

Business Insurance

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\$5

Late News

Congress OKs hike in PBGC premiums

Federal lawmakers last week gave final approval to budget legislation that boosts by more than 50% the base premium rate charged by the Pension Benefit Guaranty Corp. and imposes a surcharge on employers terminating plans during bankruptcy. Under S. 1932, retroactive to Jan. 1, the base annual premium will rise to \$30 per participant from \$19 level; future increases will be indexed to match the annual increase in average national wages. The changes are part of a broader budget bill, which President Bush is expected to sign.

Louisiana regulator Wooley resigns

Louisiana Insurance Commissioner Robert Wooley is resigning his elected post midterm, citing a desire to return to the private sector. Under state law, Chief Deputy Jim Donelon will become insurance commissioner after Mr. Wooley leaves on Feb. 15, an insurance

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Injuries to ABC reporter show need for insurance.

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BROKER TROUBLE

Lloyd's plans to sue its reinsurance brokers.

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FORMER GEN RE CHIEF, EXECS INDICTED

Criminal, civil charges filed over finite 'scheme'

By **JUDY GREENWALD**

NORFOLK, Va.—Are there bigger fish to fry?

That is the question now looming after federal jury criminal indictments were handed down and a U.S. Securities and Exchange Commission suit was filed last week against former General Re Corp. and American International Group Inc. officials, say observers. Both focused on a 2000 loss portfolio transaction.

Observers speculate that the in-

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SEC suit details deal

A civil complaint explains who did what in the complex transaction.

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Other charges to come?

Legal experts make predictions.

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dictments in particular may be used by the federal government to ob-

tain plea agreements and "ladder up" to even higher officials, including possibly former AIG Chairman and Chief Executive Officer Maurice R. Greenberg and Gen Re CEO Joseph P. Brandon, who have not been charged.

Some observers also say the indictments signal federal authorities' continued zeal for investigating similar deals embarked on by other insurers and reinsurers (see story page 22). Their interest has led to the virtual disappearance of finite

risk products from the market.

Last week, a federal grand jury in Norfolk, Va., indicted former General Re Corp. CEO Ronald Ferguson, former Gen Re Chief Financial Officer Elizabeth Monrad and the reinsurer's former assistant general counsel, Robert Graham, charging they conspired to commit fraud in connection with the transaction. Also indicted was Christian Milton, formerly AIG's vp-reinsurance.

See **INDICTMENTS** / page 22

Greenberg fights AIG over Starr business in battle for control

Both sides head to court

By **JUDY GREENWALD**

NEW YORK—The bitter dispute between American International Group Inc. and its former chairman, Maurice R. Greenberg, continues to escalate, with both sides filing lawsuits that focus on the relationship between AIG and the C.V. Starr & Co. Inc. managing general agencies still controlled by Mr. Greenberg.

A hearing, scheduled for today, will determine whether a temporary court order preventing one of the Starr MGAs from doing certain business should remain in effect.

Central to the battle is the agencies' efforts to strike out on their own and AIG's efforts to stop them from doing so. One lawsuit filed by AIG charges New York-based MGA Starr Technical Risks Agency Inc. with violating a 1992 agreement by plotting to divert business away from AIG,

while a separate suit says another Starr agency, Atlanta-based American International Aviation Agency Inc., raided AIG employees, among other charges.

C.V. Starr in turn accuses AIG of engaging in a secret plot to destroy its business after an unsuccessful attempt to purchase the agencies.

These two agencies as well as two others—San Francisco-based C.V. Starr & Co. and New York-based American International Marine Agency of New York Inc.—are owned by New York-based holding company C.V. Starr & Co. Inc. The Starr agencies' relationship with New York-based AIG goes back to the 1960s, when Mr. Greenberg formed AIG into a public company.

C.V. Starr & Co. Inc. is one of three outside companies still controlled by Mr. Greenberg, who was forced out as chairman and chief executive officer of AIG last year amid mounting investigations into the insurance giant's accounting.

See **STARR** / page 21



President Bush proposed reforms to HSAs in his State of the Union speech.

Bush proposes expansion of health savings accounts as funding tool for retirees

By **JERRY GEISEL**

WASHINGTON—Health savings accounts would be expanded to serve as a tax-effective retiree health care funding vehicle under a proposal unveiled last week by President Bush.

The proposal would allow employees and employers to increase HSA contributions significantly, creating a much bigger pot of mon-

ey to draw on for retiree health care expenses.

Under current law, the maximum permitted contributions are so low that there is limited ability for

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malpractice tort reform

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NEWSPAPER

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INTERNATIONAL NEWS

OLYMPICS 2006

The Winter games will begin with \$150 million in cancellation cover in place.

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ROOF COLLAPSE

A roof collapse at a Polish convention center shows need for more insurance protection.

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Insureds should plan renewals based on the strong likelihood that TRIA will not be extended beyond Dec. 31, 2007.

FEBRUARY 6, 2006

Without TRIA, what would we do?



Aaron Davis is a vice president with Aon's national practice for property syndication. He advises clients about terrorism risk, TRIA and the terrorism insurance market. Aaron can be reached at aaron_davis@aon.com.

The recent two-year extension of the Terrorism Risk and Insurance Act of 2002 (TRIA), which was to expire Dec. 31, 2005, was met with a huge, albeit short, sigh of relief by unprepared insureds and the insurance market.

Unfortunately, however, given the tenuous manner in which the TRIA extension was made and the particular circumstances that enabled it to do so, there does not appear to be the political will in the White House, in the Treasury Department or in Congress to extend the act beyond Dec. 31, 2007. In fact, by not containing any of the changes needed to encourage the industry to create a long-term solution, the extension legislation guarantees that companies across the nation will be severely exposed to terrorism risk once TRIA expires. Among other things, a long-term approach would have enabled companies to reserve, on a tax-free basis, for future terrorism losses and would have created a dedicated commission to explore long-term TRIA alternatives.

As a result, insureds must understand that there will be only one "clean" renewal period (between 2006 and 2007) during which TRIA coverage will be guaranteed. In 2007, depending on renewal dates, part of the policy terms will be backstopped and part will not. Thus, insureds can expect to go through a coverage scramble similar to the one experienced in 2005, when an estimated 85 percent of commercial property capacity offered contained terrorism exclusions or severe sublimits.

To prepare for terrorism risk management post-TRIA, insureds must establish and maintain relationships with standalone terrorism markets.

And, they must ensure that a significant portion of their all-risk property panel of insurers includes the select markets willing to offer full-term terrorism coverage in the absence of a backstop. We recommend taking these steps with this year's renewal. With minimal available capacity, those insureds with the right relationships will have the best opportunity to access terrorism risk capacity. The vast majority of insureds, however, will not have access to terrorism risk coverage after 2007, and many will elect to fully withdraw coverage or to self-insure using captives and other risk financing alternatives. But this approach would only be a partial solution to terrorism risk.

In the run-up to TRIA's expiration in 2005, the vast majority of the insurance market responded to the potential disappearance of TRIA by excluding terrorism risks from contracts. In short, without TRIA, the majority of the insurance market has indicated that it will not continue to write terrorism risks. Insureds cannot deal with this very real catastrophe exposure via risk retention and alternative risk transfer alone. Risk transfer will continue to play the most important role, but a very real and very severe terrorism capacity and pricing crisis could exist in 2008 without TRIA or a similar replacement backstop.

Unfortunately, the U.S. government missed an opportunity to stimulate a long-term solution to terrorism risk in its 2005 renewal language. As a result, it is now up to insureds and the insurance market to determine how to deal with terrorism risk over the long term. Understanding terrorism exposures and forging relationships with terrorism markets will help to a point. After that, the future is anyone's guess.

Go to www.aon.com/focus to receive "Aon Focus" by e-mail.

New ruling clarifies employers' recourse against carriers when Medicare reimbursement is required

The Medicare Prescription Drug, Improvement and Modernization Act of 2003 clarified Medicare's recovery rights against employers sponsoring group health plans. A recent ruling illustrates that employers with insured group health plans are liable under Medicare-as-secondary-payer rules for up to three years, even if Medicare does not seek reimbursement from its insurer who treated Medicare as the primary payer and even if the employer is unable to recoup from the insurer for its liability to Medicare because of a one-year claims filing deadline with the insurer. For further insight, read the complete report at www.aon.com/focus.

Plan sponsors use new analytic tools to save costs, maximize ROI

Plan sponsors who self-fund medical plans require a broader understanding of factors behind escalating health care costs. These companies can take advantage of a new generation of data analytics that integrate and warehouse data from multiple plans. These tools provide plan sponsors dynamic information and integrated text and graphical reporting that use multidimensional database technology. Key benefits for plan sponsors include the ability to access detailed claims data and understand the clinical conditions, utilization patterns, and financial and administrative costs associated with health care programs, leading to effective interventions and maximum return on investment. To learn more, visit www.aon.com/focus.

**"Terrorism risk won't go away.
We need real long-term solutions."**



With and without the Terrorism Risk and Insurance Act of 2002 (TRIA), you still need long-term solutions to mitigate terrorism risk. Aon is at the forefront of this issue, creating innovative solutions and alternative approaches to terrorism risk. We offer expert advice, captive services and transactional expertise to ensure that your business is protected.

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Inside

Mistakenly razed building not insurable accident

Unintentional harm not insurable if harm results from intentional act, judge rules. Page 4

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Indictments may spell end for finite reinsurance

Indictments of Gen Re and AIG execs may be more nails in the coffin of finite reinsurance, an editorial says Page 8

Foreign insurers increase D&O capacity in Canada

Buyers see flat renewals but rate hikes may be looming. Page 17

Online poll - [1/30 - 2/3]

Are "Wal-Mart" laws intended to mandate health care spending fair?

Yes 58.0% **No 38.3%**



No opinion 3.7%

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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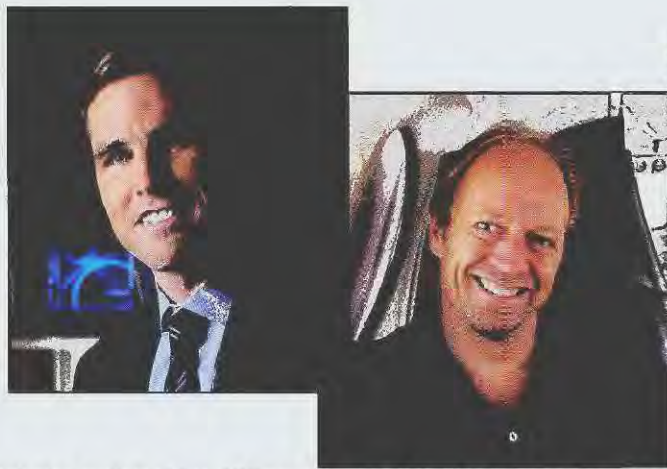


PHOTO: COURTESY ARC NEWS

Injuries sustained by ABC news anchor Bob Woodruff and cameraman Doug Vogt, right, after a roadside bomb hit their convoy may increase interest in personal accident coverage for Iraq.

Accident insurance for workers in Iraq seen as vital cover

By SARAH VEYSEY

The injuries sustained by ABC News anchorman Bob Woodruff and cameraman Doug Vogt in a bomb attack in Iraq late last month highlight the risks posed to journalists reporting from war zones and the need for personal accident insurance to cover them while they are in dangerous regions, observers say.

The high-profile attack is likely to prompt renewed interest from employers in buying accidental death and disability insurance and related coverages for employees sent on assignment to dangerous places, they say.

Mr. Woodruff and Mr. Vogt

were severely injured Jan. 29 in a roadside bomb attack on a convoy that they were traveling with while embedded with U.S. troops.

They were evacuated to Germany for medical treatment after the attack, before being flown back to the United States where they are said to be "responding well to treatment" in the Bethesda Naval Hospital in Maryland, according to ABC.

Sources were unable to give details of insurance coverage for the two ABC employees. Representatives for ABC did not return calls for comment.

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Lloyd's to sue Aon, Benfield over fund cover

By SARAH VEYSEY

LONDON—Lloyd's of London said it will pursue legal action against Aon Ltd. and Benfield Group Ltd., the brokers of a disputed reinsurance program for

involved in the placement of the policy for the shortfall," Lloyd's said in a statement Friday. "Following discussions with the brokers, Lloyd's has decided to proceed with legal action" against Aon and Benfield. Lloyd's said in its statement, adding that it could give no further details at this time.

Lloyd's has not yet filed a lawsuit against the brokers, who said they would contest any such action.

"We do not accept that Lloyd's has a valid claim against Aon, and we will be contesting it vigorously," said a spokesman for the London-based unit of Aon Corp.

"Benfield is disappointed that Lloyd's has considered it necessary to take this action," the London-based broker said in a statement. "We continue to believe, based on professional advice we have taken, that these proceedings will not result in a material liability to Benfield. Obviously, Benfield will defend any action vigorously," the statement adds.

The underlying dispute arose

See LLOYD'S / page 6

Central Fund dispute

Lloyd's of London settled a dispute early last year with six reinsurers of its Central Fund:

- SR Business International Co. Ltd., a unit of Swiss Reinsurance Co.
- Employers Reinsurance Corp.
- St. Paul International Insurance Co. Ltd.
- International Insurance Co. of Hannover Ltd., a unit of Hannover Reinsurance Co.
- XL Mid Ocean Reinsurance Ltd.
- Chubb Corp. subsidiary Federal Insurance Co.

the market's Central Fund.

Lloyd's in March 2005 settled a long-running dispute with the six former reinsurers of its Central Fund, receiving £152 million (\$292.7 million) for claims it had made against the program (BI, March 21, 2005). During an arbitration process, Lloyd's had sought to recoup about £477 million (\$918.7 million) from the reinsurers.

At the time, Lloyd's reserved the right to pursue others in-

Insurer seeks to avoid major league liability

Says team kept pollution study secret when buying stadium cover

By DAVE LENCKUS

NEW YORK—The St. Louis Cardinals Major League Baseball team wants its environmental liability insurer to step up to the plate and cover \$7.5 million of cleanup costs at its new ballpark as well as potential future liabilities at its former playing field site.

But the insurer, a unit of Hamilton, Bermuda-based XL Capital Ltd., contends that the ball club threw the insurer a curve by not revealing the results of environmental studies on the two sites when the team purchased the coverage in 2000.

Stamford, Conn.-based Greenwich Insurance Co. late last month asked a federal district court in New York to either allow the insurer to rescind the coverage, placed by Chicago-based Aon Corp., or rule that its policy does not cover the team's claims.

The opening of the new Busch Stadium this spring should not be delayed by the coverage dispute, because the pollution cleanup work has been completed at the site, said Mark Lamping, president of the Cardinals.

The new stadium was built on a former bus lot site in the shadows of the old Busch Stadium.



PHOTO: UPI/BILL GREENBLATT

The opening of the St. Louis Cardinals' new stadium is not expected to be delayed by an environmental liability coverage dispute between the team and its insurer.

See ST. LOUIS / page 6

USG asbestos settlement hinges on passage of FAIR Act

By MARK A. HOFMANN

CHICAGO—USG Corp. has reached a nearly \$4 billion settlement to resolve its current and future asbestos liability claims, but that amount would be slashed to \$900 million if Congress approves a national, no-fault trust fund to compensate victims of asbestos-related diseases.

Under the terms of the settlement, announced last week, the Chicago-based building products company would create a trust fund to handle all asbestos-related personal injury claims, thus "enabling the company and its subsidiaries to take a significant step toward emerging from bankruptcy," according to a statement released Jan. 30.

The complex funding plan calls for the trust fund to be paid for with \$900 million in cash and a contingent note for \$3.05 billion.

But if Congress passes the Fairness in Asbestos Injury Resolution Act—S. 852—USG would be liable only for the \$900 million cash payment, according to the company.

The Senate plans this week to take up the FAIR Act, which would create a \$140 billion no-fault trust fund to replace the current litigation-based system for compensating victims of asbestos-related diseases. Under that proposal, defen-

dant companies would provide \$90 billion in funding, their insurers would kick in \$46.03 billion, and existing asbestos compensation funds would make up the balance.

Although the measure was sponsored by Judiciary Committee Chairman Arlen Specter, R-Pa., and the committee's ranking minority member—Sen. Patrick Leahy, D-Vt.—it has drawn fire from both sides of the aisle.

For example, Senate Minority Leader Harry Reid, D-Nev., said that he will oppose the bill, and some conservative Republicans have also suggested that they could not support the measure in its current form.

The bill also appears likely to draw numerous amendments. For example, Sen. Hillary Rodham Clinton, D-N.Y., has already indicated she will offer an amendment that would allow first responders, workers and New York residents who suffered asbestos exposure as a result of the Sept. 11, 2001, destruction of the World Trade Center to seek compensation from the fund.

Public Citizen, a Washington-based consumer organization, used the USG settlement to blast the FAIR Act.

"The USG plan makes plain that the federal trust fund is a corporate bailout in sheep's clothing," Public

Citizen President Joan Claybrook said in a statement. "Under the guise of compensating victims for terrible illnesses like asbestosis and mesothelioma, corporate America's real aim is to run away from billions in liability for knowingly exposing workers to a lethal toxin."

The head of a business organization that opposes the FAIR Act also cited the USG settlement as a sign the trust fund approach is undesirable.

"I think that it points out the flaw in the system and why certain companies are pushing hard to get this bill passed," said Thomas R. O'Brien, chairman of the Washington-based Coalition for Asbestos Reform and a partner in the West Orange, N.J., law firm Wolff & Samson P.C. "Three billion dollars is a lot of money."

Mr. O'Brien said that CAR—which represents small and midsize businesses and their insurers—does not believe the trust fund will remain solvent over its projected 30-year lifetime and that, within three to five years, some defendant companies "will be back in the tort system having had their insurance assets eroded." He added that the trust fund would also have a negative impact on companies that "have managed their asbestos liability programs well."

Hannover Re securitizes property, marine risks

By SARAH VEYSEY

HANNOVER, Germany—Hannover Re Group has completed a \$370 million securitization deal aimed at increasing the German reinsurer's capacity to underwrite property catastrophe, aviation and offshore marine coverage.

The transaction was placed primarily with institutional investors in the United States and

initially is limited to a term of three years, Hannover Re said in a statement.

Demand for property and marine reinsurance has increased since the chain of natural disasters in 2005, the statement said.

The deal is the largest securitization deal the Hannover, Germany-based reinsurer has undertaken. It has now completed 11 such deals since 1994, according to the statement.

Lloyd's: Market suing brokers of Central Fund reinsurance

Continued from page 3

after the six former reinsurers of the Central Fund—which is financed by levies on syndicates and is intended to meet the liabilities of syndicates if they are unable to do so—stopped paying claims on the policy.

According to sources, the reinsurers stopped paying claims because of a dispute over whether Lloyd's was within its rights to use the policy to make payments to U.S. trust funds. Because Lloyd's is an alien reinsurer in the United States, it must hold collateral in trust funds there.

The policy, purchased in 1999,

was intended to meet unrecovered losses to the Lloyd's Central Fund where those losses exceeded £100 million (\$192.6 million) in any one year, subject to a £350 million (\$674.1 million) limit. The aggregate maximum payout over the policy period was £500 million (\$963.0 million).

In January 2005, Lloyd's announced that an arbitration panel had found that Lloyd's had correctly interpreted the wording of the policy. But it also said that the SR Business was entitled to avoid the contract because of the way Lloyd's had presented the risk.

Dispute: St. Louis Cardinals seeking stadium cleanup costs

Continued from page 3

um and the St. Louis Arch. The old stadium has since been razed.

In its lawsuit, Greenwich charges that the team and team owner S.L.C. Holdings L.L.C. did not disclose in their policy application the results of two environmental studies conducted on the two sites. The studies, prepared when the team was sold in 1996, noted that

when the club began excavating the site. The team filed its claim with Greenwich in January 2004.

The cost of cleaning the new stadium's site exceeded \$14 million, but the Cardinals are seeking about \$7.5 million from Greenwich, Mr. Lamping said. The team already has recovered the remainder of the cleanup costs from the Missouri brownfield fund, he said.

The team also has filed a claim "for unforeseen conditions" at the former stadium site. A mixed-use development of commercial and residential space is planned for that site. But no pollution has been found there, Mr. Lamping said.

Mr. Lamping would not discuss Greenwich's assertions about the environmental studies.

"It would not be appropriate to get into the details" of the dispute, he said. He added that the team disagrees with Greenwich, believes it has a valid claim and expects "to be fully reimbursed" for its cleanup costs.

Mr. Lamping said Greenwich and the team had been in settlement discussions before the insurer filed its lawsuit and that he would "assume the line of communication would remain open."

Representatives of Greenwich and XL could not be reached for comment.

The St. Louis Cardinals are in a dispute with an insurers over cleanup at the site of a new baseball stadium.

potential environmental issues could develop because of previous industrial activities and the presence of underground storage tanks at the sites.

In addition, when it applied for coverage, the ball club did not notify the insurer of the club's plans to build a new stadium on the former bus lot and to tear down old Busch Stadium, Greenwich says.

The ball club says it discovered petroleum and heavy metals contamination at the new ballpark site

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Editorial

Indictments hurt future of finite reinsurance

THE FEDERAL CRIMINAL indictment of three former executives of Gen Re and one from American International Group and a Securities and Exchange Commission civil suit against the same group last week may be yet more nails in the coffin of finite reinsurance.

Named in the indictment and SEC complaint were retired Gen Re Chairman and Chief Executive Officer Ronald Ferguson, former Chief Financial Officer Elizabeth Monrad, former Gen Re counsel Robert Graham and former AIG reinsurance Vp Christian Milton. The SEC suit also names Christopher Garand, a former senior vp and chief underwriter of Gen Re's finite reinsurance business.

According to prosecutors, all were involved in a \$500 million loss portfolio transfer deal beginning in late 2000 that enabled AIG to report improved financial results but that transferred no real risk and therefore did not qualify as reinsurance under accounting rules. It has been widely reported that this deal led AIG to oust its then-chairman and CEO Maurice R. Greenberg and CFO Howard Smith, and to restate its financials—including recharacterizing the Gen Re transaction as deposits, not reinsurance. Messrs. Greenberg and Smith have not been

criminally charged and have publicly denied any wrongdoing.

The charges in the indictment and SEC suit raise many questions. It seems clear that Gen Re wanted to help AIG, which was an important client. But why, if executives were aware that a deal without risk transfer would not meet regulatory standards, did they proceed with it? Why would executives at the highest levels of a major U.S. reinsurer want to risk their reputations and that of their company? Fortunately for all concerned, the defendants will get their day in court and be able to present evidence that may answer these questions.

In the meantime, the market for finite reinsurance has all but dried up, which is unfortunate for risk managers and insurers. Proponents of finite reinsurance say there is nothing inherently wrong with the deals, and in fact, thousands of them have been done without any hint of impropriety. In an era of transparency and disclosure, it's clear that side letters altering terms of contracts have no place in reinsurance. We hope that some good comes from this sad case, which has tainted the careers of those involved, brought shame upon leading insurers and effectively removed a once-valuable risk transfer option.

Allow larger HSA contributions

SHOULD EMPLOYERS and employees be allowed to contribute more to health savings accounts?

In a word, absolutely, and we welcome a Bush administration proposal that would do just that. As we report on page 1, the administration is recommending that Congress pass legislation that would, in some cases, increase by about fivefold the maximum contribution that could be made to HSAs.

The necessity of such a change in law should be obvious. Under current law, the maximum contributions permitted to HSAs are so low that employees, after tapping the accounts to pay for the current year's medical expenses that are not covered by their high-deductible health insurance plans, are not, in many cases, going to be able to build up significant balances in their HSAs.

As a result, when they retire, their HSAs will not be much of a nest egg that they can

draw upon to pay for retiree health care expenses. With company-provided retiree health insurance plans rapidly dwindling, especially for the next generation of retirees, employees obviously need a vehicle that will allow them to accumulate, in a tax-effective way, the funds they will need to pay for health care expenses when they retire.

An HSA does just that. Contributions going into an HSA are tax-free, while withdrawals also are tax-free when used to pay for medical expenses.

Obviously, this proposal will not be a panacea for all employees now worried about how they will be able to afford to pay for health care when they retire. Many employees will not be able to afford to kick in additional contributions.

But for those that can, they should be given the opportunity to do so. We urge Congress to act quickly to pass this proposal.

Schillerstrom



Reporter beats

In an effort to ensure continuing timely coverage of risk management, insurance and benefit-related news, *Business Insurance* has formalized a list of its reporters' assigned beats. This list is not intended to be exclusive but rather to represent core subject areas of importance to *BI* readers. *BI* welcomes ideas and tips from readers on these and other areas. Following is a list of the beats and the principal reporters for each:

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Asian markets: Michael Bradford.
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Benefits—retirement savings/pensions: Jerry Geisel.
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Health care industry operations: Gloria Gonzalez.
Inland marine/transportation: Michael Bradford.
Industry Focus: Rodd Zolkos, Meg Fletcher.
Insurance coverage litigation: Douglas McLeod.
Insurance fraud: Douglas McLeod.
Latin American markets: Roberto Cenicerros.
Marine risks: Sarah Veyssey.

Property/casualty industry operations: Judy Greenwald.
Professional liability: Dave Lenckus.
Property loss control/cat risks: Mark A. Hofmann.
Regulation of insurance: Meg Fletcher.
Reinsurance: Judy Greenwald.
Risk management profession: Dave Lenckus.
Risk securitization/capital markets risk financing: Carolyn Aldred.
Runoffs/receiverships: Douglas McLeod.
Safety/ergonomics: Meg Fletcher.
Surplus lines/wholesalers: Roberto Cenicerros.
Tort reform: Mark A. Hofmann.
Work/life benefits and EAPs: Sally Roberts.
Workers compensation: Roberto Cenicerros.

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Legal Briefs

Continued from page 11

as flood water when it overflows from a bayou's banks and enters a convention center flooding a basement in which an insured's office is located, according to the Court of Appeals of Texas, in a decision reported only recently.

In June 2001, a tropical storm resulted in a bayou overflowing its banks and flooding the entire downtown Houston area.

Water rushed into a convention center, broke through a basement wall into a parking garage, then into a pedestrian tunnel system and finally poured into the Bank of America building. Electrical equipment in the bank's basement was damaged. As a result, the building was closed from June 9 to July 2, 2001, and the law firm of Hicks Thomas & Lilienstern L.L.P. was forced to conduct its business from an alternate location.

The law firm was covered under a premises insurance policy issued by Valley Forge Insurance Co. that covered 30 day's worth of lost business income and extra expenses if the firm suffered losses from a covered peril. However, the policy excluded losses due to flood, surface water, overflow of any body of water or from water under the ground surface.

The insurer denied the law firm's

claim for \$373,000 in lost business as well as \$22,263 in extra expenses. The firm sued the insurer for breach of contract and breach of good faith and fair dealing. The trial court ruled for the law firm, awarding it \$395,537 in damages plus interest and attorney's fees of \$150,000. The insurer appealed.

On appeal, the insurer argued, in part, that flood water and/or surface water caused the damage to the premises and were excluded from coverage. The law firm maintained, though, that by the time the water entered the bank building, its character had changed from that of flood or surface water to "plain-old generic water."

The court said that once the water entered the convention center, it behaved as strong waters behave—it caved in an interior wall and rushed onward. The court said that the water did not back up into a sewer line, cause a water main to burst or commingle with water from an in-ground swimming pool. "It simply flowed onward," the court said, "as flood and surface water is want to do, obeying the law of gravity and flowing into manmade underground structures."

Thus, the court concluded that the law firm's loss was caused by a combination of flood and surface water and the loss was excluded under the terms of the policy. The trial court decision was reversed.

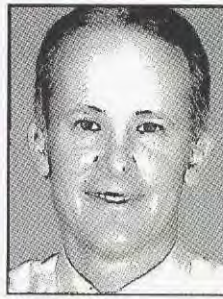
Valley Forge Insurance Co. vs. Hicks Thomas & Lilienstern L.L.P., Court of Appeals of Texas, Dec. 16, 2004 (BJ/01/M.-\$10).

These abstracts were prepared by Mayo H. Stiegler. Copies of these decisions are available, at \$10 each, by sending a check payable to Mayo H. Stiegler, to Business Insurance 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Provide the listed number for each opinion ordered.

COMINGS & GOINGS - INDUSTRY



Mr. DeVito



Mr. Hartline



Ms. Sutphin



Mr. Martone



Mr. Robin

Brokers:

Atlanta-based Beecher Carlson Holdings Inc. has made several senior-level appointments in its recently expanded Boston office:

- **Richard J. DeVito** has been named managing director of the Boston office. Previously, he was senior vp and head of the risk management practice group at William Gallagher Associates.

- **Andrew Banasiewicz** has been named senior vp of analytics. Before joining Beecher Carlson, he was an independent consultant.

- **Uta Randall** has been named senior vp and will focus on marketing and servicing large casualty and property accounts. Previously, she was senior vp at the Hobbs Group.

- **Allen Williams** has been named director of risk control. Previously, he was national director of risk control at Hilb, Rogal & Hobbs Co.

- **Gilles Duclos** has joined New York-based Willis Group Holdings Ltd. as executive vp and chairman of the company's Quebec operations in Montreal. Previously, Mr. Duclos was a senior consultant for business development with Aon Corp.

London-based Alexander Forbes Risk Services Ltd. has named **Peter Hall** executive director and senior broker in its marine cargo department. Previously, Mr. Hall was a director in Willis' marine cargo division.

Also at Alexander Forbes, **Charles Reese** has been named managing director of North American casualty. Previously, he was senior vp in the North American casualty division of Marsh & McLennan Cos. Inc. He will be based in London.

Scott Allan has been named leader of the real estate practice in Los Angeles for Marsh Inc. He remains a senior vp of Marsh.

Denver-based Lockton Cos. of Colorado Inc. has named **David Hartline** senior vp in risk management. Previously, he was a senior vp with Palmer & Cay.

Also at Lockton, **Terri Sutphin** has been named senior vp/account executive in risk management. Previously, she was a senior vp/senior client executive with Palmer & Cay in the national casualty practice group.

Aon Construction Services Group has appointed **Cary White** managing director in its San Francisco office. Previously, he was a senior vp in the construction practice of Heffernan Insurance Brokers.

Insurers:

Mike Warwicker has been promoted to chief operating officer for Starr Excess International Liability Insurance Co. Ltd. and will have management responsibility for the Dublin headquarters and the London and Bermuda branches of SEI. Previously, he was managing director, Europe, and operations manager.

Rodney O. Martin Jr. has been named COO of American International Group Inc.'s worldwide life insurance business. Mr. Martin will remain chairman, president and chief executive officer of AIG American General Life Cos. and an AIG executive vp.

Mobile, Ala.-based American Equity Underwriters Inc. has named **John A. Martone** senior vp. Mr. Martone will be based in the company's Washington office. Previously, he served as branch of insurance and financial management chief at the U.S. Department of Labor.

Managed care:

Timothy Coad has joined Kaiser Permanente of the Mid-Atlantic States in Rockville, Md., as executive director, account management. Most recently, he was vp of sales and marketing at Consortium Health Plans.

Reinsurance:

New York-based Guy Carpenter & Co. Inc. has named **Eric Excoffier** senior vp and practice leader in Europe of the company's property specialty practice. Mr. Excoffier will be based in Paris. Previously, he was general manager and lead underwriter for Ascot Paris.

Brian O'Hearne has been named managing director, environment and commodities markets, for Swiss Re Capital Management & Advisory. Mr. O'Hearne, who will be based in New York, previously was CEO and president of GuaranteedWeather L.L.C.

William Pollett has been named treasurer and senior vp of Hamilton, Bermuda-based Montpelier Re Holdings Ltd. and Montpelier Reinsurance Ltd. Previously, he was senior financial analyst and senior vp at ACE Ltd.

Also at Montpelier, **Neil Greenspan** has been named chief accounting officer. Most recently, he was vp-accounting for ACE Financial Solutions International.

Stuart Mackellar has joined



Ms. Harness



Ms. Jones-Gyllstrom

Amlin Bermuda Ltd. in Hamilton, Bermuda, as managing director. Previously, he was chief financial officer and head of the Bermuda operations at Alea (Bermuda) Ltd. and Alea Group Holdings (Bermuda) Ltd.

Other providers:

Richard Robin has been promoted to president of Encino, Calif.-based underwriting manager NAS Insurance Services.

Previously, he was executive vp. Bensenville, Ill.-based Disaster Kleenup International has named **Mitch Newman** national account director. Before joining DKI, Mr. Newman was vp and key account manager at RSL Rentals.

Mercer Human Resource Consulting has made two senior appointments in Las Vegas:

- **Ellen Harness** has been appointed market business leader for Mercer's health and benefits business. She will remain a principal with the company.

- **Nicole Jones-Gyllstrom** has been named senior associate. Previously, she was executive director of benefits for Ichan Associates Corp.

David Levin has been named director in the health and welfare practice at Buck Consultants in Chicago. Most recently, he was a consulting actuary and vp for Aon Consulting.

Louisville, Ky.-based Risk Management Services Corp. has promoted **C. Jeffrey Rausch** to president and CEO. Previously, he was COO.

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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MARY A. LOPATTO

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Between the Lines

Compiled by Joanne Wojcik

'Grandstandamendi' gets fired up

Given his penchant for self-promotion, it's certainly been no secret to the insurance industry that California Insurance Commissioner John "Grandstandamendi" has had higher aspirations for quite some time.

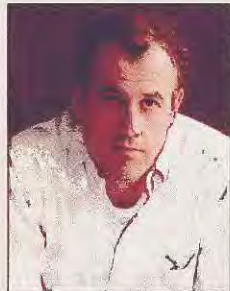
In his latest publicity stunt, the Garamendi for Lieutenant Governor campaign is seeking contributions via the Internet, but with a twist.

As quid pro quo for his having put insurers on the hot seat during his two terms as commissioner, those who received an e-mail blast on Jan. 26 were asked to "light a candle" on Mr. Garamendi's birthday cake, as well as make a contribution.

"He's been doing it on our behalf for years...California's Insurance Commissioner, John Garamendi...Lighting a candle (and, sometimes, even a fire) under the big insurance and health care companies—demanding fair and just treatment for everyday Californians like us. Well, today it's your opportunity to return the favor. To thank John Garamendi for protecting the people and families of California as our Insurance Commissioner, and send a message that we need a leader like John as our next Lieutenant Governor. Today is John's birthday. And you're invited to "light a candle" on John's birthday cake, with your contribution to Garamendi for Lieutenant Governor."

A million frivolous lawsuits

All broken up over the deceit in James Frey's bestseller "A Million Little Pieces," readers are suing the author and his publisher asking for a refund, as well as compensatory and punitive damages for the pain they suffered as a result of having been duped.



Mr. Frey

The deception first came to light when, despite a threatening letter from Mr. Frey's attorneys, Lavelly & Singer in Los Angeles, the *SmokingGun.com* Web site went ahead and published a scathing report revealing that many of the facts in the book had been fabricated.

Since then, attorneys in Chicago, Los Angeles, New York and Seattle have filed lawsuits seeking class action status on behalf of all who purchased the book. In addition to seeking a refund of the purchase price, the suits are asking that consumers be compensated for the time spent reading the book. (By most accounts, the book was a pretty quick read, so that sum shouldn't be astronomical.)

Doubleday, meanwhile, is doing damage control to reduce its liability exposure for its lack of fact checking by issuing a publisher's note acknowledging that a number of facts had been altered and incidents embellished.

Perhaps now is the time for the risk manager of Harpo Studios to start reviewing its CGL policies should Oprah Winfrey's public lambasting of Mr. Frey on national television cause the former drug-addicted alcoholic to suffer a relapse.

Stay tuned.

Bewitched, bothered and bewildered

A legal fight is brewing between a Minnesota school district and a bus driver who claims she was fired because she is a witch.

The driver, Julie Carpenter, says she received a letter from the Princeton Public School District asking that she not be near students after she shared her religious affiliation with coworkers and her common-law husband—Jonathan "The Impaler" Sharkey, a self-described "Satanic Dark Priest" and "Sanguinarian Vampyre"—announced he was running for governor.

"I drove for this company for almost five years," Ms. Carpenter wrote to a Web blog for fellow witches. "No complaints, no warnings, no vocal warnings." Ms. Carpenter added that she loved her job and that her attendance record was "at least 99.6%."

When contacted by phone, Ms. Carpenter referred calls to her attorney, Sam Glover, a litigator in Minneapolis, who said he is preparing to file a complaint with the Equal Employment Opportunity Commission, the first step in an employment discrimination lawsuit.

"The school district and bus company fired Ms. Carpenter because of her religious beliefs. This is a clear violation of her rights under state and federal employment discrimination laws," Mr. Glover said.

A call to the school district was not returned.

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

Judges: A panel of industry experts assembled

Continued from page 14

Worldwide. Mr. Glickstein, who is based in Dallas, specializes in the design and financing of compensation programs, with a focus on retirement benefits.

• Cynthia Keaveney, senior vp and national practice leader of Aon Workforce Strategies at Aon Corp. unit Aon Consulting Worldwide. Ms. Keaveney, based in Conshohocken, Pa., launched Aon Workforce Strategies in 1999 to provide health, absence and productivity management solutions.

• Dan Klein, U.S. client development leader at Mercer Human Resource Consulting. Mr. Klein is based in the Chicago office of Mercer, a unit of Marsh & McLennan, and helps large global employers develop benefits, human resource and compensation programs.

• Chris McSwain, director of compensation and benefits at Columbia, S.C.-based SCANA Corp. Mr. McSwain is the 2005 Benefit Manager of the Year.

• David A. North, president and CEO of Sedgwick Claims Management Services Inc., a Memphis, Tenn.-based third-party administrator. Sedgwick CMS serves employers nationwide in providing claims and productivity management solutions.

• Noël Obourn, president of the national account segment at CIGNA HealthCare in Bloomfield, Conn. Ms. Obourn leads the delivery and servicing of CIGNA medical and dental benefits, behavioral health programs and prescription benefits for large U.S. employers.

• Virginia Olson, a principal at benefit consulting company Towers Perrin. Based in Atlanta, Ms. Olson directs Towers Perrin's benefits and rewards practice for a range of industry sectors.



Mr. Bannerman



Ms. Burmeister



Ms. Darling



Mr. Elliott



Mr. Glickstein



Ms. Keaveney



Mr. Klein



Mr. McSwain



Mr. North



Ms. Obourn



Ms. Olson

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February 6, 2006

World

Winter Games covered against cancellation

By CAROLYN ALDRED

TURIN, Italy—As the world's best skiers, sledders and skaters steel their nerves ahead of this month's XX Winter Olympic Games, event cancellation insurance will help the organizers and other groups rest easy.

For the first time, the International Olympic Committee has purchased a \$150 million event cancellation policy to cover financial losses for the Winter Games if they are canceled due to natural hazards, war or terrorism, an IOC spokeswoman confirmed. The Lausanne, Switzerland-based IOC bought \$170 million in event cancellation coverage for the 2004 Summer Olympic Games in Athens (*BI*, Aug. 9, 2004).

Athletes and national athletic federations typically purchase other types of coverage, but the organizing committee did not elaborate on additional insurance arrangements.

The IOC said it plans to purchase similar poli-

cies for the 2008 Summer Games in Beijing and the 2010 Winter Games in Vancouver, British Columbia.

The \$150 million policy for the Turin Games would only partially cover the IOC's losses if the event were canceled, but the coverage would be sufficient to ensure the future of the next games, said an IOC spokeswoman. She did not provide details on how much of the expected exposure the policy would cover.

The policy, which excludes cancellation triggered by diseases such as severe acute respiratory syndrome or avian flu, was brokered by London-based Benfield Group, according to the IOC. Much of the coverage is placed in the London market, sources say. Benfield would not comment on the placement.

Meanwhile, other organizations are also buying cancellation insurance for the Games.

Leading Lloyd's of London contingency underwriter David Bruce of Hiscox P.L.C. estimates



PHOTO: REUTERS/ERIC GAILLARD

With the Winter Olympics due to start later this week, \$150 million in cancellation coverage is in place for the event.

that about \$1 billion of coverage has been bought for the Winter Olympic Games. Many entities affiliated with the Games, including tele-

See OLYMPICS / next page

Updates

XL, Brazilian bank to form joint venture

XL Capital Ltd. is setting up a joint venture insurance company in Brazil. Hamilton, Bermuda-based XL said its proposed joint venture with São Paulo, Brazil-based Banco Itaú Holding Financeira S.A. would combine the Brazilian property/casualty and specialty insurance books of the bank with XL's existing business in Brazil. Banco Itaú reported net income from nonlife insurance of 69 million Brazilian reals (\$26.0 million) in 2004. In addition, XL announced it has opened a representative office in Beijing after being granted approval to do so by the China Insurance Regulatory Commission.

U.K. companies see pension deficit rise

The combined pension deficit of the United Kingdom's largest 100 quoted companies was £66 billion (\$117.61 billion) on Jan. 31, an £1 billion (\$19.6 billion) improvement from Jan. 18, which was a low point for long-term bond yields, according to research by Watson Wyatt Worldwide. Still, the combined deficit of the defined benefit pension plans of FTSE100 companies, the United Kingdom's 100 largest publicly traded companies, increased by £6 billion (\$10.69 billion) in January, according to the consultant.

Alea estimates 2005 losses

Alea Group Holdings (Bermuda) Ltd. expects to report a 2005 loss of between \$200 million and \$240 million, the reinsurance company announced Monday. The Hamilton, Bermuda-based insurer and reinsurer, which was placed in runoff late last year after being downgraded by rating agencies, also said that it expected adverse reserve development of about \$95 million in 2005. Alea said its expected losses from the series of hurricanes last year and European Windstorm Erwin remained unchanged at between \$93 million and \$110 million.

ACE opening operation in South Africa

The ACE Group of Cos. is opening a South Africa operation and has appointed Scott Pickering, current country manager and managing director of ACE New Zealand, as the operation's chief executive officer. Mr. Pickering will assume his new post in Johannesburg, South Africa, in early February, with business operations commencing in April. Hamilton, Bermuda-based ACE said last week. Michael Poole, a regional manager in New Zealand, will succeed Mr. Pickering as managing director of ACE New Zealand.

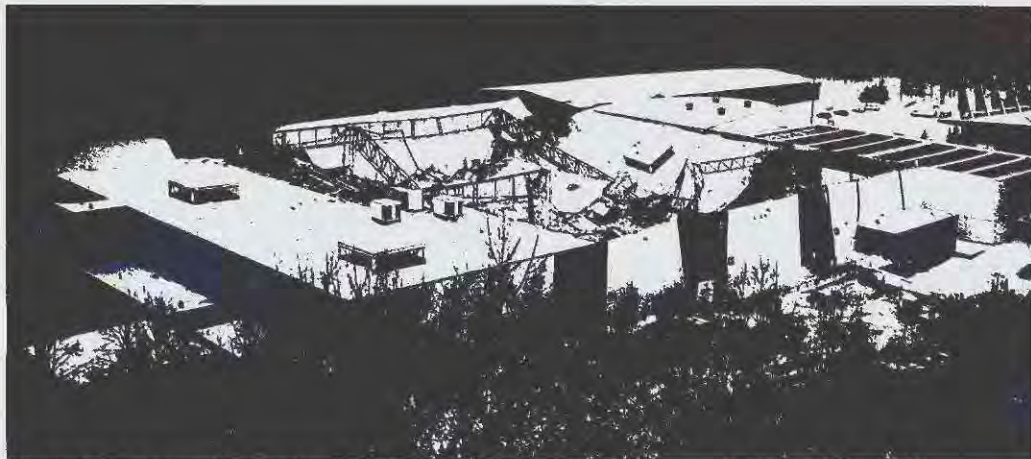


PHOTO: CARSTEN KOALL/GETTY IMAGES

The roof of a convention center in Katowice, Poland, collapsed last week, killing at least 63.

Roof collapse shows up 'inadequate' coverage

By RICK MILLER

KATOWICE, Poland—A roof collapse at a convention center in southern Poland that left 63 people dead and 140 injured could raise awareness of the importance of liability coverage among Polish businesses, which generally tend to be underinsured for such catastrophes.

The International Katowice Fair Grounds, or Miedzynarodowe Targi Katowickie, had a corporate liability policy through Allianz Polska that provided coverage up to 5 million Polish zlotys (\$1.57 million), according to a spokesman for the Warsaw, Poland-based unit of Allianz A.G. Holding.

"I think insurance awareness in Poland is very limited, even in business," said Adrian Kurowski, a consultant for risk advisory services at KPMG Poland in Warsaw.

The coverage MTK had was "absolutely inadequate," considering that insurance awards for individual fatalities in Poland typically range from \$150,000 to \$300,000, depending on the victim, Mr. Kurowski said. As a result of the tragedy, businesses "will think twice before they sign an insurance contract with very small limits, because they will think about what will happen if something goes wrong," he said.

The tragedy occurred on Jan. 28 in Katowice, about 200 miles south of Warsaw. Some 500 people had gathered in the exhibition hall for a racing pigeon convention when the snow-covered roof collapsed. Polish President Lech Kaczynski declared three days of national mourning following the disaster.

Heavy snow in the region was first viewed as a main cause of the collapse, although investiga-

tors are also examining reports of earlier problems with the roof, according to local press accounts.

The property owner, MTK, is owned by Expocentres Eastern Europe Ltd., a subsidiary of London- and Moscow-based Expomedia Group P.L.C., which has a 51% stake, according to a company press release. Other shareholders include the city of Katowice and the Polish state treasury. The investment by Expomedia Group Plc. through Expocentres was made in 2001.

Spokespeople for MTK and Expomedia Group would not provide comment on their insurance coverage. However, according to Polish media accounts, MTK had no other coverage but the Allianz policy and a property damage policy through Warsaw-based AIG Poland Insurance Co. S.A.

While no official property damage figures have been released, one insurance broker, Dominik Stachiewicz, estimated it at between \$6 million and \$12 million.

Mr. Stachiewicz, account manager with MAI Insurance Brokers Poland, a part of MAI Central Eastern Europe Ltd. in Budapest, also said he believes local risk managers will start to understand why brokers have been urging them to obtain higher liability coverage limits. The firm specializes in international companies doing business in Central and Eastern Europe.

"Where a risk manager is sitting in the U.K. and has the final word of what's going on, then usually they have higher limits," sometimes 30 times higher, he said. "The worst scenario is when local managers are deciding which limits they'd like to buy, and then they are thinking about the price, not about the possible risk."

Foreign insurers boost capacity for Canadian D&O

By GLORIA GONZALEZ

Growing interest by foreign insurers in the Canadian market has led to a significant influx of directors and officers insurance capacity for Canadian risks, which has resulted in stable pricing and broader policy terms for D&O buyers.

Observers, though, expect that an amendment to a Canadian securities law will lead to higher D&O premiums and possible reductions in capacity. The law has already contributed to rising interest in additional coverage both for individual directors and officers and the companies themselves.

Most Canadian companies renewed their D&O policies at flat premiums for 2006, which was an improvement on previous renewals when large public companies experienced significant price hikes due to a spate of high-profile lawsuits against directors and officers (*BI*, Sept. 20, 2004).

Increasing competition in the Canadian D&O market, primarily due to an influx of capacity from insurers in London and Bermuda, has brought stability in pricing for D&O products, observers say.

"It's a highly competitive market," said Tony Zinicola, vp, international at Hartford Financial Products, a unit of Hartford, Conn.-based Hartford Financial Services Group Inc. "Right now, we're seeing a flattening out, which is good news. Stabilization is always good news."

Toronto-based Executive Risk Services Ltd., which provides capacity via a managing general agreement with Lloyd's of London underwriters, entered the Canadian market about 18 months ago and helped fill a capacity void, brokers say.

"We're starting to see more and more appetite from the U.K. in participating on Canadian programs," said Jonathan Ashall, senior vp, regional director for the executive risk practice of Willis Canada in Toronto.

New York-based American International Group Inc. and Warren, N.J.-based Chubb Corp. have been the main writers of D&O in the Canadian market for the past several years.

See D&O / page 19

Bush: Proposes increasing HSA contribution limits

Continued from page 1

employees—after paying for uncovered current year medical expenses—to build up balances in their HSAs.

"The reality is that the maximum contribution permitted is so low as

to constrain those who are serious about saving" to meet future retiree health care expenses, said Randy Abbott, a consultant in the Wellesley Hills, Mass., office of Watson Wyatt Worldwide.

By boosting the maximum con-

tribution limit—in some cases more than five times as much as allowed under current law—employees would be much more likely to accumulate a significant HSA nest egg by the time they retire, which they then could draw upon to pay for

such retiree health care expenses as Medicare and supplemental health insurance premiums.

"This changes the dynamics quite a bit," said Michael Thompson, a principal with PricewaterhouseCoopers L.L.P. in New York. HSAs, in effect, would continue their role as vehicles to pay for current expenses, while taking on their new role as a retiree health savings account, Mr. Thompson said.

"This is a way to make FSAs a lot more attractive and meaningful," said Kathryn Wilber, health policy legal counsel at the American Benefits Council in Washington.

Under the Bush plan, the maximum annual contribution to an HSA would be equal to the maximum annual out-of-pocket expense an employee in such an arrangement could incur. In 2006, the out-of-pocket limit for an employee opting for single coverage is \$5,250, while for family coverage the out-of-pocket maximum is \$10,500.

By contrast, current law limits

HSA contributions to a fraction of the amounts President Bush is proposing. For example, for individual coverage, the maximum contribution to an HSA is the lesser of \$2,700 or the deductible in the high-deductible health insurance plan linked to the HSA. Typically, such deductibles range from just over \$1,000 to \$2,000.

Under the Bush plan, simply put, "there will be more money in the accounts available for retiree health care," said Sam Marra, health and welfare practice leader for Buck Consultants in San Francisco.

It is unclear, though, how receptive Congress would be to such an expansion of HSA contribution limit. "This is a tough environment to pass legislation" that costs the government money, said Jeff Munn, a consultant in the Falls Church, Va., office of Hewitt Associates Inc.

The Bush proposal, which the White House outlined following the President's State of the Union

Continued next page

President gives passing mention to malpractice liability reform

Tort reform received short shrift in last week's State of the Union address.

Rather than using the speech to reiterate his calls for passage of legislation such as the Lawsuit Abuse Reduction Act or asbestos reform, President Bush touched on tort reform only once.

After listing a series of ways by which he would like to make health care more affordable, the president said, "And because

lawsuits are driving many good doctors out of practice—leaving women in nearly 1,500 American counties without a single Ob/Gyn—I ask Congress to pass medical liability reform this year."

The president offered no specifics on the issue during his speech. On the White House Web site, though, an expanded discussion of the topics mentioned in the speech cited several broad

medical malpractice liability reforms already proposed by the president. These include limiting punitive damage awards to the most egregious cases, limiting noneconomic damages to "reasonable amounts," ensuring that "old cases cannot be brought to court years after an event" and making sure that defendants "pay judgments in proportion to their fault."

—By Mark A. Hofmann

Journalists: High-profile injuries highlight risks, need for coverage

Continued from page 3

Sources at Lloyd's of London, a center for personal accident insurance for war and terrorism-exposed areas, said that most employers sending staff to Iraq, or other high-risk countries, purchase insurance to cover accidental death or disability of workers; many also purchase

But underwriters generally will not offer coverage of more than five times salary for accidental death or permanent disablement, she said, and the coverage and price offered depends on the employees' duties, where they are being sent and security arrangements, among other things.

over the past year, however, noted Heath Lambert's Ms. Williams.

Rates for journalists tend to be higher than rates for some other types of workers because, due to the nature of their job, they are more likely to travel to conflict zones, said Mr. Steel.

During 2005, 22 journalists were killed in Iraq, according to figures from the Committee to Protect Journalists, a nonprofit organization based in New York.

Coverage rates for journalists in Iraq are normally around 1% of the insured value for one week's coverage, said one underwriter, who asked not to be named. That is about 650 times higher than personal accident rates for workers traveling to countries that are not considered dangerous, one broker said. Rates in Iraq decrease when coverage is bought for longer periods as underwriters view the associated risks as being more evenly spread.

Rates for a week's insurance covering accidental death, permanent disablement and loss of limbs for a journalist in Iraq typically would be about 1% to 1.5% of the insured value, depending on where in the country the journalist was being sent, said David Bruce, divisional head, specialty, at Hiscox Global Markets, a unit of London-based Hiscox P.L.C. Northern Iraq is considered to be riskier than other areas, he said.

The so-called "International Zone," a heavily guarded area in central Baghdad, is considered "relatively safer" than other areas of the country, according to Tim Prifti, active underwriter for accident and health at Kiln P.L.C.'s Lloyd's syndicate 510.

Freelance journalists, in particular, are considered high risk by

insurers because they are likely to chase stories, are less likely than other journalists to be under the protection of armed forces, and it is more difficult to know where a freelance journalist is, Mr. Prifti said.

Coverage for freelancers, who have to buy insurance individually, is usually unaffordable, sources say.

Cameramen also viewed as high risk individuals, said Charlie Boyd, business development head-accident and special risks at St. Paul Travelers' syndicate 5000. The nature of their work makes it difficult for them to be aware of surrounding dangers, he said.

Currently, underwriters and their advisers talk about rate changes for accident insurance about once a month, Mr. Boyd said, but at other times during the conflict in Iraq—particularly during land battles—rates were changing weekly.

Capacity available for personal accident cover for Iraq has increased since the 2003 invasion, when it

was scarce, noted one broker.

As well as several underwriters at Lloyd's, some U.K.-based and U.S.-based insurers are willing to offer the cover, the broker noted.

The market has not been severely impacted by losses over the past year, the broker said.

Some news organizations also buy so-called "key man" coverage, in addition to personal accident coverage, said Mr. Prifti. This insurance, though, more typically is bought for people such as chief executive officers or those vital to a project, Mr. Boyd noted.

Key man coverage insures against the death or disability of a member of staff whose inability to work could significantly harm the company.

According to one source, who asked not to be named, key man cover age recently was purchased to cover a British newspaper and broadcast journalist for a short-term assignment in Iraq.



ABC television anchorman Bob Woodruff, center, talked with soldiers in Iraq shortly before the attack that gravely injured him.

related coverages for emergency evacuation and medical expenses, they say.

Employers such as news organizations, engineering companies and architecture firms all buy personal accident insurance for employees being sent to Iraq, said Anne Williams, divisional director in the facilities unit at broker Heath Lambert Group in London.

Large employers sending employees to Iraq usually buy coverage that is equivalent to the benefits employees would normally receive if traveling to nonconflict areas, she said.

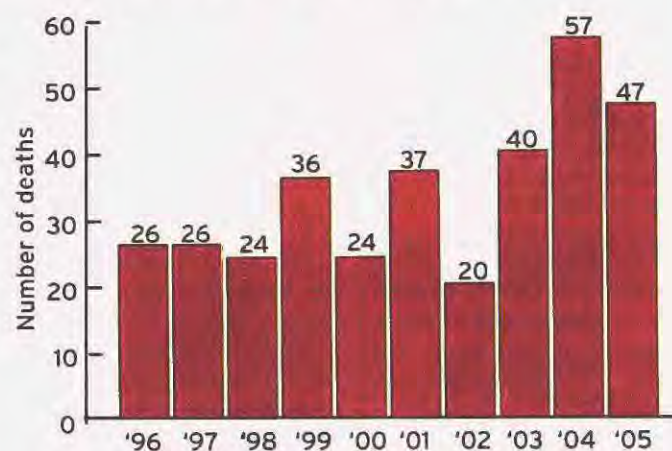
Accidental death and disability coverage can be bought on an annual basis, or for more shorter terms.

In addition to personal accident coverage, some employers also buy insurance to cover medical expenses and evacuation, said Kevin Steel of Aon Professional Risks, a division of Aon Ltd. in London.

Rates for personal accident insurance for employees being sent to Iraq and other high-risk countries are reviewed frequently because of the changing nature of the risk in certain areas, underwriters said. Rates have remained fairly stable

Journalists killed in conflict zones

Number of journalist deaths due to hostile action worldwide



Source: Committee to Protect Journalists

PricewaterhouseCoopers LLP, with immediate effect. The order sanctioning the Scheme was made on 1 September 2005.

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Continued from previous page
address, also calls for another change that would boost HSA balances for some employees.

Specifically, President Bush proposed that employers be allowed to make higher contributions to HSAs held by chronically ill em-

State of the HSA

In his State of the Union speech, President Bush outlined ways he wants to improve health savings accounts:

- Boost HSA contribution limit so HSAs can cover all out-of-pocket expenses.
- Make high-deductible health plans linked to HSAs portable.
- Allow employers to make higher HSA contributions for chronically ill employees.

employees. Current law does not allow extra contributions due to employees' health care status.

Benefit experts generally like that concept but say to make it really cost-effective, employers should be able to condition the amount of their HSA contributions on employee participation in programs intended to detect and treat health care conditions such as high blood pressure.

Additionally, some complain

that linking the amount of HSA contributions to employees' health status could lead to disputes. "How would 'chronically ill' be defined? We don't want to make health care plans more complex," said Dr. Phil Polakoff, a principal with Buck Consultants in San Francisco.

The administration also is proposing that the high-deductible health insurance policies linked to HSAs, like the HSAs themselves, be portable. That would mean, for example, that when an employee left a company and joined a new organization, he or she could remain covered under the old plan, with the individual's new employer deciding whether it wanted to contribute toward the premium cost.

The advantage to the employee would be the ability to retain the same network of providers, as well as the retention of a high-deductible plan if the employee's new employer did not offer one.

But benefit experts question how many employers would want to take on the new burden of dealing with more health insurers. And they say they need more details, which could come this week when the administration releases its proposed 2007 federal budget.

"There are so few details here, it is not clear what the administration has in mind," said ABC's Ms. Wilber, referring to the portability proposal.

Starr: AIG, Greenberg battle to control agencies

Continued from page 1

The two other companies controlled by Mr. Greenberg are Dublin, Ireland-based Starr International Co. Inc. and the Starr Foundation, a New York-based charitable organization, both of which have also become embroiled in legal battles (see story, page 22).

The three entities combined own 16% of American International Group's voting stock, according to the company's third-quarter report. The bulk of these shares are held by Starr International, whose holdings have a current market value of about \$21 billion.

AIG's lawsuit over Starr Technical Risks Agency, filed Jan. 27 in New York State Supreme Court, sought a temporary restraining order that, among other actions, would stop a Starr reinsurance arrangement with National Indemnity Co.—a unit of Berkshire Hathaway Inc.—and force the MGA to identify any other treaty or facultative reinsurance arrangements it has entered into. The lawsuit against AIAA was also filed Jan. 27.

That same day, C.V. Starr and its four MGAs filed suit in the same court against AIG and a subsidiary, Atlanta-based AIG Aviation Inc., to stop them from "continuing to take actions that are intended to destroy" Starr and its agencies.

Last Monday, New York State Supreme Court Justice Herman J. Cahn agreed to AIG's request for a temporary restraining order against Starr Technical, then on Thursday extended the order until a hearing scheduled for today.

A representative for Mr. Greenberg declined to comment, and a spokesman for AIG would say only that "the filings speak for themselves."

The suits' impact on policyholders should be "relatively neutral," said independent insurance analyst John L. Ward, who is based in Cincinnati. Mr. Ward, who estimates the agencies account for about \$2 billion of premium, said even in a worst case scenario for AIG, the loss of the agencies' business will not have a significant impact on the insurer's revenues. Any losses would be "easily absorbed, I think, within the AIG franchise," said Mr. Ward.

'A rogue agent'

The AIG suit against Starr Tech characterizes the dispute as one that "involves a rogue agent that has refused to comply with the lawful instructions of its principal." According to the suit, Starr Tech has "engaged in a campaign of flagrant misconduct and self dealing" that

violates its contractual and fiduciary duties to AIG.

According to AIG marketing materials, Starr Tech serves clients with annual revenues of up to \$75 million in the energy; manufacturing; oil, gas and petrochemical; and chemical sectors, among others. Coverages, which are available only for onshore risks, include property damage, business interruption, builder's risk and terrorism.

The suit says Starr Tech has managed certain energy-related insurance business using AIG's paper, its offices and its resources and has "existed exclusively to produce and service AIG business."

The suit charges that Starr has secretly entered into an unauthorized reinsurance arrangement with National Indemnity, "thereby siphoning off business that otherwise would have flowed to AIG and its existing reinsurers...."

This arrangement, which was "in complete violation and defiance of AIG's repeated directives and instructions," diverts one-third of the business otherwise intended for AIG, and is causing "serious and irreparable harm" to the insurer's reputation with its reinsurers, says the lawsuit.

The suit also says Starr Tech is

See STARR / next page

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Indictments: Ex-officials charged

Continued from page 1

The SEC also has filed a civil suit against the four individuals, as well as retired Gen Re Senior Vp Christopher Garand, charging them with aiding and abetting securities fraud.

Assistant Attorney General Alice Fisher said that, according to the indictments, the defendants "arranged a complex scheme to cook the books at AIG."

AIG conceded last year that the deal, a retrocessional loss portfolio

transaction, did not transfer risk and restated its results to account for it as a deposit rather than as reinsurance. The indictment notes that "additional co-conspirators, not named as defendants herein, included senior-level executives at AIG and Gen Re."

None of the defendants still works at Gen Re. Mr. Ferguson retired as CEO of Stamford, Conn.-based Gen Re in 2001, and Ms. Monrad left the reinsurer in 2003 to

become CFO of New York-based TIAA-CREF, from which she resigned in November 2005. Mr. Graham retired from Gen Re in October of last year.

New York-based AIG terminated Mr. Milton last March. No other AIG officials face criminal charges stemming from the probe.

Mr. Brandon was not among those either criminally indicted or named as a defendant in the SEC suit, although he was served with a

"Wells" notice last year, which informs recipients that the SEC is considering filing civil charges against them for violating securities laws. A Wells notice gives its recipient an opportunity to respond before the SEC takes action. A Gen Re spokesman could not be reached.

Observers say the defendants technically could face decades-long prison sentences, although such lengthy sentences are unlikely. They may also reach a plea bargain agreement, which was the case with the two former Gen Re officials in-

See INDICTMENTS / next page

Are indictments on finite deals in the works for other insurers?

By JUDY GREENWALD

Observers say the scope of the federal investigation of questionable accounting techniques related to finite insurance could expand to other companies.

Criminal indictments were issued by a federal grand jury in Norfolk, Va., last week naming former General Re Corp. and American International Group Inc. officials, while the U.S. Securities and Exchange Commission also filed a lawsuit. Both the indictments and the lawsuit focused on a retrocessional loss portfolio transaction between Gen Re and AIG.

No other companies' officials have, at least so far, been named in comparable proceedings, although regulators have investigated several other firms.

Regulators' interest in finite coverage, though, has already led to the virtual disappearance of the products from the insurance and reinsurance markets.

Mark K. Schonfeld, director of the SEC's Northeast regional office, said in a statement, "This case shows the commission's continued commitment to pursuing cases involving the fraudulent abuse of insurance and reinsurance to manipulate a public company's financial results."

"A lot of the accounting techniques that were used by General Re and AIG were the types of techniques that were used by other companies as well," said Robert Heim, an attorney with Meyers & Heim in New York.

"I think it's just a question of whether enough evidence can be gathered against other individuals to make additional cases" elsewhere, said Mr. Heim.

"It's hard to believe that this did not occur at other carriers as well, that this was something just isolated to these two companies," said Jerry Reisman, a defense attorney with Reisman, Peirez & Reisman in Garden City, N.Y. Someone may

See FINITE / next page

SEC suit details defendants' alleged roles in deal

The U.S. Securities and Exchange Commission complaint against four former General Re Corp. officials and a former American International Group Inc. executive focuses on a \$500 million loss portfolio deal between AIG and Gen Re in 2000 that AIG admitted should not have been accounted for as reinsurance.

It covers much the same ground as an SEC complaint filed last year against two former Gen Re executives. The two men named in that complaint—John Houldsworth, former CEO of the reinsurer's Cologne Re Dublin unit; and Richard Napier, a former senior vp—pleaded guilty to criminal conspiracy charges related to the investigation in June.

The deal has also been a key focus of New York Attorney General Eliot Spitzer's probe of AIG and is widely believed to be the main reason why former AIG Chairman and Chief Executive Officer Maurice R. Greenberg resigned last year.

According to the SEC lawsuit, Gen Re helped AIG structure two sham reinsurance transactions to enable AIG to add \$500 million in phony loss reserves to its balance sheet in the fourth quarter of 2000 and the first quarter of 2001, and thus to help allay analysts' qualms about the adequacy of the insurer's reserves.

"The economic substance of the two transactions was that Gen Re was paying \$500 million in premiums in return for AIG reinsuring a \$500 million risk," says the lawsuit. "In other words, the transactions had no economic substance, amounting to a round

trip of cash; but they were designed to, and did, have a specific, and false, accounting effect."

AIG has admitted the transactions did not involve sufficient risk transfer to qualify as reinsurance and has restated them as deposits instead.

initiated the transaction," said the SEC lawsuit, in a reference to Mr. Greenberg. Mr. Ferguson then formed and directed the Gen Re team that executed the transaction and approved the deal's structure, it says.

• Ms. Monrad "was involved in all aspects of the deal, including developing the initial structure that was proposed to AIG" and communicating to AIG that AIG and Gen Re would be accounting for the transactions differently, says the lawsuit.

• Mr. Graham "knowingly drafted the sham contracts to make it appear as if AIG was assuming \$100 million of risk in the deal and purposely omitted the side agreements between the parties that nullified any apparent risk on the face of the written contracts," says the lawsuit. He also "helped create the phony paper trail to make it look like Gen Re, and not AIG, solicited the transaction," says the lawsuit.

Named in the lawsuit are former Gen Re Chief Executive Officer Ronald Ferguson; former Gen Re Chief Financial Officer Elizabeth Monrad; the reinsurer's former Assistant General Counsel Robert Graham; retired Gen Re Senior Vp Christopher Garand; and Christian Milton, formerly AIG's vp-reinsurance.

The lawsuit details the alleged roles each of the defendants played in connection with the deal:

• Mr. Ferguson "had discussions with AIG's chairman that

• Mr. Garand, who was in charge of Gen Re's U.S. finite reinsurance operations, "played a key

Starr: AIG, Greenberg engaged in battle over control of MGAs

Continued from previous page

planning a new arrangement with National Indemnity that "will actually eliminate AIG's direct insurance coverage altogether or at least drastically reduce the size of policies AIG will write."

The suit also charges that Starr Tech has "plotted to divert additional business from AIG" by entering into "co-insurance arrangements that will undoubtedly divide Starr Tech's loyalties." It says Star Tech also has "begun writing

direct risks in excess of the reinsurance coverage available to AIG under authorized reinsurance arrangements."

The lawsuit says these actions violate a 1992 formal written MGA agreement between AIG and Starr.

In the AIAA suit, AIG says that "while standing on both sides of the agency relationship," Mr. Greenberg implemented an arrangement "which resulted in AIAA receiving commissions from

AIG insurance companies for work done by employees of an AIG subsidiary."

The suit says Steve Blakey resigned as AIG Aviation's president in December to join AIAA, then hired away about 24 AIG Aviation employees. The suit also charges that AIAA employees have been "threatening to cancel policyholders' insurance business if they do not do business with AIAA."

In its lawsuit, C.V. Starr said that after it rejected a purchase of-

fer from AIG that was \$600 million below its worth, it offered to extend the MGAs' terms, but AIG did not respond. Starr then began a tender offer for all its shares that were owned by AIG employees.

While the tender offer was underway, AIG "began to secretly plot to steal or destroy the business of the Starr Agencies," or force it to be sold to AIG at a "fire sale price" as soon as AIG employees had cashed out their shares, C.V. Starr's suit says.

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Indictments: Four charged with conspiracy to commit fraud

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dicted last year. John Houldsworth, former CEO of the reinsurer's Cologne Re Dublin unit, and Richard Napier, a former senior vp, pleaded guilty to criminal conspiracy charges related to the investigation in June.

Federal authorities will likely have a hard time winning their case if it does proceed to court, though, said Jacob S. Frenkel, a former SEC enforcement lawyer now with Shulman, Rogers, Gandal, Pordy & Ecker P.A. in Rockville, Md.

"It's going to be real tough to get a jury to care, absent victims and the

other hallmark signs that tend to gather a jury's fancy," he said.

Mr. Graham's attorney, Alan Vinegrad, a partner in the New York office of Covington & Burling, said, "Rob Graham is an attorney of the highest integrity, who always acted in good faith and within the bounds of the law. ... He looks forward to having his day in court and expects to be vindicated at trial."

Mr. Garand's attorney, Robert J. Cleary, a partner at Proskauer Rose L.L.P. in New York and chair of the firm's corporate defense and investigations practice, said, "This came as quite a surprise that the SEC

would see fit to file a complaint against Mr. Garand, and I was quite dismayed that they saw fit to file such a complaint without giving us the courtesy of letting us know this was about to happen and sending me a copy of the complaint."

He said, "I have spent a lot of time investigating this matter, and in the course of our own investigation, Mr. Garand voluntarily met with the SEC on multiple occasions. He answered all of their questions; he helped educate them on the complex nuances of the reinsurance industry, and through all of that it is crystal clear to me that Mr. Garand

did absolutely nothing wrong."

Some observers say the indictments and lawsuits could be part of a government strategy. "These indictments may only be the beginning of the investigation and could, in exchange for a plea bargain, be used to draw in other, higher executives at either AIG or Gen Re, or lead to testimony uncovering other alleged fraudulent conduct," said Jerry Reisman, a defense attorney with Reisman, Peirez & Reisman in Garden City, N.Y. He noted the government followed such a strategy in its Enron Corp. investigation.

"The common strategy is to ladder up," agreed Mr. Frenkel. He added, though, that it may be significant that while five people were named as defendants in the SEC suit, only four were cited in the criminal indictments. In a criminal case, guilt must be proved beyond a reasonable doubt, while in a civil case, such as the SEC's, only a preponderance of evidence is required.

It is not clear whether the fewer number of criminal indictments here is "an indication as to whether prosecutors can reach Hank Greenberg, or if the SEC even will be able

to do so," said Mr. Frenkel.

It is also unclear why the government was apparently unable to obtain plea agreements, he said. "It may be those four defendants chose to fight or the criminal case cannot go any higher," he said.

Robert Heim, an attorney with Meyers & Heim in New York, said he does not believe the scope of the investigation will be broadened to include either Mr. Greenberg or other CEOs such as Berkshire Hathaway Chairman Warren Buffett. General Re is a Berkshire subsidiary.

"Normally, when the government announces charges against multiple defendants like they did today, they include all of the defendants at one time, and, by leaving out Mr. Greenberg and Mr. Buffett, it's most likely that the evidence is not there to make a case against those two," he said.

New York Attorney General Eliot Spitzer has indicated, for instance, that Mr. Greenberg will not be criminally charged, although a civil suit against him continues.

Mark A. Hofmann contributed to this report.

Finite: Indictments likely for other companies?

Continued from previous page

well have had the attitude that if something may have worked for AIG, "let's see what we could do with another company," he said.

"It is not fair to assume that a broad and active investigation involving two or three other companies necessarily means it will extend investigations into the entire industry," said Jacob S. Frenkel, an attorney with Shulman, Rogers, Gandal, Pordy & Ecker P.A. in Rockville, Md. "That said, the nature of the allegations is such that it certainly is likely that they will go beyond these companies," Mr. Frenkel said. "They certainly have taken on others."

The SEC has notified Pembroke,

Bermuda-based RenaissanceRe Holdings Ltd., for example, that it may face civil charges related to finite transactions that led to the reinsurer's earnings restatement in February. Its founder and chairman and CEO, James N. Stanard, resigned in November amid the finite risk-related probes.

Armonk, N.Y.-based MBIA Inc. began settlement talks last year after it was served with a "Wells" notice, which informs recipients that the SEC is considering filing civil charges against them for violating securities laws. A Wells notice gives its recipient an opportunity to respond before the SEC takes action.

In November, the financial guaranty insurer said it was setting aside

\$75 million for an expected settlement of SEC and state investigations into its use of retroactive reinsurance to cover a massive bond loss.

In addition, federal prosecutors in New York have subpoenaed Chubb Corp., and the SEC subpoenaed General Electric Co. The GE subpoena also applied to GE affiliates Genworth Financial Corp. and GE Life & Annuity Assurance Co.


Last year, New York-based Transatlantic Holdings Inc. also disclosed that the New York Insurance Department had subpoenaed information regarding its dealings with a Cayman Islands-based malpractice reinsurer owned by a former official of Arthur J. Gallagher & Co.

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Largest gains

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Largest losses

UnumProvident	-13.22%
Vesta Insurance	-12.50%
CNA Surety Corp.	-7.89%
Aon Corp.	-6.08%
Aspen Insurance	-5.87%

Weekly change by market segment

Brokers	-2.72%
Insurers/reinsurers	-1.40%
Managed care organizations	1.11%

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

Late News

Continued from page 1

department spokeswoman said. No elections have been scheduled yet, she added.

Gallagher earmarks settlement funds

Arthur J. Gallagher & Co. set aside an additional \$38.6 million in the fourth quarter of 2005 to resolve outstanding regulatory and legal actions relating to contingent commissions. That and other pretax charges contributed to an overall 83.7% decline in profits for 2005, to \$30.8 million, Gallagher said. Gross revenues increased 3.3% to \$1.48 billion, in 2005, while revenues from its brokerage and risk management segment were up 8.4% to \$1.37 billion. Gallagher reached a \$27 million agreement with Illinois authorities last May to settle steering concerns and took a \$35 million first-quarter 2005 charge to fund the settlement.

Punitives upheld in smoker suit

Altria Group says it will seek U.S. Supreme Court review of a Feb. 2

Oregon Supreme Court decision upholding a \$79.5 million punitive damage award against its Philip Morris Inc. unit. The punitive damage award made to the widow of a long-time smoker came on top of a compensatory award of more than \$821,000, the bulk of which was for noneconomic damages. That award was later reduced.

Vermont captive formations slow

The Vermont Department of Banking, Insurance, Securities and Health Administration licensed 37 captives in 2005, as captive formation continues to slow. Last year's 37 formations compares with the 43 captives that were licensed in 2004 and the record 77 captives Vermont licensed in 2003. Of the 37 captives that were licensed in 2005, 26 were single-parent captives. At year-end 2005, Vermont's captive roster stood at 542.

Briefly noted

Rodman Fox has been appointed chief executive officer of Hannover Re Group's U.S. specialty lines unit Clarendon Insurance Group Inc. Mr. Fox will join Clarendon from broker Benfield Group Ltd.'s corporate risk division.



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New Online Poll: How does the proposal to increase HSA contribution limits affect your company?

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Juanita Alguero
Client Executive, Norwalk

Today's businesses require more than just standard solutions. A "one-size-fits-all" approach to insurance is too myopic. At Marsh, our risk specialists understand how your business operates. We work to uncover and evaluate risk exposures specific to your industry and company. Then we develop individual solutions to your line of business and your budget. As the world of risk grows in scope and complexity, Marsh will be there. Marsh is—and will continue to be—the world's #1 risk specialist.

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