken the lead in developing plans and have publicly shared them with others.

Microbix developed and implemented a pandemic response plan to protect its employees and its business operations that is divided into four levels, each of which triggers a different response. The company is currently at Level 1, which indicates that there is a cluster of infections in related individuals somewhere in the world, though the disease is not being spread by casual contact.

At this alert level, employees traveling to areas where there have been infections, but with minimal human-to-human spread of the disease, must carry personal protection equipment such as masks, sanitizers, gloves and protective

eye wear in case the company raises the alert level. And employees traveling to these areas must remain in home quarantine for 48 hours after returning to Canada and be monitored for flu-like symptoms.

Depending on the spread of the infection, the alert levels would be raised, triggering additional precautions under the Microbix plan.

Alcan Inc., a Montreal-based producer of aluminum and packaging materials, last year developed an avian flu response plan that covers everything from screening measures to stockpiling medical supplies to telecommuting and foreign travel policies, Michelle Adams said in an e-mail statement. Ms. Adams is a consultant in the company's media relations department and also is a member of the company's avian

See PANDEMIC / next page

U.K. businesses lack supplier backup plans

Most United Kingdom-based business continuity managers surveyed said they have not assessed the capability of their suppliers to respond to a major crisis, according to a new study.

According to a study of 100 U.K. managers with responsibility for business continuity carried out by London-based Marsh Ltd. in March, 70% of respondents said they have not assessed the recovery capabilities of their suppliers in the event of a major disaster.

Two-thirds of respondents said they have not examined their dependency on suppliers or assessed their exposure to failures in the supply chain.

But 30% of respondents have suffered business interruption as a result of supplier or customer failure, according to the study.

Business continuity managers increasingly must look outside of their own organizations and become less internally focussed, noted Martin Caddick, senior vp in Marsh's London-based risk consulting practice.

In addition, more than two-thirds of respondents said they did not believe staff at their companies would know what their role was in the event of a major interruption at one or more of their sites.

More than half of those surveyed said they did not test their business continuity plan and its components annually, and less than one-third have those plans audited by an independent third party.

In addition, 60% of respondents said senior management at their companies did not participate in testing of business continuity plans.

—By Sarah Veysey

Most U.K. brokers predict rates to stay stable or decrease

By SARAH VEYSEY

Brokers expect prices for United Kingdom-based buyers of insurance to remain fairly stable over the next 12 months, according to a survey by Lloyd's of London.

Lloyd's on Friday released results of a survey of 117 U.K. insurance brokers, which was taken at the annual British Insurance Brokers' Assn. conference in March. Respondents were questioned about what they believed would happen to insurance rates in several different lines of business during the next

year.

Almost one-third—31%—of brokers questioned said they thought rates would fall by 1% to 9% during the year, while 28% expected no change in rates. One-quarter of the brokers said they thought rates would rise overall by an average of 1% to 9%, while 4% thought rates would increase by more than 10%. None of the brokers questioned thought rates would drop by more than 30%, and the remaining 2% of respondents gave no opinion.

Just over one-third of respondents—34%—said they thought

there would be no change in rates for employers liability, a compulsory class of insurance in the United Kingdom, during the next 12 months. Twenty-seven percent said they thought employers liability rates would rise by 1% to 9%, and 20% thought employers liability rates would decrease by 1% to 9%.

For general and professional liability business, 30% of respondents said they expected rates, on average, to decrease by 1% to 9%, while 26% said they expected no change in those rates, and 21% expected an increase of between 1% and 9%.

For property and fire business, 33% of brokers surveyed said they expected rates to decrease by 1% to 9%, while 28% said they expected no change, and 21% predicted a 1% to 9% increase.

In construction and engineering insurance, 39% of brokers said they thought rates would not change, while 23% said they thought rates would decrease by between 1% and 9%, and 21% of respondents said they thought rates likely would increase by between 1% and 9%.

Brokers were also asked about what they consider to be the great-

est threats facing them over the next three years.

Almost one-quarter of respondents—24%—said they considered the threat of "super-brokers" created by consolidation in the industry to be the most significant threat facing U.K. brokers.

Only 7% cited the possibility of investigations similar to those carried out by New York Attorney General Eliot Spitzer into broker practices as the greatest threat facing them in the next three years.

The study can be viewed at www.lloyds.com/research.

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Weak-spot audit essential to readiness should avian flu hit

By GLORIA GONZALEZ

Canadian employers need to take several important risk management steps to protect themselves against a possible pandemic, including a complete audit of their business operations to identify weak spots within their organizations and supply chains.

An essential part of such an audit includes determining the possible impact of a pandemic on the company's financials, including estimates of the impact of decreased consumer demand for its products or services, the cost of employee work days lost and supply shortages, according to the Canadian Manufacturers & Ex-

porters Assn., which represents more than 2,000 employers in Canada.

Canadian companies should discuss with key suppliers a plan for regular shipments in the event of shortages or disruptions in transportation systems, suggests CME in a continuity planning guide it published in March to help Canadian businesses deal with a potential influenza pandemic.

Canadian companies also need to develop concrete plans to deal with absenteeism. The Public Health Agency of Canada estimates that during a pandemic between 15% to 35% of the population will become ill and unable to go to school or work. Absenteeism during an out-

break, though, would be even higher because of contributing factors such as the need for some employees to stay home to care for sick family members, or children if there are school or daycare closures, experts say. There will also be a number of employees who refuse to come to work out of fear of contracting the virus.

Canadian businesses should plan for up to 50% staff absences for about two weeks at the height of a severe pandemic wave and lower levels for a few weeks before and after the peak period, CME suggests.

For some Canadian companies, an insurance policy to protect against certain losses caused by a pandemic

may be an option. Markel International's Canadian subsidiary, Mint Canadian Specialty Underwriters, recently launched an outbreak contingency cover policy, which focuses on protecting small to midsize Canadian businesses in industries such as food service and health care from business interruption losses due to

the outbreak of a communicable disease such as avian flu. The policy would respond in the event that a shutdown of the facility was ordered by a public health official, said Barrett Hubbard, managing director. It provides coverage for a maximum of 30 days with a maximum limit of \$1.5 million.

Pandemic: 40% lack communications plan

flu committee.

A key element of Alcan's plan to manage a pandemic situation was the development of an extensive communications plan that included the implementation of a dedicated e-mail database to send information and receive feedback. All avian influenza-related documents, in 13 languages, were posted on company intranet sites.

Although companies such as Alcan have recognized the impor-

tance of having a solid communications plan in place in the event of a pandemic, more than 40% of companies have not considered how they will communicate with employees during an outbreak, the survey found.

Thirty percent of survey respondents without a pandemic plan indicated that they would rely on existing business continuity and/or emergency preparedness plans should a pandemic arise. This is

problematic because these plans are usually designed to address an event that is instantaneous or lasts only a few days, while a pandemic can last for several weeks or months, experts say.

Having a detailed plan to manage the unique circumstances triggered by a pandemic is important, experts say. "If everybody is prepared, they can minimize the impact on themselves and their companies," Mr. Gastle said.

IRS: Regs end HSA uncertainty

Continued from page 4

participate in health promotion programs.

Simply put, the IRS said in the final regulations that the comparability rules do not apply to employers' HSA contributions if those contributions are made through flexible benefit plans.

That exemption affects virtually all large employers that offer HSAs as, almost without exception, HSAs are incorporated in flexible benefit plans. In such an arrangement, employees make pretax contributions to HSAs through salary reduction. By contrast, when an individual who is not enrolled in a group health care plan contributes to an HSA, he or she does so on an after-tax basis, with the individual then taking a tax deduction for the contribution.

Benefit experts say the final regulations, in one fell swoop, eliminate the uncertainty on how employers' HSA contributions could be linked to employee participation in health programs.

"We now have definitive guidance. The IRS has eliminated any misconceptions," said Sharon Cohen, an attorney with Watson Wyatt Worldwide in Arlington, Va.

"As long as employees have an opportunity to make pretax contributions to an HSA, an employer has great latitude with design opportunities," said Andy Anderson, of counsel with the law firm Morgan, Lewis & Bockius L.L.P. in Chicago.

The IRS, notes J.D. Piro, an attorney with Hewitt Associates Inc. in Norwalk, Conn., has made pretty clear that "most plan designs will be OK."

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LEGAL NOTICE

IN THE HIGH COURT OF JUSTICE (OF ENGLAND AND WALES)
CHANCERY DIVISION
COMPANIES COURT
No. 2504 of 2006
IN THE MATTER OF

UIC INSURANCE COMPANY LIMITED
(in provisional liquidation)

(formerly **THE UNIVERSAL INSURANCE COMPANY LIMITED**)
AND IN THE MATTER OF THE COMPANIES ACT 1985
PROPOSED SCHEME OF ARRANGEMENT

NOTICE IS HEREBY GIVEN that, by an order dated 27 July 2006 made in the above matter, the High Court of Justice of England and Wales has directed that meetings ("Meetings") be convened of the Scheme Creditors (as defined in the proposed scheme of arrangement referred to below) of the above named company ("UIC") at 3pm (UK time) on 25 September 2006 at the Tower Room, The London Underwriting Centre, 3 Minster Court, Mincing Lane, London, EC3R 7DD, United Kingdom, for the purpose of considering and, if thought fit, approving (with or without modification) a scheme of arrangement pursuant to section 425 of the Companies Act 1985 proposed to be made between UIC and its Scheme Creditors (the "Scheme").

All Scheme Creditors are requested to attend the relevant Meeting(s) at such time and place either in person or by proxy. Registration will commence at 2:30pm and Scheme Creditors are requested to arrive no later than 2:45 pm in order to register. The chairman of the Meetings will address Scheme Creditors generally on the Scheme at the commencement of the Meetings.

Scheme Creditors may attend and vote in person (or, if a corporation, by a duly authorised representative) at the relevant Meeting(s). Alternatively they may appoint another person, whether a Scheme Creditor or not, as their proxy to attend and vote in their place.

The proposed Scheme and the explanatory Statement required to be provided pursuant to section 426 of the Companies Act 1985 (the "Explanatory Statement"), the notice convening the Meetings (the "Notice") and details of how to obtain the vote registration and proxy form for use at the Meetings (the "Vote Registration and Proxy Form") have been circulated to known and potential Scheme Creditors and to those existing brokers believed to have placed business with or on behalf of UIC.

This documentation and information may be obtained from the website at www.uic-uk.com (the "Website") or on request from Chillington International Limited, 8-10 St Saviours Wharf, 23 - 25 Mill Street, London SE1 2BE, United Kingdom ("Chillington") as follows:

By Phone: +44 (0) 207 394 0321
By Fax: +44 (0) 207 252 0306
By E-mail: uic@chillington.co.uk

Marked for the attention of: David Burns

Scheme Creditors are requested to return their completed and signed Vote Registration and Proxy Forms to Chillington in accordance with the above contact details by 4 pm (UK time) on 20 September 2006. Alternatively, Scheme Creditors may hand their Vote Registration and Proxy Form in at the registration desk prior to the Meetings if attending in person or by proxy, however Scheme Creditors are urged to return the completed forms in advance of the Meetings. Faxed or e-mailed forms will not be accepted unless legible to the chairman.

By the said order, the Court has appointed Ipe Jacob of Grant Thornton UK LLP ("Grant Thornton") or, failing him, Richard White (also of Grant Thornton) to act as Chairman of the Meetings and has directed the Chairman to report the result of the Meetings to the Court.

Any Scheme Creditor who is unclear about or has any question concerning the action it is required to take in order to vote on the Scheme should contact Chillington.

If approved by the requisite majority of Scheme Creditors, the Scheme will be subject to the subsequent approval of the Court.

LEGAL NOTICE

LEGAL NOTICE

NOTICE OF SANCTION OF SCHEME OF
ARRANGEMENT

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
IN THE MATTER OF

**STIRLING COOKE BROWN
INSURANCE BROKERS LIMITED**

(Joint Scheme Administrators appointed)

and IN THE MATTER OF THE COMPANIES ACT 1985

NOTICE IS HEREBY GIVEN that, by an Order dated 27 July 2006 made in the High Court of Justice in England and Wales, the Scheme of Arrangement (the "Scheme") between Stirling Cooke Brown Insurance Brokers Limited and its Scheme Creditors (as defined in the Scheme) pursuant to section 425 of the Companies Act 1985, which was voted on and approved by Scheme Creditors at the meeting held 5 July 2006, was sanctioned. A copy of the Order sanctioning the Scheme was filed with the registrar of companies on 28 July 2006, and the Scheme became effective on that date.

Scheme Creditors must submit completed Claim Forms by the Bar Date (being 5pm London time on 29 September 2006) to be considered in the Scheme. It is requested that all Claim Forms be sent to the Joint Scheme Administrators of Stirling Cooke Brown Insurance Brokers Limited, c/o PricewaterhouseCoopers LLP, Plumtree Court, London, EC4A 4HT, fax number +44 (0) 20 7212 6316.

In the event that a Scheme Creditor fails to return a Claim Form to the above address on or before the Bar Date, a nil value will be attributed to the Scheme Liabilities owed to that Scheme Creditor under the Scheme.

Claim Forms will be sent to all Scheme Creditors of whom the Company is aware of on 4 August 2006 and a blank Claim Form will be available for download from the website at www.StirlingCookeBrown.co.uk.

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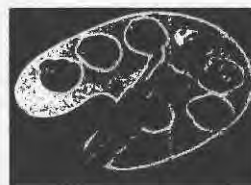
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Pinnacle: Excess insurers limit recoveries

Continued from page 3

Insurance Co. and Lloyd's of London underwriters led by Kiln P.L.C. and Wellington Underwriting P.L.C.

Insurers in this layer have already paid Pinnacle \$50 million on the loss, and the company expects to receive another \$50 million shortly, the suit says.

The program's excess participants include Allianz, which wrote a \$50 million limit excess of \$100 million; Arch, which wrote half of a \$100 million layer excess of \$150 million; and RSUI, which wrote the other half of the \$100 million excess of \$150 million and an additional \$150 million excess of \$250 million.

The excess policies all contained a "weather catastrophe occurrence" provision covering damages from named storms caused by "all weather phenomena associated with or occurring in conjunction with the storm," including "flood, wind, hail, sleet, tornadoes, hurricane or lightning," according to the complaint.

The policies in the first \$100 million separately provided flood coverage, while the policies excess of \$100 million carried an exclusion for flood losses other than those outlined in the weather catastrophe provision, the suit says.

Despite the policies' clear language, the three excess insurers have wrongly maintained that some or all of Pinnacle's Biloxi claim represents excluded flood losses, the company charges. The insurers have also tried improperly to limit Pinnacle's business interruption recoveries, the suit alleges.

In February, the company notified its insurers that it was designating a planned St. Louis County, Mo., casino-hotel complex—construction of

which is expected to begin later this year—as a replacement for the Biloxi facility. In May, it announced plans to sell the Biloxi site to rival Harrah's Entertainment Inc.

Since then, the three insurers have argued that Pinnacle is not entitled to treat the St. Louis project as a replacement for coverage purposes, and Allianz has stated that Pinnacle's business interruption coverage will end when the sale of the Biloxi property closes, the suit says.

The excess insurers' "skewed coverage positions reflect a conscious and deliberate corporate decision by defendants to find any excuse, even illegitimate excuses, to delay and/or reduce any payment on Pinnacle's claim," the suit charges.

WTC: Captive's incurred expenses pile up

Continued from page 4

handling practices. Sen. Schumer later complained that "no one involved in the establishment of this fund expected it to behave like a stingy, bottom line-obsessed corporation."

Superintendent Mills late last month noted in a letter to WTC Captive CEO Christine LaSala that the captive has so far paid "few, if any" claims but has spent "substantial sums" on professional services. Since 2004, the captive has incurred \$31.6 million in expenses, including \$22 million in legal fees.

Mr. Mills expressed concern that the \$1 billion provided to the

captive "may not be being used in accordance with its intended purpose."

Ms. LaSala, however, responded last week that WTC Captive Insurance is filling its intended role.

"The WTC Captive is not like a Victim's Compensation Fund," she wrote to Mr. Mills. By its nature as a liability insurer, "the primary duty of the WTC Captive is to the insureds it was designed to protect." The captive is thus required to defend the city and its WTC contractors against worker claims, she said.

Those claims have been consolidated before U.S. District Judge Alvin

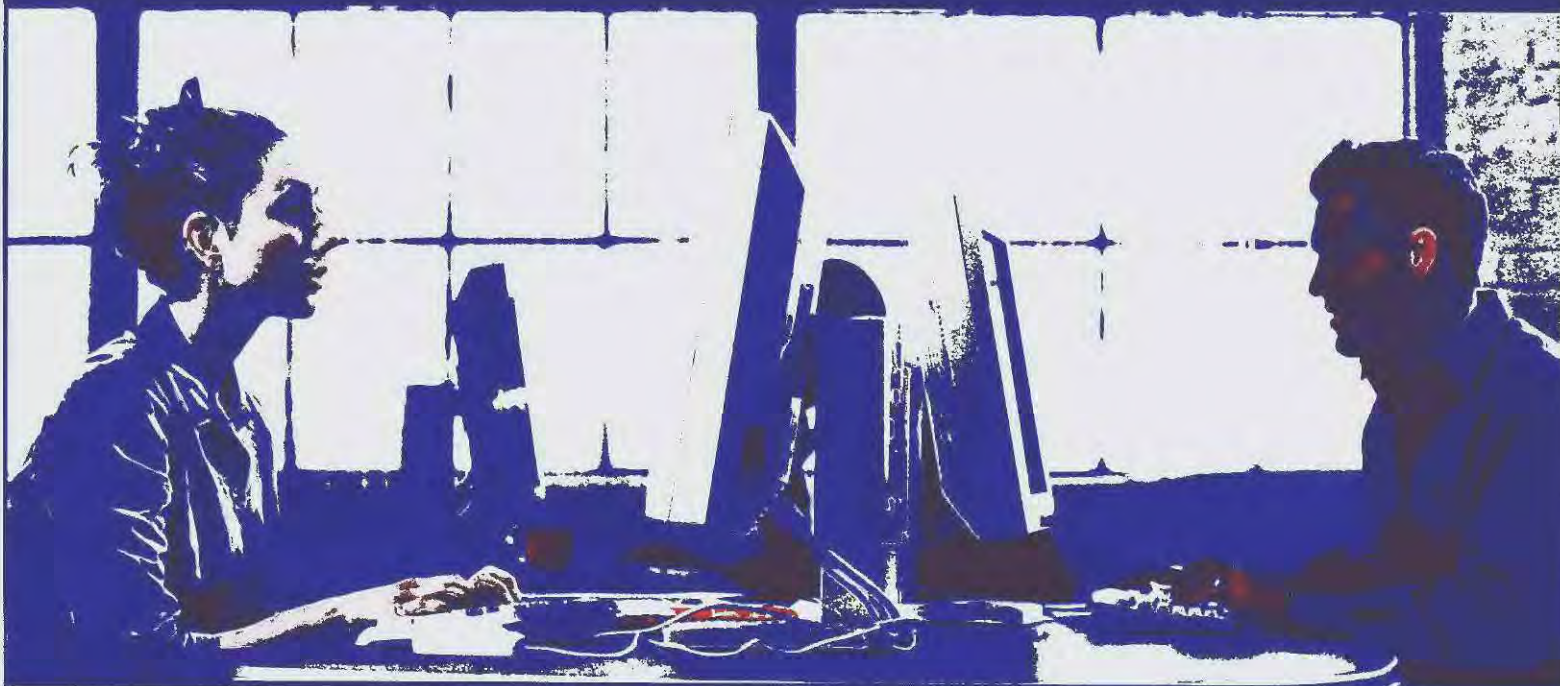
Hellerstein in New York, who is considering motions by the city and the contractors to dismiss all claims based on state and federal immunity laws.

WTC Captive's claims handling has been largely dictated by the schedule and procedures set by Judge Hellerstein, Ms. LaSala wrote. "When plaintiffs' claims will be resolved is subject to the court's management," she said.

If Judge Hellerstein ultimately dismisses the workers claims, WTC Captive Insurance would presumably return all of its unspent funds to the federal government.

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Big Dig : Tunnel accident claim yet to be seen

Continued from page 3

St. Paul Travelers Cos. Inc. acted as 50% co-surety on a \$64 million bond covering Modern Continental on the section of the Big Dig where the accident occurred, a St. Paul spokeswoman confirmed. St. Paul Travelers has not yet received a claim related to the accident, and various prerequisites that would trigger the insurer's obligation to pay under the bond have not yet been met, the spokeswoman said.

Modern Continental has its own liability insurance program separate from the MTA program covering Big Dig contractors. It also has placed builders' risk coverage for its work on at least one section of the I-90 tunnel, court records show.

A Modern Continental spokesman could not respond immediately to questions about the company's insurance coverage.

A Gannett Fleming representative could not be reached.

RenRe: Ending SEC probe seen as positive step

Continued from page 4

10-K filing, acknowledged that two transactions that were accounted for as insurance failed to transfer enough risk to meet accounting standards. One was an aggregate excess-of-loss reinsurance agreement under which RenaissanceRe ceded business to Inter-Ocean; the other was an agreement to sell reinsurance recoverables to Inter-Ocean, RenaissanceRe said.

The effect of the restatement was to boost RenaissanceRe's 2001 and 2003 net income by \$20.6 million and \$1.3 million, respectively, and reduce its 2002 net income by \$21.9 million, the company reported.

The SEC—which has been investigating RenaissanceRe's accounting and its use of finite-risk products following its financial restatement—had previously issued a so-called "Wells notice" to the company, as well as to former RenaissanceRe Chief Executive Officer James N. Stanard, who resigned from the company in November 2005 amid regulatory probes, and to Michael W. Cash, a former senior vp-specialty reinsurance, who left the company last July.

Wells notices signal that SEC officials plan to recommend that the agency levy charges of violating federal securities laws. Recipients are permitted to explain alleged improprieties and argue that civil charges are unwarranted.

Whether the SEC plans to bring enforcement actions against Messrs. Stanard and Cash remains unclear. Calls to an attorney representing Mr. Stanard were not returned, nor were calls to Mr. Cash's attorney.

RenaissanceRe—which nearly one year ago announced that it was "engaged in discussions with SEC staff concerning the possible resolution of these matters"—disclosed the proposed \$15 million settlement as part of its second-quarter earnings report. The reinsurer posted net income of \$309.4 million for the first six months of the year, up 43.0% over the prior-year period.

"We view this settlement as an important step forward," said Neill A. Currie, CEO of RenaissanceRe, who in a conference call with analysts last week noted that the company is working "to put these matters behind RenRe as promptly as possible."

The \$15 million settlement amount is "smaller than I thought," and is a positive development for RenaissanceRe, said Cliff Gallant, an analyst with Keefe, Bruyette & Woods Inc. in New York. "It's always positive to put these things rear-view...it removes doubt from investors' minds."

Mr. Gallant added that in his view, more than a \$15 million charge to earnings, "The real damage was losing Jim Stanard."

"He might be the most respected reinsurance executive in the business, he was the founder, and is a real innovator as well. That was the real loss to RenRe," Mr. Gallant said.

St. Paul Travelers settlement outlines terms of restitution

Under St. Paul Travelers Cos. Inc.'s \$77 million settlement over charges of client steering, bid rigging and finite reinsurance abuse, nearly half of the funds will be used to pay certain excess casualty policyholders harmed by the insurer's alleged bid-rigging activities with New York-based broker Marsh Inc.

According to the "assurance of discontinuation" document outlining the allegations and settlement terms, the full \$37 million restitution amount must be paid into a fund no later than Sept. 7.

By Nov. 8, St. Paul Travelers must calculate the amount of money each eligible policyholder spent on excess casualty insurance between January 2000 and September 2004 and within 10 days file a report with regulators setting forth the names and amount owed to each policyholder eligible to tap the insurer's restitution fund.

Eligible clients include those who purchased or renewed St. Paul Travelers excess casualty policies, excluding workers compensation policies, through

Marsh between Jan. 1, 2000, and Sept. 30, 2004. Offers will be mailed to eligible clients by no later than Nov. 22, and those who voluntarily elect to join the cash distribution have until April 23, 2007, to respond.

Participating policyholder clients shall be paid no later than June 4, 2007. Any remaining money in St. Paul Travelers' excess casualty restitution fund shall be distributed to policyholders on a pro-rata basis by May 2, 2008.

—By Rupal Parekh

As part of its settlement, the company did not admit to any breaches of state or federal law, but did issue an apology for its conduct.

"St. Paul Travelers acknowledges that certain of its employees violated acceptable business practices and St. Paul Travelers' own standards of conduct by engaging in improper bidding practices and certain 'finite reinsurance' activities. St. Paul Travelers apologizes and has enacted business practice reforms to ensure that these incidents do not occur again."

Embracing change

The New York attorney general hailed the agreement.

"St. Paul Travelers has joined the growing number of insurers, brokers and agents who have pledged to make the market for insurance coverage more transparent and competitive," Mr. Spitzer said in a statement. "This development will benefit all consumers, from individuals buying car insurance to small businesses to large corporations."

"Conducting our business according to the highest standards of integrity has been, and will continue to be, of paramount importance to all of us at St. Paul Travelers," and "we are committed to continuing to embrace changes to our business practices that are consistent with that objective," St. Paul Travelers' Chairman and Chief Executive Officer Jay Fishman said in a statement.

"We have already taken significant steps toward strengthening the ongoing training and education of our employees. Through this settlement, we will implement additional measures to further the overall goal of increased transparency in the marketplace," Mr. Fishman said.

"The amount they are paying is immaterial to the company from a financial perspective," and "the major business practice requirements are completely consistent with what has been required of AIG, Zurich and other companies," noted Paul Newsome, a vp and senior equities analyst with A.G. Edwards & Sons Inc. of St. Louis.

"It's largely a good thing" for St. Paul Travelers, Mr. Newsome said.

St. Paul: Multistate agreement reached

Continued from page 1

charges that St. Paul, Minn.-based St. Paul Travelers improperly used finite reinsurance to bolster its earnings. From 1999 through 2002, St. Paul Travelers entered into a series of aggregate excess-of-loss reinsurance contracts with Barbados-based Underwriters Reinsurance Co. while, at the same time, arranging side agreements specifying that any losses suffered by Underwriters Re would be made up by St. Paul Travelers, the attorneys general alleged in the "assurance of discontinuation" outlining the allegations and settlement terms.

Settlement cost

Under St. Paul Travelers' settlement, \$37 million will compensate certain excess casualty policyholders harmed by St. Paul Travelers' bid-rigging activities (see related story). The remaining \$40 million will pay fines—of which \$24 million will go to New York and \$8 million each will go to Connecticut and Illinois.

The cost of the \$77 million settlement amount has already been funded through \$42 million recorded in the second quarter and addi-

Insurer's reformation

Under St. Paul Travelers Cos. Inc.'s settlement with regulators, the company must reform business practices:

- Halt contingent commissions on excess casualty business through 2008
- Stop paying contingents on lines of business where insurers representing 65% of overall gross premiums written in that line do not pay such commissions
- Support legislation banning such payments industrywide

tional amounts recorded earlier, St. Paul Travelers said in a statement.

St. Paul Travelers' settlement is the smallest to date among insurers accused of bid-rigging and other charges. Earlier this year, Hamilton, Bermuda-based ACE Ltd. spent \$80 million to settle investigations into its practices, while Swiss insurer Zurich Financial Services Group Inc. paid a total of \$324.7 million to several states, and New York-based American International Group Inc. paid state and federal regulators

\$1.64 billion.

Boston-based Liberty Mutual Group Inc., meanwhile, has vowed to fight in court all charges of bid rigging and steering by attorneys general in New York, Connecticut and Illinois (BI, July 10).

The multistate agreement reached by St. Paul Travelers largely mirrors settlements reached by other insurers. St. Paul Travelers is barred from paying contingent commissions on excess casualty business through 2008 and on lines of business where insurers representing 65% of overall gross premiums written in that line do not pay such commissions. St. Paul Travelers is also mandated to support legislation that would outlaw such payments industrywide.

Business reforms

Furthermore, the insurer is required to adopt a series of business reforms, including: enhanced disclosure of its compensation for producers, improved employee training and education, better controls on its finite and nontraditional reinsurance transactions and stricter reinsurance reporting obligations.

NCQA revises accreditation standards

Health plans must meet higher bars

By JOANNE WOJCIK

WASHINGTON—In response to the growing health care consumerism movement, health plans will be required to demonstrate that they provide their members with information to help them navigate the health care system under the National Committee for Quality Assurance's revised accreditation program.

Plans will also be required to have programs in place to promote wellness and manage complex conditions, the Washington-based

NCQA announced.

"Activating health care consumers and providing them with customized care management are critical to the future of affordable, quality health care," Margaret O'Kane, president of the NCQA, said in a statement announcing the changes. "Plans demonstrated their strong commitment to providing these services through their adoption of the programs when they were voluntary."

Both of the new standards had previously been included in NCQA's voluntary Quality Plus program.

The NCQA also announced that due to the dramatic rise in beta-blocker treatment rates, it is replac-

ing the "beta-blocker treatment after a heart attack" Health Plan Employer Data and Information Set measure with a "persistence of beta-blocker treatment after a heart attack" measure to track whether patients continue to receive treatment at least six months after a coronary event. In 1996, the average score for beta-blocker treatment for accredited health plans was just 62.6%, but by 2005 it had risen to 96.7%, with minimal variation among plans.

Other changes for 2007 include the addition of a new standard for Web-based physician and hospital directories.

For more information or to obtain a copy of the 2007 accreditation standards, visit www.ncqa.org.

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Pensions: Last-minute agreement sends sweeping reforms to president

Continued from page 1

years compared to the seven-year requirement for other employers—to fund them. That heavily lobbied provision could help to protect the Pension Benefit Guaranty Corp. from taking on billions of dollars in new obligations, if the funding extension gives airlines the time they need to fund the liabilities and not terminate their plans.

Finally, the legislation ends the uncertainty about the future of provisions that affect defined contribution plans. The bill makes permanent retirement plan provisions included in a 2001 tax law, such as the creation of Roth 401(k) accounts and allowing older employees to make extra “catch-up” contributions to their 401(k) and 403(b) plans.

The bill also allows employers to automatically enroll employees in 401(k) plans and contribute a portion of employees’ salaries to the plans. Automatic enrollment is aimed at building retirement plans for those employees who don’t say whether they will participate in the plans (see related story).

The drive to pass the legislation was fueled by growing congressional concerns that unless new, stiffer funding rules were put into place, the PBGC would continue to be hit with huge losses, opening up the possibility that a taxpayer-funded bailout of the PBGC would be necessary to prevent the agency from defaulting on its benefit guarantees to participants in plans it has taken over.

The bill will “protect the interests of taxpayers who could be on the hook for a multibillion-dollar bailout” of the PBGC, said House Majority Leader John Boehner, R-Ohio, who spearheaded the reform drive.

Pros, cons for employers

Business groups universally agree that the impact of the legislation on employers will be huge. “It is the most significant change to pension laws in a generation,” said Lynn Dudley, vp and senior counsel with the American Benefits Council in

Washington.

Others note, though, that there are provisions that employers will like and others that will cause concern.

“There are good aspects and weak aspects,” said Janice Gregory, senior vp with the ERISA Industry Committee in Washington.

One big plus, benefit experts say, is that the legislation ends years of uncertainty on the methodology used to value plan liabilities. Over the past few years, Congress has enacted several temporary measures specifying the interest rate calculation

than anything else is certainty. Companies will take the devil they know over the devil they don’t know,” said Kevin Wagner, a consultant in the Southfield, Mich., office of Watson Wyatt Worldwide.

Under the legislation for 2006 and 2007, employers will use the same methodology—the four-year weighted average of yields on long-term corporate bonds—to value plan liabilities. Then, starting in 2008, a new system will be phased in and the interest rate—based on corporate bond yields of varying durations—will be tied to plan demographics. For example, yields on shorter-term bonds would be used to value benefits owed to employees near retirement age.

And many are pleased that Congress, after years of pleas from employers, made clear in the legislation that cash balance plan designs do not violate age discrimination laws. This protection, though, is a political compromise that would only apply to cash balance plans created since June 29, 2005. Plans created before that date would not receive any new protection, nor would they be any worse off compared to current law.

The future of cash balance plans has been clouded by a wave of lawsuits charging that their design discriminates against older employees. Most courts have rejected that charge, but in one nationally publicized decision in 2003 involving IBM Corp., a federal judge in Southern Illinois agreed with that charge. IBM is appealing that ruling.

That ruling chilled employer interest in the plans, but with Congress giving the green light, employer interest in moving to cash balance plans may pick up.

“This legislation will enable scores of employers who were reluctant to convert to cash balance to move forward,” said Larry Sher, a principal and director of retirement policy at Buck Consultants Inc. in New York.

“Cash balance plans are back in business,” said Sheldon Gamzon, a principal with PricewaterhouseCoopers LLP’s human resources unit.

Indeed, some benefit experts envision that to mitigate litigation exposure, employers might freeze current cash balance plans and set up new plans for future benefits.

Experts also welcome some provisions that will reduce the PBGC’s exposure to losses. For example, employers whose plans are less than 80% funded no longer will be allowed to increase benefits, while plans that are less than 60% funded will have to freeze benefit accruals until funding improves.

“They have shut down the most egregious drains on the PBGC,” said Mr. Wagner.

Still, there are significant concerns, the biggest perhaps is that

the measure could make pension plan contributions more volatile and harder to predict. For example, changes in interest rates used to value plan liabilities would be averaged over two years compared to four years now.

That volatility will lead more companies to freeze their pension plans, predicts American Benefits Council President James Klein.

Others, though, believe the legislation may slow the move away from defined benefit plans, though certainly not stop it.

“The legislation, by itself, won’t cause companies to leave the defined benefit plan system,” said Towers Perrin’s Mr. Gulliver.

Pension bill provisions

Other key changes in the Pension Protection Act

- Interest rates used to value liabilities averaged over two years.
- Commercial airlines with frozen pension plans have 17 years to fund liabilities.
- Credit balances can’t be taken by employers whose plans are less than 80% funded.
- Plans considered fully funded when at least 100% funded, up from current 90% threshold.
- New higher funding requirement phased in over three years starting in 2008.
- Shutdown benefits not allowed for plans less than 50% funded.
- PBGC three-year termination fee of \$1,250 per participant made permanent for plans folding as a result of bankruptcy.

tion to value liabilities.

Because those measures were effective only for a couple of years before expiring, employers had little idea how much they would have to contribute to their plans once those laws expired.

“This is better than the status quo, if the status quo meant temporary laws,” said Bill Gulliver, chief actuary with Towers Perrin in Stamford, Conn.

“What companies want more

Pension bill eliminates Roth 401(k) roadblocks

By JERRY GEISEL

WASHINGTON—The biggest roadblock to employers adding a Roth 401(k) feature to their traditional 401(k) plans soon will be lifted.

Defined contribution plan provisions tucked into the sweeping pension funding reform bill given final congressional approval last week will make permanent a part of a 2001 law that created Roth 401(k) accounts. Without the change in law, contributions to Roth 401(k) would not be allowed after Dec. 31, 2010.

That sunset provision has been the dominant reason for the relatively slow employer adoption of the feature, benefit experts said earlier.

With the lifting of the sunset, employer adoption should soon start to increase significantly.

“The bill will lead to more widespread adoption of Roth 401(k) plans,” said Michael Weddell, a consultant with Watson Wyatt Worldwide in Southfield, Mich.

Named after William Roth, a one-time chairman of the Senate Finance Committee, and created by the Economic Growth and Tax Relief Reconciliation Act of 2001, Roth 401(k) accounts, which have been allowed since Jan. 1, 2006, require participants to make aftertax contributions.

Unlike traditional 401(k) contributions, which are made with pretax dollars, Roth 401(k) contributions and investment earnings can be withdrawn tax-free. Investment earnings, though, cannot be withdrawn tax-free until five years after an employee first began to make the contributions and after he or she reaches age 59½.

For young employees, that means their contributions can accumulate decades of tax-free investment income. Additionally, employees now in a low tax bracket and who move into a

higher tax bracket when they retire also could be better off by making contributions to a Roth account rather than to a traditional 401(k) plan.

The pension bill also would make permanent other EGTRRA retirement plan-related provisions that were due to sunset after 2010, including one that allows employees age 50 and older to contribute an extra \$5,000 a year to their 401(k) or 403(b) plans.

The measure also gives a boost to so-called automatic enrollment features, which employers are increasingly adding to their 401(k) plans. Under automatic enrollment, an employer enrolls an employee and contributes a portion of an employee’s salary—unless the employee specifically says no—to the 401(k) plan.

More employers have been adding such features as they phase out their defined benefit plans, with their 401(k) plan becoming the sole retirement income plan available to employees. By adding automatic enrollment, participation in the plan rises and more employees will accumulate retirement plan funds.

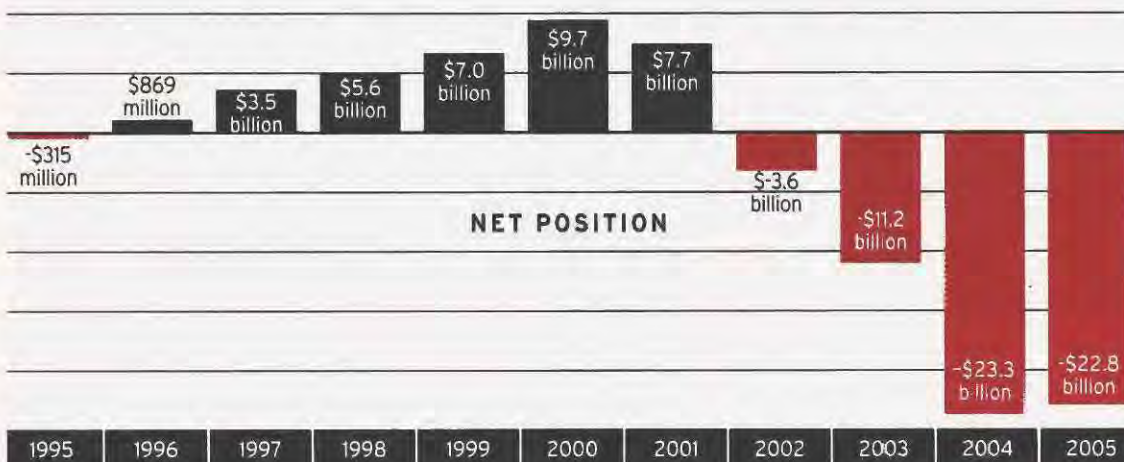
But some employers have held off adding the feature out of concern that automatic enrollment could violate some states’ garnishment laws that bar withholding employees’ wages without their permission.

The pension legislation would pre-empt such laws if they interfere with automatic enrollment as long as employers each year explain to employees their right to opt out of automatic enrollment as well as how contributions made under automatic enrollment will be invested.

Currently, 24% of large employers offer automatic enrollment, while 23% are very likely to add the feature this year, according to a Hewitt Associates survey.

The PBGC’s deepening deficit

How the PBGC’s financial position has been deteriorating*



* For single-employer insurance programs.
Source: Pension Benefit Guaranty Corp.

Heat wave: Worker safety the No. 1 concern

Continued from page 3

Mr. Jensen said that PDRMA reaches out to its members before summer hits, focusing on "those employees within our membership that have the highest exposure," including "park maintenance employees performing tasks such as mowing the grass, maintaining the ball fields and pulling weeds" as well as lifeguards and day camp counselors. This year, PDRMA ran three regional training sessions for maintenance personnel and supervisors to discuss matters ranging from personal protection equipment to dealing with heat exhaustion, said Mr. Jensen. All training was based on loss experience, he said.

Supervisors were asked to consider how many hours a day employees were outside, to consider job rotation and in some cases "force them to take breaks," he said.

PDRMA looks at both heat and sun exposure. "We have a very strong emphasis on sun protection," Mr. Jensen said. The agency has pre-season activities for both aquatic staff and the park staff with representatives from the American Cancer Society, he said.

Risk managers take a variety of steps to help ensure that exposure gets nowhere close to a life and death situation.

For BAE Systems Ship Repair Inc.—which has facilities on the East and West coasts and Hawaii—protecting workers against heat is "a huge issue," said Ellen Vinck, vp-risk management in San Diego. "If it's 100 degrees outside, it could be 130 degrees inside a tank."

She noted that employees often wear hard hats, respirators or safety glasses that protect them from physical injury but the gear may actually add to their heat risk.

"We focus on reminders," said Ms. Vinck. BAE reminds workers about heat exhaustion and the need to keep hydrated, providing easily accessible hydration stations stocked with water and sports drinks throughout facilities.

"We really focused on it because the last thing we want is somebody who either faints or collapses, especially if they're working from a height or working on a piece of equipment. It's an issue that we really focus on every summer," she said. "We're constantly telling people to hydrate, hydrate, hydrate."

Workers shouldn't wait until they're thirsty to drink fluids—"the recommended level of fluid replenishment is five to seven ounces every 15 to 20 minutes," said ESIS' Mr. Abrahamsen. That makes it easier to try to replace the quart per hour they're losing. But Mr. Abrahamsen said that the recommendation that workers take salt tablets has been discarded because that can lead to excessive salt levels in the body.

In warehouses without air conditioning, "we have people wearing personal protection equipment that is designed to dissipate heat," said Jerry LaChappelle, director-risk control for Harrah's Entertainment Inc. in Memphis, Tenn. One item is a neckband "filled with gel-type beads that you soak in a cooler and put around the neck," he said.

Mr. LaChappelle said most of the

other ways to meet the challenge of heat exposure involve "mainly common sense." For example, valet drivers should avoid direct sun as much as possible and "certainly not exert themselves with excessive running," he said.

Employers should encourage employees to take it easy during periods of extreme heat, say risk managers and insurers alike.

We "encourage employees to take breaks and not to stay in confined spaces," said Ms. Vinck.

"Don't push the workforce; let them work at their own pace. Naturally, we're going to slow down to conserve our body's resources," said Liberty Mutual's Mr. Christensen.

Workers should take frequent breaks in a cool room that's 75 degrees or lower, said Mr. Abrahamsen.

"Have a place for the guys when they take a break that's in the shade," said Mr. Christensen. In addition, supervisors should check with their people periodically—talk to them and look for signs of heat exhaustion and heat stroke. If they can't recuperate, get them medical treatment, he said.

Problems arise "when the supervisor doesn't speak the language of the workers and depends on another worker to translate. The supervisor should be able to communicate with all of the workers," he said.

Workers need to look out for each other as well in a kind of buddy system, said Mr. Abrahamsen. They need to keep an eye on each other to respond to any signs of heat-related illness.

Late News

Continued from page 1

last year found that employees of Philadelphia-based ARAMARK, the concessions vendor for Giants Stadium in New Jersey, should not have served alcohol to a visibly intoxicated patron who caused the automobile accident that paralyzed a 9-year-old girl and injured her mother. The jury awarded \$75 million in punitive damages and \$60.5 million in compensatory damages to the family, finding ARAMARK liable for \$105 million. The appeals court ruled that errors during the trial had prejudiced the case.

University sues CNA unit over Katrina claim

Loyola University New Orleans has filed a proposed class-action suit in New Orleans against its main property insurer, Continental Casualty Co., a unit of Chicago-based CNA Financial Corp., over what the school says are more than \$20 million in unpaid Hurricane Katrina losses. Loyola remained closed for the entire fall 2005 semester, and since reopening in January 2006 has seen a decline in enrollment. Ernst & Young L.L.P., which Loyola hired to document its losses, put the property damage at more than \$6 million and business interruption losses at more than \$22.5 million, the suit says. Despite submitting "extensive documentation" with its claims in mid- to late April, Continental Casualty has so far advanced only \$4 million, Loyola says. A CNA spokeswoman declined to comment.

XL to form reinsurer in Dublin

XL Capital Ltd. is restructuring its European reinsurance operations by setting up a new reinsurer in Dublin, Ireland, with branch offices in the United Kingdom, France, Spain and Germany. David Watson, general manager of XL Re Ltd. in London, will become president and chief executive officer of the new company. Mark Berry, head of XL Re's special risks underwriting department, will succeed Mr. Watson. XL said it aims to have the new reinsurance structure in place by September, in time for year-end renewals.

Florida authorizes commercial lines JUA

Florida Gov. Jeb Bush and his cabinet Tuesday authorized

insurance regulators to pursue the creation of a state commercial insurance joint underwriting authority. Legislation allowing a commercial JUA has been on the books since 1986, but a previous JUA was deactivated in 1992. "The JUA will provide property insurance to Florida's business owners who have been unable to secure it from private companies," a spokeswoman for Tom Gallagher, the state's chief financial officer, said. The JUA could ultimately either reinsure commercial insurers or act as a primary commercial property insurer.

Endurance places \$235 million cat deal

Endurance Specialty Insurance Ltd. has acquired \$235 million of protection for California earthquake and U.S. hurricane risks. The Pembroke, Bermuda-based Endurance Specialty Holdings Ltd. unit bought the coverage from Cayman Islands-based Shackleton Re Ltd. Newly licensed Shackleton Re financed the reinsurance through the issuance of a \$125 million catastrophe bond and a \$110 million multi-year risk-linked credit facility. Endurance's new reinsurance program has three separate layers of coverage, including: \$125 million of reinsurance to cover California earthquake risk for 18 months; \$60 million of coverage for U.S. hurricanes in the North Atlantic, Gulf Coast, and certain inland regions for two years; and \$50 million of reinsurance for California earthquake or U.S. hurricane losses, occurring within a year of a similar catastrophe, for two years.

Delaware hires captive director

William P. White, former head of the District of Columbia's captive unit, is assuming a similar post with the Delaware Insurance Department. Mr. White was most recently senior vp of Heartland Fidelity Insurance Co. in Lawrenceville, N.J. Delaware currently has six licensed captive insurers. The Delaware General Assembly passed legislation in 2005 to modernize state laws in hopes of attracting captives.

At BusinessInsurance.com

Check out the following online:

Emerging Risk Strategies

Columnist John J. Hampton interviews longtime brokerage executive Roger Egan, CEO of Integro Ltd., on the evolving role of risk managers. To read interviews and previous columns by Mr. Hampton, please visit www.BusinessInsurance.com/EmergingRiskStrategies.

Online Poll

New Online Poll: Has earning an ARM or CPCU designation helped you advance professionally?

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.

BI Stock Index [7/31 - 8/4]

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	Largest gains	Largest losses
BI Stock Index 2895.81 ↑ 0.09	CIGNA Corp. 14.61%	Marsh & McLennan -9.29%
Dow Jones 11240.35 ↑ 0.18	Humana Inc. 12.73%	Clark Inc. -8.66%
S&P 500 1279.36 ↑ 0.06	Willis Group Holdings 11.06%	Aon Corp. -7.24%
	CNA Surety Corp. 8.79%	RenaissanceRe -6.15%
	Argonaut Group 7.69%	Baldwin & Lyons -5.44%

Weekly change by market segment	
Brokers	-1.82%
Insurers/Reinsurers	0.21%
Managed Care Organizations	4.42%

Source: FinancialContent Inc. (<http://financialcontent.com>)



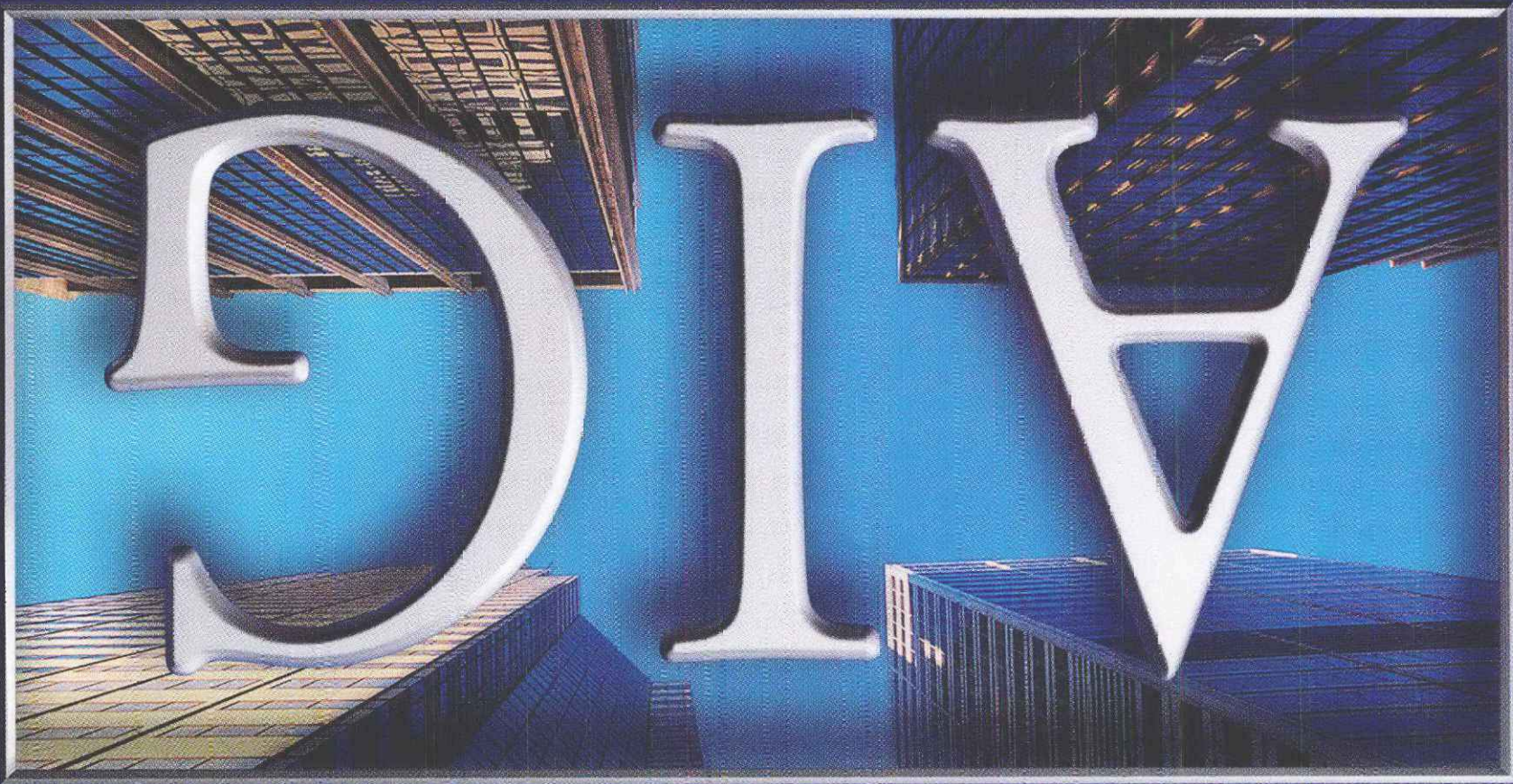
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