

Business Insurance

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MARSH LAUNCHES FACILITY TO OFFER MORE CAT CAPACITY TO POLICYHOLDERS / PAGE 3

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ARIZONA PRISON STANDOFF LEADS TO LEGAL DISPUTE OVER K&R COVER / PAGE 4

In Brief

Caremark rejects Express Scripts bid

Pharmacy benefit manager Express Scripts Inc. is challenging the Jan. 7 rejection of its merger offer by rival PBM Caremark Inc. on several fronts, filing a lawsuit to void the \$675 million breakup fee featured in the merger agreement between Caremark and CVS Corp., asking Caremark shareholders to reject the proposed merger and nominating four candidates to Caremark's board. Express Scripts said its offer constitutes a "superior proposal" to the CVS/Caremark deal, but CVS called the lawsuit a "desperate attempt" to derail its merger with Caremark.

St. Paul scales back New Orleans withdrawal

St. Paul Travelers Cos. Inc. will not renew about 40% of its commercial property policies for

See **IN BRIEF** page 22

International NEWS

Globalization and an increasingly risky world call for the creation of national



risk officers, a World Economic Forum group says; most European reinsurance rates fell at

Jan. 1 renewals; ample capacity and low losses helped push down aviation insurance rates, with some risks seeing double-digit decreases. **Page 17**

California mulls universal health care

Proposal calls for fee on most employers that don't offer cover

By **JERRY GEISEL**

SACRAMENTO, Calif.—California Gov. Arnold Schwarzenegger's universal health care reform proposal could be a boon to employers by significantly reducing provider cost-shifting, but parts of the sweeping plan are raising concerns for businesses.

The proposal, which Gov. Schwarzenegger unveiled last week, would require all California residents to have health insurance coverage. To reach that goal, the state

would expand eligibility for Medi-Cal—the Medicaid program that provides coverage to the very poor—while providing subsidies to allow other lower-income individuals to obtain private insurance through a state purchasing pool.

To help fund coverage for the 6.5 million uninsured California residents—about one-fifth of the state's population—the proposal would create several new revenue sources. Employers with 10 or more employees that do not offer health insurance coverage would be assessed a fee equal to 4% of payroll. In addition, hospitals would have to pay an annual assessment of 4% of revenues, while doctors would have to

See **HEALTH CARE** page 21

CALIFORNIA HEALTH CARE

Gov. Arnold Schwarzenegger's health care reform proposal would:

- Require all state residents to have health insurance coverage
- Require all employers—except those with fewer than 10 employees—that do not offer health coverage to pay a fee equal to 4% of payroll
- Subsidize premiums for low-income individuals with state funds
- Impose new taxes on hospitals and doctors
- Require health insurers to use 85% of premiums on patient care
- Significantly raise Medicaid reimbursement rates to providers
- Conform state tax treatment of health savings account contributions to federal law



High court to rule on supervisor bias case

Manager didn't know race of employee in termination OK

By **MARK A. HOFMANN**

WASHINGTON—The U.S. Supreme Court has agreed to decide when an employer can be held liable for a subordinate manager's alleged racial bias in firing an employee, a ruling that could significantly affect employers, employment law experts say.

The high court earlier this month agreed to hear arguments in *BCI Coca-Cola Bottling Co. of Los Angeles vs. the Equal Employment Opportunity Commission*. The EEOC brought suit on behalf of Stephen Peters, a black employee at BCI's Albuquerque, N.M., facility.

Mr. Peters was fired in October

2001 after refusing to work overtime while ill. His immediate supervisor, who allegedly had previously made racially disparaging remarks, sought advice from a Phoenix-based human resources manager on how to handle the situation. The HR

High court agrees to rule on evidence standard in shareholder suits. Page 18

manager had never met Mr. Peters, did not know his race, and approved the termination without investigating the situation on her own, relying instead on the supervisor's comments, court records state.

Mr. Peters filed a discrimination complaint under Title VII of the Civil Rights Act of 1964. Although a federal district court granted a sum-

See **BIAS** page 21

RSA sale of U.S. units troubles policyholders

Opponents say deal would saddle them with unpaid claims

By **JUDY GREENWALD**

WILMINGTON, Del.—Major policyholders of Royal & SunAlliance USA Inc. say they could be left with nearly \$1 billion in potential claims if RSA USA's London-based parent is successful in selling its operations, which are now in runoff, to a management group.

Charlotte, N.C.-based Arrowpoint Capital Corp., a vehicle established by RSA USA's management team, in September 2006 announced its agreement to acquire Royal Indemnity Co. and other members of RSA USA's insurance pool for \$300 million. The deferred compensation arrangement is to be funded by the U.S. operation's future performance.

RSA USA parent company, Royal & Sun Alliance Insurance Group P.L.C., said upon completion of the transaction, it would contribute \$287.5 million in capital. RSA announced its plan to exit the U.S. property/casualty market in 2003.

That year, RSA USA sold renewal rights for large parts of its U.S. commercial business to Travelers Property Casualty Corp. unit Travelers

Indemnity Co., which assumed no RSA USA liabilities.

According to RSA, the U.S. operations at their height wrote premiums of more than \$3 billion over several lines, but its cumulative underwriting losses have been £2.7 billion (\$3.55 billion) over the past 10 years driven primarily by adverse claims development.

Detroit-based General Motors Corp. and New York-based World Trade Center Properties L.L.C. are among policyholders expected to protest the deal at a hearing by the Delaware Department of Insurance set for Jan. 19 that could lead to its formal approval.

The policyholders contend the deal could leave the U.S. operation, which no longer writes new property and liability business, with a shortfall of nearly \$1 billion (see story, page 20). But spokesmen for the U.S. and London-based operations said Arrowpoint will continue to honor policyholder claims.

Last month, Delaware Insurance Department hearing officer Lawrence A. Hamermesh ruled against policyholders' attempt to be named as formal parties in the proceeding, which would have entitled them to conduct discovery.

Denial of the policyholder's

See **RSA** page 20

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*- Peter Breilstone, Managing Principal and CEO,
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WHITE PAPERS

Kaiser white paper views health care

"The State of Health Care," a Kaiser Permanente-sponsored white paper, outlines where the U.S. health care system is today, how it got here and what's being done to address the growing crisis. Based on a survey of benefits and HR professionals and employer executives, the white paper can be accessed in the White Papers area of www.BusinessInsurance.com.

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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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RIDE ALONG ENCLOSED IN EDITION 04

Marsh sets up sidecar to write cat coverage

Facility will offer lower-layer capacity in tight market

By REGIS COCCIA

NEW YORK—Clients of Marsh Inc. at the end of this month will have access to additional working-layer capacity for their global property catastrophe exposures through a new Bermuda-based facility created by the brokerage.

MaRI Ltd., an acronym for Marsh Risk Innovations, was developed in collaboration with Bermuda-based ACE Ltd., investment bank Morgan Stanley and law firm Willkie Farr & Gallagher L.L.P. MaRI will act as a sidecar in providing capacity through capital market investors, but, unlike typical sidecars, the facility will offer capacity directly to

primary policyholders.

With ACE acting as a highly rated fronting company, MaRI will be able to directly assume cat risks such as windstorm and earthquake for Marsh clients, said Philip V. Moyles Jr., executive vp of Marsh in New York.

MaRI will begin writing cat risks Jan. 31 and expects to offer \$400 million in capacity through May renewals, Mr. Moyles said. "Based on demand or market conditions, we could build \$1 billion" of capacity for MaRI, he said.

While sidecars generally are designed to last only a few years, Marsh believes MaRI can operate longer term, Mr. Moyles said.

"There's a continuing need, at least in the next year or two," for vehicles to provide additional cat capacity, said Ed Zaccaria, president of ACE Global Underwriters in Philadelphia. "Beyond that, it's

hard to say."

In monitoring the sharply contracting property insurance market during 2005 and 2006, Marsh considered "a myriad of options to help clients" get more catastrophe capacity, Mr. Moyles said.

"MaRI is an augmentation of capacity for our clients," said Bob Howe, Marsh's global property practice leader. "Clients have major issues obtaining wind capacity."

Bradley Wood, senior vp of risk management at Washington-based Marriott International Inc., said, "Any additional capacity and creative thinking around it would be welcomed" by risk managers. "Most risk managers are starved for more capacity but value the underwriting discipline insurers are taking. It requires more participants than ever before to meet the (insurance buyers') demands, from a price and stability standpoint."

ACE plans "to supplement MaRI's cover with our own," said Mr. Zaccaria. MaRI will offer up to \$25 million in limits per property account, on ACE's admitted paper. This will be available within the first \$35 million of coverage, and ACE could write "a meaningful piece" of that, offering coverage in addition to what is available through MaRI, he said.

Hector Mastrapa, who manages Marriott's property risk program as vp-insurance, said additional capacity is welcomed, but he hopes MaRI will be willing to "deploy that capacity elsewhere than in the primary layer. It's challenging as a company procuring insurance to find players to fill upper layers."

Although MaRI can write risks globally, Marsh expects most of the capacity will be used by North

See **MARSH** page 20

Florida demands data from modeling firms

As rates increase, state raises questions on hurricane models

By MARK A. HOFMANN

TALLAHASSEE, Fla.—The major catastrophe modeling firms last week agreed to hand over data and modeling information to Florida lawmakers, who this week are meeting in special session to deal with insurance issues.



AP PHOTOS

Florida House Speaker Marco Rubio questioned whether modeling data is helping insurers unjustifiably raise rates in the state.

House Speaker Marco Rubio, R-West Miami, last week asked four catastrophe modeling firms and a state insurance regulator to provide copies of their hurricane loss projection models and the factors and assumptions behind them—including proprietary informa-

tion—to his office by noon last Thursday.

The demand came as Florida prepares for this week's special legislative session. A spokesman for Rep. Rubio said last week that the lawmaker was concerned about modelers' use of five-year projections of hurricane activity to project possible losses. "It's a constant concern for him," said the spokesman. "We're hoping that they comply, but the House reserves the right to subpoena them if they don't," the spokesman said.

Speaker Rubio's Jan. 9 letters went to AIR Worldwide in Boston; Applied Research Associates Inc. of Raleigh, N.C.; Oakland, Calif.-based EQECAT Inc.; and Newark, Calif.-based Risk Management Solutions Inc. The speaker requested the same information from Florida Insurance Commissioner Kevin McCarty as well. In his letter, Rep. Rubio said that information that met Florida's definition of a trade secret "will be protected from public records requests."

But no subpoenas proved necessary; all of the recipients of the letter agreed to provide the requested information.

"There is a great deal of uncertainty about these models and whether they are being used to unjustifiably raise insurance rates," Rep. Rubio said in a statement issued after the firms agreed to his request. "I am pleased that all five organizations have agreed to work with us on making sure that Floridians are receiving a fair deal."

Late last Thursday, one of the firms—RMS—released a written response to the request.

In the statement, RMS said that its submission "includes documen-



REUTERS

Negotiations made prior to the filing of a trademark infringement suit over the naming of Apple Inc.'s iPhone could have implications for any insurance claim.

Fight over iPhone name may test Apple's cover

Policy wording, timing key in determining coverage for disputes

By DAVE LENCKUS

SAN FRANCISCO—Apple Inc.'s efforts to fend off a trademark infringement suit from Cisco Systems Inc. over the use of the iPhone brand name raise questions about whether Apple could turn to insurance to cover any potential losses.

Apple's iPhone, unveiled last week, combines the Cupertino, Calif.-based company's iPod mobile music playback technology with cellular telephone and Internet browser service.

Three weeks earlier, San Jose, Calif.-based Cisco introduced its own line of Internet-enabled phones—also called iPhone. The product line also lets users access music, photos, and streaming video from Internet sources.

According to Cisco, which sued Apple last week in federal court in San Francisco, it obtained the iPhone trademark in June 2000 after acquiring Infogear Technology

Corp., which previously owned the trademark.

In 2001, Apple approached Cisco to discuss acquiring or licensing the rights to the iPhone name, Cisco's lawsuit states. Those discussions continued until a few weeks ago, according to Cisco.

But according to trademark infringement attorney David Cutner of Cutner & Associates P.C. in New York, any contention that the talks signaled that Apple recognized it faced trademark infringement problems is "not a very strong argument in Cisco's favor."

First, he said, he would advise a client to enter such negotiations with a potential claimant—even when he believed the client would prevail in a trademark infringement lawsuit—if negotiations could prevent a lawsuit.

Policyholder attorney William A. Passannante agreed. Negotiations are "the nature of trying to avoid a potential liability," said Mr. Passannante, a partner with Anderson Kill & Olick P.C. of New York.

In addition, "it's not helpful to Cisco that several other companies

See **APPLE** page 22

See **MODELS** page 19

California court says each asbestos exposure an occurrence

Appeals court agrees with excess insurers in coverage dispute

By **ROBERTO CENICEROS**

LOS ANGELES—Each claimant's injurious exposure to asbestos products constitutes a separate occurrence under a primary commercial general liability policy, a California appeals court has ruled.

The ruling last week in *London Market Insurers vs. The Superior Court*

of Los Angeles County overturned a lower court decision that Kaiser Cement & Gypsum Corp.'s decision to manufacture and distribute products containing asbestos constituted a single annual occurrence under policies purchased from Truck Insurance Exchange, a unit of Los Angeles-based Farmers Group Inc.

Various state courts have diverged on the meaning of "occurrence" as it applies to asbestos injuries.

Several have held that, for the purposes of insurance coverage, the occurrence is the manufacturer's

decision to incorporate asbestos into its products. Thus, those courts have concluded that all related asbestos injuries stem from a single occurrence. Others, though, have ruled that occurrence refers to a claimant's unique exposure and that, therefore, each exposure is a separate occurrence.

In the California case, "the meaning of 'occurrence' as it applies to asbestos injuries is an issue of first impression," the appeals court said in its ruling in the Kaiser case, in which thousands of plaintiffs have sued Kaiser alleging product liability-related injuries from three decades of making asbestos-containing materials.

After making more than \$50 million in indemnity payments, Truck sought a declaratory judgment that its policy limits were exhausted. It also sought summary adjudication, arguing that Kaiser's decision to manufacture and distribute asbestos products was a single, annual occurrence for the purposes of its policies. Kaiser's policies for several years included per-occurrence limits but did not contain aggregate limits.

The trial court agreed, which prompted Kaiser's excess insurers to appeal.

The London market insurers argued that the trial court wrongly concluded that policy limits written by Truck were exhausted because the relevant occurrence was "injurious exposure to asbestos" and that each injury resulted from a separate occurrence.

California's 2nd District Court of Appeals sided with the excess insurers on the occurrence issue and vacated the lower court's

See **ASBESTOS** page 19



GETTY IMAGES

AIG unit National Union has refused to pay claims related to a standoff at an Arizona prison, saying the situation did not meet the policy's definition of kidnapping or wrongful detention.

Prison standoff triggers dispute over K&R policy

By **DOUGLAS McLEOD**

PHOENIX—Three years after the longest prison hostage standoff in U.S. history, the state of Arizona and its kidnap and ransom insurer are suing each other over coverage of millions of dollars of costs from the two-week siege.

In a suit moved last week to U.S. District Court in Phoenix, the state charges that National Union Fire Insurance Co. of Pittsburgh, Pa., wrongly refused to pay losses that arose in January 2004 when a pair of inmates seized two guards and took over a watch tower at an Arizona state prison complex west of Phoenix.

National Union, a unit of American International Group Inc., counters in a separate suit filed in state court in New York that none of the inmates' actions meet the K&R policy's definitions of "kidnapping" or "wrongful detention."

The separate complaints were filed in state courts last August and have been on hold while the two sides attempt mediation. Although the talks are ongoing, no settlement has been reached. Last week, National Union sought to move Arizona's complaint from state court to federal court in Phoenix.

Representatives for National Union and Arizona declined to comment.

The next step in the litigation is to resolve whether the case will be heard in Arizona or New York, lawyers say.

While K&R coverage typically is bought by corporations—and in some cases universities, to cover traveling students and faculty—"it's quite unusual" for a government entity to purchase it, said Douglas Milne, chief executive officer of Special Contingency Risks Ltd., a London-based unit of Willis Group Holdings P.L.C.

"Government organizations tend not to buy it because their public stance is, 'We do not pay ransom,'" Mr. Milne said. "To buy K&R would give lie to that."

Arizona bought a three-year K&R policy incepting Nov. 4, 2001, covering the state and its "departments, agencies, boards, commissions and universities," court filings show.

The incident at the center of the coverage dispute began Jan. 18, 2004, when Ricky Wassenaar and Steven Coy, inmates of the state prison in Buckeye, Ariz., overpowered a lone guard in a prison kitchen. Wearing the guard's uniform, Mr. Wassenaar was admitted to a guard tower where he attacked the two guards on duty, one male and one female, and took them

See **PRISON** page 19

VEBA used for retiree health benefits

Goodyear's \$1 billion contribution will end its future plan liabilities

By **JERRY GEISEL**

AKRON, Ohio—Goodyear Tire & Rubber Co.'s top executives say a recently ratified collective bargaining agreement that calls for Goodyear to contribute \$1 billion to a special tax-exempt trust to pay for retiree health care benefits is a win for the company and retirees.

Under the agreement reached with the United Steel Workers union, Akron, Ohio-based Goodyear will contribute \$700 million in cash to a Voluntary Employees' Beneficiary Assn. with the \$300 million balance in additional cash or Goodyear common stock at the company's option. The contribution is fully tax-deductible.

After Goodyear makes its contribution to the VEBA, which will be administered by USW appointed trustees, its responsibility and liability to provide retiree health care benefits to current and future retirees who were represented by the USW will end.



Goodyear's agreement with the United Steel Workers to fund retiree health care benefits through a VEBA must be approved by a federal court.

Correspondingly, retiree health care benefits no longer will be a subject of collective bargaining with

the USW.

Through the arrangement, which still must be approved by a federal court, Goodyear says it will improve its cash flow by \$145 million a year, while eliminating from its financial statements its \$1.3 billion projected liability for USW retiree health care benefits.

Goodyear President and CEO Robert Keegan described the retiree health care funding arrangement as a "win-win" situation. In a webcast presentation last week, Mr. Keegan said the arrangement removes a big financial obligation, while protecting retiree health care benefits.

A spokesman for the USW, which represents more than 13,000 Goodyear employees, concurred that providing security for retiree health care benefits was vital. "It is important to protect current and future retirees," he said.

Outside experts say the arrangement likely will be closely exam-

See **GOODYEAR** page 19

Insurers look forward to bright 2007 despite concerns about cat risks

Continued prosperity expected for industry after profitable year

By **RUPAL PAREKH**

NEW YORK—After a strong 2006, insurance industry executives and observers are optimistic that 2007 also will be marked by positive developments for the property/casualty sector.

Although insurers should continue to be wary of heightened catastrophe risks, with a Democratic-controlled Congress they are more likely to see a permanent solution to terrorism insurance issues, and another high profile issue—fallout



©DON POLLARD; COURTESY OF THE I.I.I.

Robert P. Hartwig (left), president and chief economist of the Insurance Information Institute, last week moderated a panel discussion at the I.I.I.'s annual Property/Casualty Insurance Joint Industry Forum in New York.

See **OUTLOOK** page 19

SOME CLIENTS THINK ALL INSURANCE IS THE SAME.

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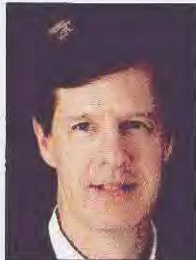
Business Insurance has added to its advertising staff and promoted an editorial staffer.

Bob Raidt joins the magazine as advertising director in New York, and Kevin Edison, formerly directory editor, has been promoted to research director in Chicago.

Mr. Raidt's responsibilities include directing Business Insurance's sales staff; coordinating advertising sales for print, www.BusinessInsurance.com, BI's show daily editions at major industry events; as well as other special projects. He also will develop sales among major consulting and technology firms.

Before joining BI, Mr. Raidt was publishing director Treasury & Risk Management and Credit Union Times magazines at WICKS Business Information L.L.C.

Prior to that, he was advertising



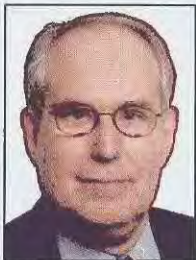
Mr. Raidt

director at American Banker, which is published by SourceMedia Inc., a company that formerly was known as Thomson Media.

Before that, Mr. Raidt was advertising director of The Deal L.L.C., part of American Lawyer Media, and held various positions at The New York Times.

He can be reached at 212-210-0133 and at braidt@businessinsurance.com.

Mr. Edison joined the magazine in 1999 as directory editor, with responsibility for BI's in-publication rankings and online directories of insurance industry companies, the annual Directory of Buyers and the annual Market Sourcebook. In addition to those duties, Mr. Edison as research director will develop and manage various industry data projects to support BI's editorial and online products.



Mr. Edison

Before joining BI, he was research coordinator for the Donors Forum of Chicago, a nonprofit association that produces the Directory of Illinois Foundations and the Members and Forum Partners Directory. Previously, he conducted research at the Human Capital Research Corp. and ABT Associates, both in Chicago.

Prior to that, Mr. Edison was research editor for Chain Store Guide, a New York-based publication covering the chain store industry, and was research coordinator for Jacques Cattell Press in New York.

He received bachelor of arts degrees in political science and history from the University of Wisconsin-Eau Claire.

Mr. Edison can be reached at 312-649-5279 and at kedison@businessinsurance.com.

Judge rules State Farm liable in Katrina case

\$2.7 million verdict may influence suits; insurer appeal likely

By LOUISE ESOLA

GULFPORT, Miss.—State Farm Fire & Casualty Co. plans to appeal the more than \$2.7 million verdict awarded against it last week in a homeowners coverage dispute related to Hurricane Katrina damages, a spokesman for the insurer said.

A federal jury on Jan. 11 awarded \$2.5 million in punitive damages to a Biloxi, Miss., couple who sued State Farm for the Katrina-related destruction of their home. That award came just hours after a federal judge ruled that the insurer had to pay their \$233,292 claim.

The Bloomington, Ill.-based insurer originally rejected the couple's claim, arguing that the damage was caused by storm surge, which State Farm said was excluded in their policy. Meanwhile, the couple claimed that a tornado resulting from the storm had destroyed their home, thus making the claim valid.

U.S. District Judge L.T. Senter ruled that State Farm did not present enough evidence to distinguish what damage was caused by wind and what was caused by water, according to a statement by State Farm.

The couple's attorney did not return phone calls for comment.

Robert Hartwig, president of the New York-based Insurance Information Institute, said the verdict is not good for the insurance industry, which has refused to pay millions of dollars in Katrina claims that insurers contend are excluded under their policies.

"This is an indication that courts are going to hold insurers liable for water damage, which has been excluded," he said.

"It's an extremely unfortunate decision, not only for State Farm

but for potentially other insurers as well, and ultimately for the people of Mississippi, (because the verdict) will negatively impact availability and affordability of insurance," Mr. Hartwig said.

Because insurers do not collect premiums on water damage, the decision could force insurers to up future pricing on insurance or deny coverage in hurricane-prone areas, Mr. Hartwig said. "This injects a massive amount of uncertainty in a market that is very fragile."

In other Katrina litigation-related developments:



AP PHOTOS

Last week, U.S. District Judge L.T. Senter ruled against State Farm in a Katrina coverage case.

- The spokesman for State Farm confirmed the insurer is in settlement talks with an undisclosed number of policyholders who have also sued the company for failing to pay Katrina-related claims. The spokesman declined to comment further on the negotiations.

- Judge Senter on Jan. 10 ordered into mediation 83 lawsuits filed by policyholders against insurance companies, according to his office. The judge has already ordered dozens of lawsuits into mediation. His office is reporting that 28 of the 55 that have been through mediation have resulted in settlements.

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Business Insurance OPINIONS

Reducing uninsured is a promising start

IS CALIFORNIA Gov. Arnold Schwarzenegger's universal health care reform proposal the right prescription for the Golden State? As we report on page 1, the proposal, which borrows heavily from legislation enacted last year in Massachusetts, would require all state residents to have health insurance coverage, with premiums for low-income residents heavily subsidized by the state.

Additionally, reimbursement rates for health care providers who treat patients covered under Medi-Cal, the state's Medicaid program, would be sharply increased.

In theory, we very much like the governor's model. Of the many things wrong with our health care delivery system—perhaps its worst feature—is the way care is financed.

We agree with Gov. Schwarzenegger that it makes more sense to use more state dollars to ensure that residents have health insurance. Common sense dictates that when people have health insurance, they are more likely to obtain preventive or routine care, reducing the likelihood that minor medical problems later mushroom into complicated conditions that are much more expensive to treat.

And we endorse the governor's plan to increase Medi-Cal reimbursement rates. Obviously, if providers are short-changed when it comes to treating patients covered by Medi-Cal, they are going to try to recover that shortfall by charging patients with employment-based coverage.

That in turn makes the cost of group health insurance even more expensive and increases the likelihood that some employers will drop coverage, increasing the number of uninsured. That's a vicious circle that has to be broken if employment-based coverage is to remain the bedrock of the nation's health care system.

While many details have yet to be filled in, we think the Schwarzenegger plan is a promising start.

Common sense dictates that when people have health insurance, they are more likely to obtain preventive or routine care.



Letters

New arrangements similar to contingents

TO THE EDITOR: How can risk managers think there will be transparency with these so-called "supplemental compensation commissions" when an insurer will not disclose how they are calculated because "the information is proprietary"?

Business Insurance's Jan. 8 article, "Insurers Rework Broker Compensation," states that these new arrangements will reward broker performance, which is not defined, but only the naïve would mistake it for anything

other than volume and profitability.

Obviously, from a strict legal standpoint, these new arrangements are not "contingency compensation," but there are enough similarities that require diligence and probing inquiry for risk managers to achieve awareness, comfort and that ever-elusive transparency.

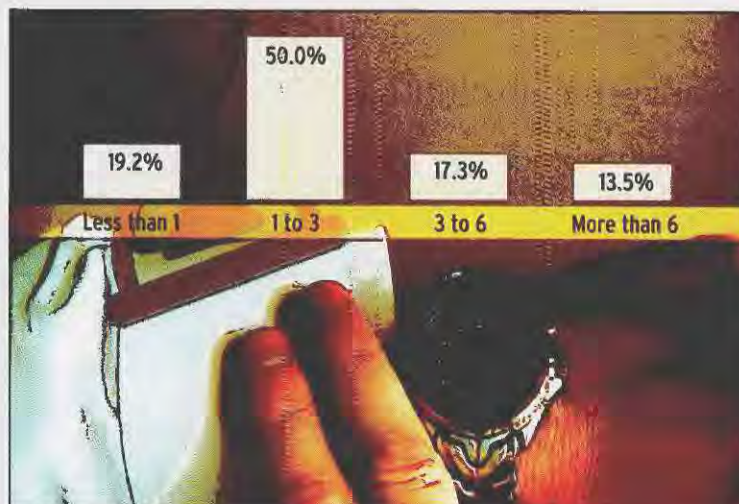
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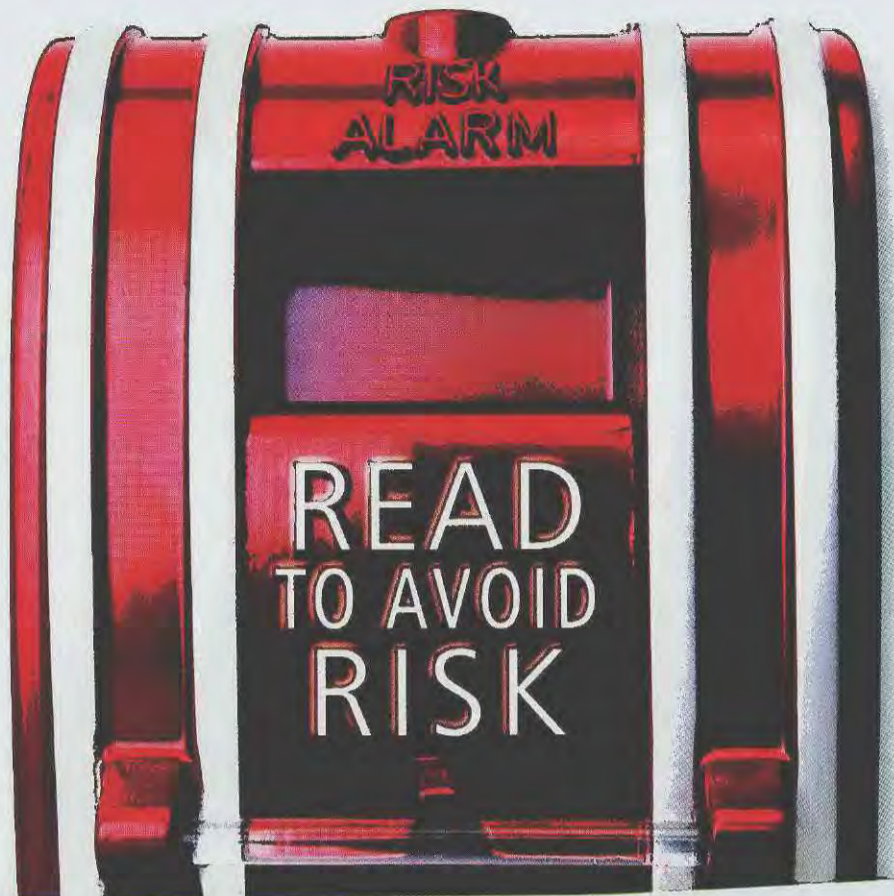
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Business Insurance PERSPECTIVE

Hard copy of insurance policy avoids confusion, problems

By Michael Raibman

Insurers issue binders as evidence of the sale of an insurance policy and its most basic terms, filling the gap between the time at which a policy is sold and when it is issued. The existence of binders can create major problems because a claim may be made before a binder is replaced by a policy, leaving the terms of coverage in doubt. Binders also can lead to confusion regarding whether a given draft policy properly reflects the coverage bound.

The World Trade Center litigation is a prominent, but not uncommon, example of the first problem with binders. That litigation is largely the result of insurers' failure to issue policies in a timely fashion, thus leaving doubt about the coverage actually sold.

Risk managers who wish to avoid a similar fate should demand policies in lieu of binders and should urge their insurers to computerize their forms and endorsements so policies can be issued no later than their effective date. With the sophisticated software available today, there is no excuse for insurers not to have easily compiled policy forms. Indeed, with computers, there seems little need for there even to be endorsements, as any given change in a standard policy form can be instantly incorporated. This would also avoid cumbersome sorting through forms and multiple endorsements just to decipher the actual words of the policy.

The second problem with binders usually comes to light when occurrence-based policies are called upon to respond to claims years after the policies were issued. When it comes to a claim, everyone discovers that the insurer, broker and policyholder each have differing copies of the same policy. Why? Because the policy was issued weeks or months after a binder was sent out, the policyholder rejected the policy as not properly reflecting the coverage it purchased, and negotiations and the exchange of drafts ensued. The end result? No one ever received clear evidence as to which language constituted the final policy. Generating the policy at the point of sale will eliminate such confusion.

Doing so is easy in our era of nearly instant communication and computer efficiency. That is all the more true as most policyholders renew their coverage annually and, therefore, are not rushing to purchase insurance, a situation in which the issuance of a binder may

sometimes be necessary. The issuance of binders in the normal course should be abolished. And endorsements should be abolished as well—any wording change should be made to the form itself.

That the insurance industry has not adopted this obvious course of action reflects the desire of many insurers to disguise coverage limitations and provide a policyholder less than it believes it is purchasing. It is unlikely insurers will make this change of their own volition. Risk managers, however, should recognize this major problem and insist on the receipt of policies—not binders.

Until insurers recognize that their policyholders require policies, not binders, responsible risk managers should record their demands for policies in writing. Risk managers also should keep as detailed records as possible regarding their efforts to obtain policies instead of binders, and the terms the policy should reflect. Doing so will help protect a risk manager's company should litigation ensue regarding the meaning of the

With the sophisticated software available today, there is no excuse for insurers not to have easily compiled policy forms.

binder. And when the actual policy arrives, with different or buried terms, a corrected policy should be requested in writing. The policyholder also should reserve in writing the right to view coverage in accordance with its understanding at the time of placement, not necessarily restricted by the form sent after the fact by the insurer.

For a risk manager to accept a binder in lieu of a policy is like a buyer of a to-be-built home accepting a limited specification sheet that says only the house will have four walls, a roof and cost \$500,000. That is insufficient, but it is exactly what insurers ask policyholders to accept when they issue binders that list little more than the premium, policy type, policy limits and its effective date.

Long term, the industry should do away with binders and endorsements and issue one clean policy form, thereby making coverage clearer—a result that would benefit both policyholders and insurers. Until that happens, risk managers should protect their companies by fighting for policies in lieu of binders.



Michael Raibman is of counsel in the Washington office of law firm Reed Smith L.L.P. and may be reached at mraibman@reedsmith.com. The opinions reflected in this article are not necessarily those of Reed Smith L.L.P.

Ask A Casualty Actuary

30 things to know to properly evaluate your claims experience

By Richard E. Sherman

Q: What are the most common misunderstandings people have about how claims experience should be evaluated?

Evaluating claims experience is a tricky business. Here is a true/false test to gauge your level of knowledge. Write down your answers. An answer key appears at the end.

1 The best cost-allocation plan is to charge each department or division for its actual losses.

2 Suppose you have compiled the following ratios of total losses (from claims tabulations) to payroll: accident year 2002, 7.5%; 2003, 7.3%; 2004, 6.8%; and 2005, 5.3%. Since these ratios are declining, it is good evidence that loss experience is improving.

3 It is best to apply only one method to project losses to an ultimate end. This prevents uncertainty when two methods produce noticeably different projections.

4 The best way to estimate accurately the incurred-but-not-reported reserve is to "work backwards." Start with last year's projections, or budget, and subtract paid losses and case reserves.

5 Report-year data is not as good as accident-year data in evaluating the adequacy of total loss reserves for occurrence coverage.

6 Suppose that, on average, claims settle for 15% less than case reserves; this is strong evidence that case reserves are generally redundant.

7 A good way to estimate defense and cost-containment (allocated loss adjustment expenses) reserves is to apply the ratio of paid ALAE to paid losses to total case reserves.

8 Claims tabulations provide a complete and accurate picture of ultimate claim liabilities.

9 If an actuary provides projections for the next five years, there is seldom a need to get an updated study during the next several years.

10 If losses limited to \$10,000 per claim have been increasing at 6% per year, losses in excess of \$10,000 per claim should be increasing faster than 6% per year.

11 If two or more methods are applied, it is best to simply take

the average of the projections.

12 There is usually no relationship between how long a group of claims has been open and the average claim size.

13 The goal of a claims audit and an actuarial study is the same: to provide an accurate picture of total ultimate claim liabilities.

14 By definition, an IBNR reserve cannot be negative.

15 Calendar month or year averages do not provide a reliable indicator for evaluating the adequacy of claim reserves.

16 A good way to test the adequacy of case reserves is to see if the average open claim is greater than the average closed claim.

17 The annual statement now contains sufficient information to accurately assess the adequacy of the loss reserves of most insurance companies.

18 Properly evaluating the feasibility of self-insurance should only involve consideration of one scenario—the one you believe is the most likely.

19 Loss development methods do not need to be modified to reflect significant changes in the number of exposures over successive years, or the mix of exposures by deductible or self-insured retention or type of risk.

20 There is often a need to reflect the effect of retentions in limiting how large big claims can get in applying a loss development method.

21 If most of the claims for a particular accident year or report year are closed, just accept the case reserves as the best estimate of claim liabilities.

22 Our case reserves are more adequate now than they have ever been in the recent past, therefore, there is no need to anticipate any potential shortfall in those reserves.

23 The incurred loss development method is usually the most accurate method—even if there have been significant changes in the adequacy of case reserves in recent years.



Richard E. Sherman, president of Richard Sherman & Associates Inc. in Ashland, Ore.

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Business Insurance

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H.C. WASTE PLANT FIRE COVERED BY UNITS OF AIG/P4

In Brief
CSU team reduces hurricane forecast

TRIA supporters draw hope from latest Treasury report
BY MARY A. HOFFMAN
The House report on the state of the TRIA market is a mixed bag, but it does offer some hope to TRIA supporters. The report says that the TRIA market is still in its infancy, but it also notes that the market is growing and that there is a need for more capital to support the market.

Greenberg wins right to see AIG memos
AIG's International Group Inc. has agreed to provide Greenberg with access to memos from AIG's underwriting and claims departments.

Spotlight
WOMEN WATCH
In the coming year, women will continue to play a significant role in the insurance industry. The industry is seeing a growing number of women in leadership positions, and this trend is expected to continue.

Shootings spur crisis plan reviews
Schools are reviewing their crisis plans in the wake of recent shootings. The report highlights the need for schools to have comprehensive crisis plans in place to protect students and staff.

FSA chief pushes for disclosure
The U.K. regulator is pushing for greater disclosure from insurance companies. The regulator is concerned that the current level of disclosure is insufficient to protect policyholders and investors.

EC delays findings of industry probe
The European Commission has delayed its findings on the insurance industry. The probe was initiated to investigate the industry's practices and to ensure that it is operating in a fair and competitive environment.

U.K. regulator turns up heat on brokers
The U.K. regulator is increasing its scrutiny of insurance brokers. The regulator is concerned that brokers are not always acting in the best interests of their clients and are not providing adequate advice.

Business Insurance EUROPE

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LATE NEWS
Latest Bermuda reinsurer launches

French liability prices could soar by up to 20%
Insurers warn class actions could cost €1 billion per annum
BY IAN MITCHELL
PARMA's proposed class action to sue for damages caused by the company's fraudulent activities is expected to have a significant impact on the French liability market. Insurers are warning that class actions could cost €1 billion per annum.

EC delays findings of industry probe
BY IAN MITCHELL
The European Commission has delayed its findings on the insurance industry. The probe was initiated to investigate the industry's practices and to ensure that it is operating in a fair and competitive environment.

U.K. regulator turns up heat on brokers
BY IAN MITCHELL
The U.K. regulator is increasing its scrutiny of insurance brokers. The regulator is concerned that brokers are not always acting in the best interests of their clients and are not providing adequate advice.

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Property captives' greatest risk is in first three years

By Don Riggan

Anyone who has formed a captive understands two of the fundamental precepts of making it a success—relatively predictable losses with multiyear payout patterns. If a company's (or a group of companies') losses and payout characteristics are reasonably predictable based on historical data, it is not difficult to project the degree of success a captive may experience.

For example, if workers compensation losses typically close within five years of occurrence and the payout distribution is not skewed to the left (meaning that the majority of losses pay out in the early years), a relatively predictable (and worthwhile) investment income stream would result.

Another inherent benefit of this arrangement is that while a captive's early years are particularly risky (as are all startup companies), the fact that losses do not pay out all at once tends to counterbalance the startup risks and usually allows the captive enough time to build capital and surplus. This describes volatility risk; the longer the captive exists, the lower the volatility over time.

The vast majority of the world's captives insure casualty lines of insurance, due in no small part to the above relationship between predictable losses and their payout characteristics. Some casualty captives also insure a small amount of property risk to diversify the risk portfolio. While damage to property can cause general liability and workers comp losses, property risk is sufficiently noncorrelated with casualty risk to add some portfolio value to a casualty-dominated captive.

Given the imperatives of loss predictability and long-term payout trends—characteristics inherent in most third-party lines of insurance—how can we possibly insure stand-alone first-party risk in a captive? Historical loss activity such as a fire holds little predictive value relative to future property losses. In fact, after a fire, owners often take steps to minimize the risk of future fires, rendering the marginal predictive value of the loss almost inconsequential. Windstorm and flood risks are somewhat predictable given historical loss activity, but these predictions have value only when applied to a huge amount of property spread over a large geographical area.

Insuring property through a captive is not for the faint of heart, but if you are willing to assume a significant amount of risk (and volatility) in the early years, a property captive can bestow significant benefits downstream. Unfortunately, the characteristics that help limit volatility in casualty captives actually produce volatility in property captives.

Except in extraordinary circumstances, the destruction of the World Trade Center, for example, the majority of first-party losses settle and close in the year in which they occur. There is no reliable payout pattern upon which to judge capital and loss reserve require-

ments. Moreover, there is no very small tail liability for which loss reserves must exist; each year a property-only captive literally starts with a fresh set of exposures unburdened by developing past losses or incurred-but-not-reported losses. Of course, in a large property insurance program, small, unreported property losses often crop up in later periods, but this should be the exception. So, from a volatility perspective, property captives present two competing dynamics: Losses pay out all at once, but when the policy year is over, it's really over.

Unlike casualty insurance captives, property captives have no per-occurrence limit; the value of the funding equals the limit of liability. Most property programs, however, use blanket, agreed-amount policy language, and the value of the captive's funding in conjunction with the reinsurance usually does not match the total insurable values. Nearly all captives use three basic financing components: premiums, capital and collateral. Regardless of how the premiums are developed, they must reflect, to a degree, that which the market would bear for the same risk.

Insuring property through a captive is not for the faint of heart, but if you are willing to assume a significant amount of risk (and volatility) in the early years, a property captive can bestow significant benefits downstream.

Here are some characteristics of a successful property captive:

- Significant property values—multiple billions of total insurable values.
- Excellent geographic diversity, especially important for windstorm.
- Adequate, but not excessive, premium funding.
- The financial wherewithal to withstand one catastrophic loss during the first year and not fold the company.
- Comprehensive risk evaluation and underwriting.
- Excellent loss prevention and control protocols.
- A broad coverage form, with blanket and agreed-amount language, to reduce the number of coverage disputes.
- And a significant limit of liability, since low captive limits deter reinsurance participation and drive up the premiums of those that will participate on the risk.

Remember, the first two to three years of any property captive are extremely volatile, and one major loss event could wipe out the captive's assets. But, if it survives three years and the premium has been funded each year, the chances grow better and better that a long-term facility for primary property insurance will be created.

Emerging Risk STRATEGIES

Remember the past in considering whether to expand to Russia

By John J. Hampton

In November 2006, the United States and Russia signed an 800-page trade agreement as a prelude to U.S. support of Russia's bid to join the World Trade Organization. Included in the concessions was an agreement to let foreign insurance companies operate in Russia through subsidiaries. This includes 100% foreign-owned property and casualty companies.

Only time will tell the real impact of the agreement. Western insurers need little help to recognize that Russia is a risky place for direct foreign investment. At the same time, Russia is a large emerging market. Let us examine past events, current opportunities and risks.

Prior to 1917, Russia had a large and strong insurance market. When the Bolsheviks seized power, the government nationalized insurance, which provided the only available coverage until 1988. At that point, the insurance monopoly was divided into two parts: Rossgostrakh was the domestic insurer and Ingostrakh handled insurance for foreign entities.

During the Soviet era, serious problems existed for insurance buyers. Private insurance was virtually nonexistent. State-run corporations were required to buy insurance; while commercial lines coverage was provided in a framework of regulations, the rules had a weak legal system to back them up.

In 1992, I presented the first post-Perestroika seminar in Russia about modern insurance. The seminar, encouraged by the World Bank and sponsored by the Academy of National Economy, attracted more than 50 representatives of potential and existing Russian insurance companies. One participant explained that "Strakh" in Russian "reminds people of a similar word which means secret. It fits, as our

insurance companies took our premiums, did not issue a policy, did not tell us the extent of coverage and rarely paid claims after a loss."

The companies at the seminar were an interesting mix. Entrepreneurs all, they had capital of varying amounts. As a result of the ruble's devaluation, one company had capital of less than \$10,000. Most people wanted to know how to make money by selling insurance. It is not clear they were serious about providing insurance. Other goals, such as tax avoidance and rapid collection of cash premiums, seemed important.



John J. Hampton's columns on Emerging Risk Strategies appear in Business Insurance. An archive of his columns as well as interviews and discussions with risk management and insurance industry leaders is available online at www.BusinessInsurance.com/EmergingRiskStrategies. To post questions or comments about the issues raised in Emerging Risk Strategies, please visit BI's Community Forums at www.BusinessInsurance.com.

Insurance suffered a serious blow in 1998, when Russia defaulted on its debt. The country suspended payments on foreign loans at a time when the ruble traded at seven to the U.S. dollar. Within a week, the ruble reached 13 to the dollar, and by year-end it was 20 to the dollar. Inflation, which had been 11% in 1997, was 84% in 1998. The economy came close to a collapse. Existing insurance policies, even if paid, would not cover potential losses.

Insurance suffered another blow in 2003 when the Russian government alleged tax violations against Yukos, a large privatized gas company, and expropriated its stock. At the same time, it sentenced Mikhail Khodorkovsky, the company's CEO, founder and opponent of Russian President Vladimir Putin, to an eight-year jail term. Even as it negotiated WTO entry, the Kremlin nationalized a number of former state companies and forced out foreign investors.

Past events guarantee that carriers that are considering Russia will take a risk management approach to market entry. This has been the case for companies such as American



Don Riggan is practice leader, alternative risk solutions, at Albert Risk Management Consultants Inc., an independent risk management consultancy in Needham, Mass. Mr. Riggan's columns on captive insurance issues appear periodically in Business Insurance.

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For more information on AIG Healthcare Security and Privacy Liability Insurance, contact Marie Myers, assistant underwriting manager, at 617-330-4238 or marie.myers@aig.com.

Lexington services target managed care companies

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For more information, contact New York-based Lexington's Susan

Angelo, vp and product line manager, at 617-330-8413 or susan.angelo@aig.com.

Venture Insurance rolls out professional liability program

WEST CHESTER, Pa.—Program administrator Venture Insurance Programs has launched Venture Professional, a professional and management liability program featuring directors and officers, errors and omissions, and employment practices liability coverage.

Venture Professional uses multiple admitted and nonadmitted insurers as well as Lloyd's of London syndicates.

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For more information on Venture Professional, contact Annamaria Keen, director of corporate sales, at 800-282-6247, ext. 278, or visit www.ventureprograms.com.

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Notice of termination of Andrew Weir's Scheme of Arrangement

NOTICE IS HEREBY GIVEN that Andrew Weir's Scheme of Arrangement terminated on 20 December 2006 when Andrew Weir was ordered to be wound up by an order made by the Court.

Under Andrew Weir's Scheme of Arrangement, the Scheme Administrators, Paul Evans and Nigel Rackham of PricewaterhouseCoopers LLP, were able to declare Scheme Dividends totalling 49.65% on Scheme Creditors' Established Liabilities.

Dated this 20th day of December 2006.

To place your legal notice
 Contact Tina at 312-649-5340.

LEGAL NOTICE

SOVEREIGN MARINE & GENERAL INSURANCE COMPANY LIMITED ("THE COMPANY") NOTICE OF ANNUAL MEETING OF SCHEME CREDITORS

A meeting of the Scheme Creditors of the Company ("the Meeting") has been convened by the Scheme Administrators, pursuant to Clause 8.1 of the Scheme of Arrangement between the Company and the Scheme Creditors ("the Scheme") for the purposes set out below.

The Meeting will be held at the offices of KPMG LLP, 8 Salisbury Square, London EC4Y 8BB, on 19 February 2007 at 11:00 a.m. (London time). A report concerning the progress made in implementing the Scheme and the conduct of the Company's affairs generally since the last such report was prepared ("the Report") shall be laid before the Meeting pursuant to Clause 8.1.2. Scheme Creditors will have the opportunity to address questions to the Scheme Administrators concerning the Report at the Meeting. In addition the Meeting will consider and if thought fit ratify the appointment by the Creditors' Committee of Michael S. Walker as joint Scheme Administrator.

A copy of the Report is being sent to the last known addresses of all known creditors, potential creditors and brokers of the Company. Any person entitled to attend the Meeting who has not received the Report by 19 January 2007 can obtain a copy free of charge from the Scheme Administrators of the Company at KPMG LLP, 8 Salisbury Square, London EC4Y 8BB.

Queries regarding Scheme Creditors' claims should be directed to the helpline on +44 (0) 1452 413 982

J. M. Wardrop, Scheme Administrator

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International NEWS

Economic forum urges countries to create national risk managers

Governments cannot keep pace with risks of globalization: Panel

By ADRIAN LADBURY

DAVOS, Switzerland—The World Economic Forum, an influential gathering of business and government leaders, has called for the creation of the role of a national risk manager to prioritize risks and invest in risk management and mitigation.

INCREASED OVERALL RISKS

Some of the 23 core global risks identified:

ECONOMIC

- Oil price shock/energy supply interruptions
- U.S. current account deficit/fall in U.S. currency
- Chinese economic hard landing
- Fiscal crises caused by demographic shift

ENVIRONMENTAL

- Climate change
- Loss of freshwater services
- Natural catastrophe: Tropical storms, earthquakes, inland flooding

GEOPOLITICAL

- International terrorism
- Proliferation of weapons of mass destruction
- Interstate and civil wars
- Middle East instability

SOCIETAL

- Pandemics
- Infectious diseases in the developing world

TECHNOLOGICAL

- Breakdown of critical information infrastructure
- Emergence of risks associated with nanotechnology

Source: Global Risk Network

The call came from the Global Risk Network, a committee of the WEF that will discuss its ideas on tackling global risks at next week's meeting of international economic, social and political leaders in Davos, Switzerland.

The Global Risk Network unveiled the national risk manager concept and its latest "Global Risks" report at a press conference in London late last week.

Jacques Aigrain, chief executive officer of Zurich-based Swiss Reinsurance Co., and Michael Cherkasky, president and chief executive officer of New York-based Marsh & McLennan Cos. Inc., presented the key findings and proposals.

They said that, according to the WEF's analysis, the world is a riskier place in 2007 than it was in 2006, and that businesses and governments need to increase their efforts to identify and analyze risk, and to prioritize properly and mitigate those risks where feasible.

The Global Risk Network believes that the rapid pace of globalization is outstripping the institutional and political capability of governments—and to a lesser extent, businesses—to cope with the attendant risks.

The group says that companies and governments are still prone to reacting to individual risks when they have already happened rather than identifying the key risks and acting to prevent them or at least minimize their impact.

It says that risks presented by the heightened interdependency of the global economy need a much more forward-looking approach that current institutions and systems—particularly within national governments—simply cannot deliver.

The WEF group, therefore, concludes that risk experts must lobby governments to consider the cre-

See **FORUM** next page

EUROPEAN MARKET REPORT

European reinsurance rates drop on absence of large cat losses

Capacity is plentiful in most markets other than U.S. windstorm

By SARAH VEYSEY

Rates for most lines of European reinsurance business fell at the Jan. 1 renewals, in a market characterized by ample capacity and an absence of large catastrophe losses, brokers say.

Brokers note softening reinsurance rates will be welcomed by corporate insurance buyers, already looking forward to large percentage-rate reductions on the back of a healthy European insurance industry and an absence of any large loss-

es during 2006.

There is "relatively plentiful capacity in all areas" for reinsurance, except for U.S. windstorm-exposed business, according to Charles Cantlay, deputy chairman

Reinsurance Renewals

of Aon Re U.K., a London-based unit of Aon Corp.

On non-U.S. business, rate reductions of about 5% to 10% were the norm at the Jan. 1 reinsurance renewals, Mr. Cantlay said; there was still a "substantial amount of discipline" driven by rating agencies and investors, he said, and

underwriters are not slipping below what they consider to be the "technical price."

Average European reinsurance rates fell by up to 10%, said Jean-Michel Lewis, director of reinsurance at London-based broker Heath Lambert Group.

Several newer Bermudian reinsurers were eager to write more European business, as part of their efforts to diversify, and played a part on some larger programs, he noted.

There was also interest by several reinsurers in writing Eastern European reinsurance business as programs in that region become more significant and underwriters seek to spread and balance their portfolios,

See **REINSURANCE** next page



Aviation rates reduced up to 30%

Low losses make airline business more attractive

By CAROLYN ALDRED

Plentiful capacity and low losses combined to push aviation insurance rates significantly lower at the latest renewal, brokers say.

Airlines with good loss records were able to attract rate reductions of up to 30% during the last quarter of 2006, said Alan Webb, managing director of London-based insurance

broker Heath Lambert Ltd.'s aerospace division.

As many airlines now have bigger

Aviation Renewals

fleets and more mileage, this resulted in premium rate reductions that averaged about 20%, he estimated.

"Capacity is plentiful," said Mr. Webb, with new insurance capacity around the world, including the United States, Bermuda, the Far East and Europe.

The fourth quarter of the year traditionally is the busiest renewal

time for airlines, noted Steve Doyle, manager of aviation and global practice leader at Aon Ltd., the London-based unit of Aon Corp.

"Capacity has flowed into the market, the loss record of the industry continues to be excellent and premium reductions have been significant," said Mr. Doyle.

Premium reductions have averaged about 20%, while fleet values have increased 5% and passenger numbers grown 10%, Mr. Doyle estimated.

"We have seen rate reductions for

See **AVIATION** next page

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Case could set dismissal standards for securities lawsuits

Supreme Court may issue more narrow ruling in *Tellabs* case

By DAVE LENCKUS

WASHINGTON—A securities class action lawsuit that the U.S. Supreme Court has agreed to review could standardize how federal courts nationwide decide whether plaintiffs' claims are strong enough to survive defendants' initial efforts to dismiss them.

Securities class action experts, however, disagree over whether the high court's decision in *Makor Issues & Rights Ltd. vs. Tellabs Inc.* would lead to substantial changes in case dismissals.

In addition, because of the narrow issue at stake in *Tellabs*, the Supreme Court's decision may not resolve the main inconsistency in how federal courts determine whether allegations of securities fraud meet the standard-of-proof

requirement established by federal law, one attorney said.

The Supreme Court agreed on Jan. 5 to hear the case, which centers on a provision in the Private Securities Litigation Reform Act of 1995. The act, designed in part to reduce frivolous securities fraud lawsuits, requires claimants to allege detailed facts sufficient to establish "a strong inference" that the defendants acted with scienter, or the intent to commit fraud.

Ruling that the plaintiffs' accusations were too vague to meet that test, a federal district court judge dismissed the *Tellabs* litigation.

But, in overturning the district court, the 7th U.S. Circuit Court of Appeals ruled that the case could proceed because a reasonable person could infer that the defendants acted with fraudulent intent. In its decision, the 7th Circuit refused to consider inferences that the defendants acted innocently.

Several other, though not all, federal appellate courts also have ruled on how innocent inferences play

into the PSLRA's scienter provision.

Some circuits—the 1st, 4th, 6th and 9th—reject securities fraud cases when an innocent inference is just as plausible as a guilty inference, attorneys said.

Other circuits—the 8th and 10th—will not weigh competing inferences but will factor innocent inferences into their decisions on whether a case should survive, attorneys said. The 10th Circuit also has stated that it will not dismiss cases from which equally strong competing inferences can be drawn, said Carol A.N. Zacharias, senior vp and underwriting counsel for ACE USA in New York.

Despite the inconsistency among the circuits, the percentage of cases dismissed varies only nominally from circuit to circuit, Ms. Zacharias said. That could mean that the Supreme Court's decision in *Tellabs* will not meaningfully change the case dismissal rate, she said.

But insurer attorney Dan A. Bailey said the high court's ruling could dramatically influence case

dismissal rates. District courts have to interpret their appellate court's interpretation of the PSLRA, so the reasoning behind case dismissal rulings within a circuit may vary considerably, said Mr. Bailey, a partner with Bailey Cavaleri L.L.C. of Columbus, Ohio.

In addition, some circuits have not ruled on the issue, he said.

Therefore, if the Supreme Court creates a national standard, it could change the direction in which many courts nationwide are headed, he said.

To do that, however, the high court would have to look beyond the "strong inference" issue and also address the variability in how circuits define scienter, he said.

For example, in the 2nd Circuit, plaintiffs only need to show that the defendants had the motive and opportunity to commit a wrongful act to satisfy the PSLRA's scienter requirement, Mr. Bailey said.

In the 9th Circuit, however, plaintiffs must show that the defendants acted with "deliberate reck-

lessness," he said.

In applying those scienter standards to securities cases, courts then must consider whether and how to factor in competing inferences of culpability and innocence, Mr. Bailey said.

So, the high court could clear up the narrower "strong inference" issue and leave the circuits divided on the broader issue of scienter, he said.

Attorneys would not predict how the Supreme Court would rule. But insurer attorney Arthur Washington said he does not think the Supreme Court will like the 7th Circuit's explanation that it would not consider innocent inferences because doing so could be mistakenly viewed as the court taking away the jury's role in the case.

That explanation "betrays a little gap in the court's reasoning," said Mr. Washington, a partner with Mendes & Mount L.L.P. in New York. "It doesn't matter if someone gets a false impression, because it's a false impression," he said.

Aviation: Rates fall by up to 30%

CONTINUED FROM PREVIOUS PAGE

a number of years now. In the first nine months of 2006, premium reductions averaged 9% to 10%, but during the last quarter premium reductions increased to an average of 20%," said Brad Ottolangui, divisional director of aerospace research for Willis Group Holdings Ltd. in London.

The reductions have come about partly because a period of benign losses has made the aviation market more attractive to new capacity, said Mr. Ottolangui.

Airline losses for 2006 through the beginning of December totaled some \$1.25 billion, he said.

"This is slightly higher than it has

been in the last few years, but less than the previous average," he said, noting that safety records for airlines have increased dramatically in recent years.

"Unless there are some major losses, underwriters will still make a profit this year, so rates will not rise during 2007," Mr. Webb said.

While the U.S. government continues to provide terrorism coverage for its airlines, there is plenty of war risk capacity now available in the market for non-U.S. airlines, the brokers agree.

"Airlines can get up to \$150 million of third-party war cover in the general market and \$850 million excess of \$150 million is available in the specialist market,"

Mr. Webb said.

Meanwhile, the market for airports and aerospace products, and manufacturing also remains attractive for buyers, say the brokers.

An "increase in insurance capacity for aerospace manufacturing, particularly in the United States, is putting a little pressure on rating. However, the longer tail involved means that the drop in rates is not as significant as the airlines business," according to Mr. Webb.

Airports, many of which renew their coverage in January, are seeing premium reductions of about 10%, he said.

"I do see the aviation market in general continuing to fall next year," Mr. Webb said.

Forum: Proposes creation of national risk managers

CONTINUED FROM PREVIOUS PAGE

ation of the role of country risk manager to help prioritize risks and investments in risk management and mitigation.

Interwoven risks

The group maintains that such individuals could also work together on a global basis to help develop more strategic international plans for dealing with huge and highly interconnected risks such as oil price shocks, climate change, terrorism and pandemics.

"Risks are often still viewed and dealt with in isolation. However, in today's world, global risks are tightly interwoven. To address our contemporary risk landscape, governments and enterprises need to take a holistic approach to overcome silo-thinking and acting," said Mr. Aigrain.

"We need to prioritize risks effectively, improve preparedness and strengthen public-private partnerships to mitigate risks and to finance economic losses. Finally, we propose to coordinate global risk mitigation efforts by creating the function of chief risk officers at governmental level who regularly meet on an international level," he continued.

"While risk mitigation is set to be a key theme at this year's meeting in Davos, there is continued evidence of a disconnect between risk and mitigation. The focus of government and corporations must not only be on reacting to events, but on utilizing effective enterprise risk management to set priorities, increase business focus, allocate resources and maximize efficiency," said Mr. Cherkasky.

"Catastrophic natural disasters in recent years have demonstrated

that our ability to confront emerging risks depends more on the choices we make before a disruption than the actions we take during a crisis. Only a systematic planning approach will ensure that countries are prepared for the risk environment we currently face," he added.

The Global Risk Network says that the country risk officer would prioritize risks on a cross-sector basis and explore private sector techniques of risk assessment, man-

'Risks are often still viewed and dealt with in isolation. However, in today's world, global risks are tightly interwoven.'

Jacques Aigrain, Swiss Reinsurance Co.

agement and transfer.

It says that this individual would take a portfolio view of risk as in the private sector and serve as a focus point in government for strategic thinking and forward action.

"The principal advantage of the CRO concept domestically would be to allow effective trade-offs between the priorities of different ministries, and to allow governments to escape silo-thinking. At the international level, the meeting of national CROs could provide a coordination body for global risk mitigation efforts," states the report.

The Global Risk Network report can be found at www.weforum.org/pdf/CSI/Global_Risks_2007.pdf

Reinsurance: Lack of large cat losses

CONTINUED FROM PREVIOUS PAGE

Mr. Lewis said.

Reinsurers were "healthy and hungry" for European business, said Luc Malatre, managing director of Willis Gras Savoye Re in Paris.

But many primary insurers were willing to retain more risk themselves, he said.

In the Nordic region, reinsurance rates fell by between 5% and 15%, depending on class and loss history, according to Erik Roenningen, Oslo, Norway-based head of Nordic region at Willis Re, a unit of Willis Group Holdings Ltd.

There is a general trend of slight softening in most classes, particularly on business that is loss-free, he said, and there was ample capacity for most risks.

The rate reductions on reinsurance business may not always be passed on to primary insurance buyers, experts said.

Reinsurance pricing is "absolutely

connected" with what is going on in the primary insurance market—the premium base which feeds reinsurers—said Mr. Cantlay, but there is a "disconnect" between the percentage decreases being seen on reinsurance business and being expected by primary insurance buyers.

While it has been clear to primary buyers that catastrophe rates have needed to adjust in line with recent events, buyers have struggled to reconcile themselves to reductions in limits available on some other lines of property business, according to Nick Maher, chairman of the global property practice group at Aon in London. And the reaction of some of those buyers has been to retain more risk, he said.

As 2006 progressed and the threatened active hurricane season did not materialize, buyers became ever-more unwilling to continue to "pay the price" for the 2005 year, he said.

On non-U.S., noncatastrophe

property business, there have been "significant" rate reductions of up to 30% to 40% during 2006, Mr. Maher noted, especially where the risks being insured are "single territories."

During 2006 there was a continued softening of European primary property rates, according to Kevin Ferguson, head of property placement for Europe at Marsh Ltd. in London.

European natural catastrophe primary insurance rates in 2007 are expected to remain flat or see slight rises, he said, while noncatastrophe exposed property business may see rate decreases of 5% or more.

Over the course of 2006, there was a softening of the market for European casualty business, with average rate decreases of between 10% to 15%, depending on the nature of the industry being insured, noted Paul Ritchie, head of casualty placement for Europe at Marsh Ltd. in London.

Models: Firms provide cat data at Florida's request

CONTINUED FROM PAGE 3

tation on the assumptions and factors used in developing the RMS hurricane loss projection model. We have provided thorough detail on all of the modules of the RMS model: stochastic storm set generation, hurricane characteristics and the windfield generation process, the derivation and implementation of vulnerability functions, actuarial standards including a full discussion of our financial module, and the systematic process RMS undertakes to develop our software technology to implement the hurricane model. We also welcome the opportunity to meet with representatives from the Florida Legislature for presentations and discus-

sions on all components of our models."

The statement added that RMS believes "working closely with the Florida Legislature will help bring a neutral science-based perspective to the understanding of hurricane catastrophe risk in Florida, which will ultimately inform the process for establishing longer-term solutions to the current insurance crisis in Florida."

During the special session, scheduled for Jan. 16-22, lawmakers will consider legislation to reduce current property insurance premiums, reduce the future growth rate of property insurance premiums, improve the availability and stability of property insurance, and improve building codes.

Goodyear: VEBA set up to fund retiree health care

CONTINUED FROM PAGE 4

ined by other employers that have amassed huge retiree health care obligations that were promised through collective bargaining agreements and can't be terminated at the employer's discretion.

Employer advantages

From an employer perspective, there are several advantages to transferring retiree health care benefits and then making a one-time contribution to the VEBA.

"They are putting their retiree medical liabilities behind them," said Russell Greenblatt, a partner with the law firm Katten Muchin Rosenman L.L.P. in Chicago. That, in turn, Mr. Greenblatt said, may make a company more attractive to creditors and investors.

Similarly, noted Derek Guyton, a principal with Mercer Health &

Benefits in Chicago, the approach eliminates the volatility associated with retiree health care benefits where even a small increase in health care inflation can have a big impact on the size of a company's retiree health care obligations.

But, not every company can take such an approach. "You need access to cash," Mr. Greenblatt said.

Additionally, a company's union has to agree to the transfer. Given though, the well-reported loss of retiree health care benefits to thousands of airline retirees when their employers filed for bankruptcy, unions might be more receptive to such arrangements than before.

"Money is being set aside to fund benefits as opposed to an unfunded promise," Mr. Greenblatt said.

Also, VEBA assets are out of the reach of creditors, assuring they will be available to pay benefits regardless of what happens to the employer.

Asbestos: Ruling turns on 'occurrence'

CONTINUED FROM PAGE 4

summary judgment.

However, the appeals court said it could not determine whether Truck's policies were exhausted, as it could not determine the number of occurrences arising from more than 24,000 claims that had been filed.

Truck issued CGL policies to Kaiser from 1964 to 1983—using two major versions of the policy. The 1964 Truck policy included a Kaiser deductible of \$5,000 per occurrence. Kaiser's deductible was eventually increased to \$100,000 per occurrence effective with an April 1981 policy with Truck.

The cost to Kaiser could be significant, the appeals court stated in a footnote in the ruling. "Kaiser's share of the total asbestos liability

increases as the number of occurrences increases. Additionally, although asbestos claims against Kaiser collectively exceed tens of millions of dollars, many individual claims apparently are within the applicable deductibles. Thus, if each claim is treated as a separate occurrence, Kaiser may have no coverage for a substantial number of claims."

Potential impact huge

The decision stands to affect many ongoing asbestos-related insurance cases in California, said Jeffrey S. Raskin, an insurance recovery attorney in the San Francisco office of Morgan Lewis & Bockius L.L.P.

The ruling is problematic for policyholders that have policies with a per occurrence deductible without

an aggregate, said Larry A. Hobel, an insurance recovery expert in the San Francisco office of Heller Eherman L.L.P.

That is especially true with asbestos-related claims since they often are small, such as less than \$5,000 in damages, he said.

While it appears that Kaiser CGL policies for much of the Truck-insured period contained a per-occurrence deductible without an aggregate limit, many policyholders have policies with aggregate deductibles, Mr. Hobel said.

London Market Insurers vs. The Superior Court of Los Angeles County, respondent; Truck Insurance Exchange et al., real parties in interest. 2nd District Court of Appeal in the State of California. B189000. Jan. 9, 2007.

Prison: State, insurer square off in court

CONTINUED FROM PAGE 4

hostage. The inmates released the male guard after seven days, but held the female guard for another eight days before surrendering.

Over the 15-day period, the two men at various times demanded release, access to the media, cash, a piloted helicopter, transfer to another prison, and meetings with the warden and governor, Arizona court papers say.

Mr. Coy, a convicted rapist, later pleaded guilty to charges of kidnapping, escape and sexually assaulting the female guard and a woman, then 54 years old, who was working in the prison kitchen when the incident began. He was sentenced to seven terms of life in prison.

Mr. Wassenaar was found guilty of similar charges in a 2005 trial and sentenced to 16 consecutive life terms.

The 15-day standoff cost the state \$3.6 million, including overtime for state corrections department employees and bills from outside law

enforcement agencies, according to The Arizona Republic, a daily newspaper for the Phoenix area, that cited statistics from those entities.

The state also settled a \$5 million lawsuit filed by the kitchen worker attacked by Mr. Coy for an undisclosed amount.

The hostage standoff was not 'kidnapping' and did not involve 'wrongful detention' as defined in the policy.

National Union, in court documents

Arizona sued National Union in Phoenix, charging breach of contract, bad faith and fraud for failing to cover the losses and for allegedly

misrepresenting the policy's terms to exclude coverage for the kitchen worker's suit.

National Union countered with its own declaratory judgment action in New York.

The insurer argues that the hostage standoff was not "kidnapping," which the policy defines as seizure "for the purpose of demanding ransom monies." The policy defines ransom as "cash...or the fair market value of any securities, property or services."

According to National Union, the siege also did not involve "wrongful detention," which the policy defines as involuntary confinement by someone "acting as agent(s) or with the tacit approval of any...governmental entity, or acting...on behalf of any insurgent party, organization or group."

The insurer's suit rejects Arizona's charges of bad faith and fraud as "unfounded," and contends that the state in fact had already agreed that the kitchen worker's claim was not covered by the K&R policy.

Outlook: Weather worries persist, but industry optimistic about TRIA

CONTINUED FROM PAGE 4

from regulatory probes into stock option scandals—should be manageable for insurers.

Those were some of the main points made by insurance industry executives, industry observers and regulators during panel sessions at the Insurance Information Institute's annual Property/Casualty Insurance Joint Industry Forum in New York last week.

Strong year

Panelists agreed that 2006 marked one of the strongest-ever years for property/casualty insurers—one that generated an estimated \$60 billion of net income and had a combined ratio of about 94%—due largely to the combination of unexpectedly low natural-catastrophe losses and increased pricing discipline by underwriters.

Despite the profitable results, insurers should not become complacent, said Martin Sullivan, chief executive officer of New York-based American International Group Inc.

"We should not declare a victory by any stretch of the imagination," Mr. Sullivan said.

The dramatic drop in hurricane activity witnessed in 2006 should not shake insurers' outlook on the severity of storms, as "we have a period of time ahead of us where the risk potential remains significant," said Pierre L. Ozendo, CEO-Americas, Swiss Reinsurance Co.

Looking ahead, the Democratic victory in the midterm elections could impact pressing industry issues in 2007, panelists said.

With Democrats in control, there is a greater likelihood this year of reaching a long-term resolution to the problem of offering terrorism coverage, said Matthew Mosher,

group vp of global property/casualty ratings at Oldwick, N.J.-based A.M. Best Co. Inc.

At the same time, Democratic control could "pull things back a little," for tort reform, said Jay Gelb, senior vp and senior nonlife insurance equity analyst at Lehman Bros. in New York.

Regulatory investigations

On the issue of investigations into stock options backdating, panelists agreed that, in general, the industry can withstand any exposures emanating from the scandal that has implicated hundreds of corporations.

While regulatory probes and ensuing shareholder lawsuits have resulted in an "upward spike in exposure" for insurers, "I don't know that it will be a major issue," said Mr. Mosher.

"We are obviously following this issue very carefully," said AIG's Mr.

Sullivan, but it should be "manageable" since the majority of shareholder suits being filed are derivative cases, which historically have been easier to settle.

On the subject of contingent commissions, Brian M. Storms, chairman and CEO of New York-based Marsh Inc., said that while he expected that contingency fees would be eliminated across the industry—by both brokers and insurers—he noted that most other industries offer some sort of incentive-based compensation structure.

Robert P. Hartwig, III's president and chief economist, and Marc Racicot, president of the American Insurance Assn., served as moderators for the discussions. According to the III, this year's forum drew 244 attendees.

The next Joint Industry Forum is slated for Jan. 8, 2008, in New York.

LOOKING AHEAD

Property/casualty sector outlook for 2007

Will Congress extend the Terrorism Risk Insurance Act in 2007?

YES 89% NO 11%

Do you think the push for an optional federal charter will gain momentum in the new Congress?

YES 38% NO 63%

Will Congress adopt a national catastrophe insurance plan in 2007?

YES 13% NO 88%

Will consolidation among insurers/reinsurers increase in 2007?

YES 77% NO 23%

Do you think property catastrophe reinsurance pricing will ease in 2007?

YES 65% NO 35%

Source: Insurance Information Institute's 2007 Property/Casualty Insurance Joint Industry Forum Survey

RSA: Policyholders say they could be left with \$1 billion in claims

CONTINUED FROM PAGE 1

applications for party status "does not deny them a meaningful opportunity to call attention to their concerns about the proposed Royal U.S. acquisition," said Mr. Hamermesh in his Dec. 20 order. "They have not squarely contended that such denial would unconstitutionally deprive them of the due process of law, and any such contention would lack merit."

Mr. Hamermesh also denied World Trade Properties' application to appoint an independent actuary.

Should Mr. Hamermesh approve the deal, policyholders have asked that Delaware Insurance Commissioner Matthew Denn delay implementation until the conclusion of any appeal.

David E. Wilks, a Wilmington, Del.-based partner with Reed Smith L.L.P., who represents RSA USA policyholder, Stamford, Conn.-based Student Loan Corp., in the proceedings said terms of the deal should be changed. "We're certainly prepared" to fight the transaction in court if the department approves it.

Policyholders have already filed an appeal of Mr. Hamermesh's Dec. 20 order in Delaware Superior Court in Wilmington, which the department is opposing.

Marc Wolinsky, an attorney with Wachtell, Lipton, Rosen & Katz in New York, represents New York-based Silverstein Properties Inc., and its affiliates, including World Trade Center Properties. "We bought insurance from an A-rated carrier, and it was A-rated because Royal & Sun Alliance explicitly—and implicitly—pledged their support for this subsidiary, and the ratings of the company were based on the fact that Royal Indemnity was a core part of the business." Royal Indemnity participated in the WTC property coverage.

Then, "things went south, they made some bad bets and they're trying to walk away, and it's just not right," Mr. Wolinsky said.

In a document objecting to the transaction, GM said: "The historical business and corporate structure of the Royal group of companies, the current and extremely precarious financial status of Royal Indemnity and the woefully inadequate capitalization of the applicants, establish that the proposed transaction will jeopardize the financial stability of the insurers, will prejudice the interests of policyholders and will be unfair and unreasonable to these policyholders and not in the public interest." GM is seeking coverage from Royal Indemnity for

both property and liability claims.

The filing said "since at least 2003, Royal Indemnity's continuing operations have been made pos-

'Things went south, they made some bad bets and they're trying to walk away, and it's just not right.'

Marc Wolinsky,
Wachtell, Lipton, Rosen & Katz

sible only by virtue of the capital infusions" of its London parent.

"Plainly, the proposed transaction should not be approved, both in view of the current bleak status of

the insurers, and the inescapable fact that the proposed transaction is not a cure for Royal Indemnity's financial peril (and appears to eliminate the possibility of additional capital infusions)," GM said.

A London-based RSA spokesman said "The transaction is in the best interests of all policyholders." The business has "a sound capital base and the transaction is strengthened" by the \$287.5 million capital infusion, he said.

Arrowpoint "will continue to honor its commitments to its policyholders, the London spokesman added.

A spokesman for RSA USA said the deal responds "to the needs of all policyholders."

"Our business has been meeting its policyholder commitments and will continue to do so under the terms of the transaction. We're committed to our policyholders,"

he said.

Deputy Delaware Insurance Commissioner Michael L. Vild declined to comment.

However, in a filing opposing policyholders' appeal of Mr. Hamermesh's order, the department said policyholders' "hysterical declarations are fundamental misunderstandings of the department's regulatory duties" and they are "hopelessly confused about what an insurance department should do to safeguard all policyholders."

Other policyholders involved in the dispute include Auburn Hills, Mich.-based DaimlerChrysler Corp.; Southfield, Mich.-based Federal-Mogul Corp.; Armonk, N.Y.-based MBIA Insurance Corp.; San Francisco-based Wells Fargo Bank; the Port Authority of New York & New Jersey; and Los Angeles-based Westfield America Inc. and other Westfield units.

Marsh: Sets up sidecar to write cat coverage

CONTINUED FROM PAGE 3

American clients. The only risk classes that MaRI does not plan to write are energy and stand-alone builders risk, Mr. Moyles said. "It's a broad-based application to serve clients."

MaRI will be administered by Marsh unit Victor O. Schinnerer & Co.

To allay possible questions of Marsh directing business to a reinsurer in which a Marsh unit holds a stake, Mr. Moyles said, "There will be no incremental commission as Marsh is placing business into MaRI. Most Fortune 1000 clients are on a fee basis, so there is no incentive for our brokers to send business to MaRI. Marsh & McLennan will disclose to every client" its relationship with ACE, MaRI as well as Schinnerer, he said.

Schinnerer will receive fully disclosed profit commissions from MaRI's investor group six months after accounts close, Mr. Moyles said.

The chances of Marsh steering business to MaRI are eliminated, Mr. Moyles said, because any business placed into MaRI must be accepted by ACE, and Marsh protocol requires the broker to obtain clients' approval before placing any account. "If they opt to use MaRI, we'll need to get clients' approval before going to the market," he said.

Marsh's investment in MaRI is "not something I'm worrying about," said Mr. Mastrapa. "I don't see it driving" Marriott's coverage purchasing.

'Any additional capacity and creative thinking around it would be welcomed.'

Bradley Wood,
Marriott International



Investors in MaRI include affiliates of Lehman Bros. and Marsh & McLennan Risk Capital Holdings.

Policyholder report estimates RSA unit has \$1.83 billion in claims, \$834 million surplus

Royal Indemnity Co., a major part of Royal & SunAlliance USA Inc.'s operations, which are now in runoff, has a potential reserve shortfall of nearly \$1 billion, according to a special policyholder report.

Policyholders are protesting an agreement under which Charlotte, N.C.-based Arrowpoint Capital Corp., a vehicle established by RSA USA's management team, will acquire Royal Indemnity Co. and other members of RSA USA's insurance pool from their London-based parent, Royal & Sun Alliance Insurance Group P.L.C. The \$300 million deal is a deferred compensation arrangement that will be funded by the U.S. operation's future performance.

While RSA said it will contribute \$287.5 million of additional capital to the U.S. operation upon completion of the transaction, a group of major policyholders says the funding is inadequate. The group is expected to protest the deal at a Delaware Insurance Department hearing on Jan. 19.

Royal Indemnity has total estimated claims of \$1.83 billion, but only \$834 million in surplus as of Dec. 31, 2005, which would leave it with a \$999 million shortfall, according to a Dec. 11, 2006, report by David F. Babbel—a professor at the Wharton School of the University of Pennsylvania in Philadelphia—and former Utah Insurance Commissioner Robert E. Wilcox. Royal Indemnity is the largest member of the RSA USA insurance pool.

The report was prepared on behalf of policyholders World Trade Center Properties L.L.C. and its affiliates, and the Port Authority of New York and New Jersey. It was intended to support

an ultimately unsuccessful motion for policyholders to conduct discovery in connection with the proposed Arrowpoint transaction. Policyholders are now appealing that decision in state court.

Reinsurance may be a factor in the operation's ability to pay claims. According to a separate November 2006 special report by Jonathan Terrell, president of Washington-based Kenesis Corporate & Information Consulting L.L.C., RSA USA's operation "appears to be 30% reinsured," although "reinsurance is notoriously difficult to collect and is significantly more difficult to collect for a company in runoff." The report was prepared at the request of the Student Loan Corp., a Stamford, Conn.-based RSA USA policyholder.

Royal Indemnity's largest single potential claim, according to the Babbel-Wilcox report, is \$1 billion asbestos claim from Detroit-based General Motors Corp. In a lawsuit filed two years ago against RSA and its U.S. affiliates, GM is seeking payment for claims it says are covered under primary, umbrella and excess comprehensive general liability and comprehensive products liability policies issued from 1954 through 1971 (BI, Jan. 31, 2005). A trial on the issue is expected to begin within the next few months in state court in Pontiac, Mich.

According to the lawsuit, which does not specify the amount GM seeks to recover, "As a result of Royal & Sun Alliance's actions, General Motors has lost, or will lose, the very insurance protection for long-tail liabilities such as asbestos-related and environ-

ment-related liabilities for which it paid the Royal defendants millions of dollars in premiums over a seventy-year relationship." RSA began providing coverage to GM as early as 1921, according to the lawsuit.

The Babbel-Wilcox report says Royal Indemnity has put only \$1 in reserve to pay potential claims. The report notes that the GM claim alone "is sufficient to eliminate the surplus."

A spokesman for RSA USA said GM's case is "completely without foundation."

Among other claims listed are \$125 million from New York-based World Trade Center Properties L.L.C. According to the report, Royal Indemnity is obligated to pay World Trade Center Properties \$255.6 million in connection with the Sept. 11, 2001, attacks, but has paid only \$2.8 million. The report assumes about half of this has already been reserved.

Last year, a jury ruled that Royal Indemnity, along with other insurers, was liable for two occurrences in connection with the attacks (BI, March 13, 2006). According to Royal Indemnity's statutory filing for the quarter ended Sept. 26, 2006, the federal appellate court in New York issued a decision affirming the jury's occurrence findings and last November, Royal Indemnity moved for a reconsideration of its ruling.

New York City Mayor Michael Bloomberg wrote a Dec. 20, 2006, letter to Delaware Insurance Commissioner Matthew Denn saying he is concerned that the transaction's approval will leave Royal Indemnity with "insufficient assets to meet its obligations."

—By Judy Greenwald

ADVERTISER

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Bias: High court examines employer responsibilities

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mary judgment to dismiss the case, a three-judge panel of the 10th U.S. Circuit Court of Appeals in Denver reinstated the suit last June. The appeals court stressed that the HR manager relied solely on the account of what happened from Mr. Peters' supervisor without checking even basic information with Mr. Peters. The appeals court also noted the supervisor's alleged pattern of racial bias and that he had failed to discipline a Hispanic employee who refused to work on her day off.

'There's a lot at stake...The (appeals) court said that simply asking the employee for his or her side of the story can defeat this inference that the decision was racially discriminatory.'

Philip M. Berkowitz,
Nixon Peabody L.L.P.

In making the decision to terminate Mr. Peters, "the human resources official relied exclusively on information provided by Mr. Peters' immediate supervisor, who not only knew Mr. Peters' race but allegedly had a history of treating black employees unfavorably and making disparaging racial remarks in the workplace," the appeals court held.

The court also wrote that "recognition of subordinate bias claims forecloses a strategic option for employers who might seek to evade liability, even in the face of rampant race discrimination among subordinates, through willful blindness as to the source of reports and recommendations."

"We are committed to ensuring that justice is served in this case," said EEOC Phoenix District Director Chester V. Bailey in a statement issued by his office shortly after the appeals court issued its decision. "Unfortunately, race discrimination continues to be a problem in the 21st century workplace, more than 40 years after passage of the landmark Civil Rights Act."

Employment law attorneys say the Supreme Court's ruling could have significant practical consequences for employers.

"While the issues in the *BCI Coca-Cola Bottling* case involve nuts and bolts proof issues, they typically spell victory or defeat for employers in job bias lawsuits," said Gerald L. Maatman Jr., a partner with Seyfarth Shaw L.L.P. in Chicago.

"The Supreme Court will resolve an issue to open the courthouse doors wider or to narrow them in circumstances where employers defend their cases on the theory that discrimination is not present when a neutral decision-maker makes the firing decision," Mr. Maatman said. "Plaintiffs claim the doors to the courthouse ought to be expanded to allow suits where those neutral decision-makers nonetheless rubber stamp the biased decision-making of a subordinate official with direct responsibility for the worker's employment situation. The debate will resolve the conflicting interpretations of the circumstances in which a company is legally responsible for biased decision-making."

"I think it's a very important case," said Philip M. Berkowitz, a partner in the New York office of Nixon Peabody L.L.P. "It represents a very difficult situation where a large company whose decision on whether to terminate somebody needed to be affirmed by a human resources office that might not have direct contact with the individual who's terminated. Companies necessarily rely upon their manager for their recommendations and to tell them the truth regarding an employee's performance problems," he said.

"What this (appeals court) decision makes clear, is that if the manager or the employee reporting the performance problems has an underlying bias, if their decision is tainted with bias, then the company can be liable even if the person who affirms the decision or actually makes the decision to terminate, is untainted by discrimination," said Mr. Berkowitz.

"There's a lot at stake," said Mr. Berkowitz, who noted that the appeals court did indicate how a company can protect itself in such cases.

It's "significant that the court said the employer can avoid liability if the decision-maker conducts an investigation. The court said that simply asking the employee for his or her side of the story can defeat this inference that the decision was racially discriminatory," he said.

The appeals court decision "makes clear that no company can simply rely on the word of supervisor to take an adverse action without taking some measure of investigation to make sure that the decision was not tainted by bias," Mr. Berkowitz said.

"The high court will have a chance to clarify exactly how far an employer's obligation extends in investigating claims" such as Mr. Peters', said Robin Conrad, senior vp of the National Chamber Litigation Center in Washington, which handles litigation for the U.S. Chamber of Commerce.

"The total scope of what they call subordinate liability is an unanswered question," Ms. Conrad said. "There is a split in the circuits and it's really important for employers to know how deep they need to dig in investigating discrimination claims."

Health care: Plan seeks mandatory cover

CONTINUED FROM PAGE 1

pay 2% of revenues.

Because of universal coverage and sweetened Medi-Cal reimbursement rates, health care providers no longer would be stuck footing the bill for uncompensated and under-compensated care provided to patients, which they now try to recover by inflating rates for patients with employer-provided health insurance.

That "hidden tax," as Gov. Schwarzenegger describes it, of provider cost-shifting to insured patients to offset uncompensated costs boosts health insurance premiums by 10%, he said. The burden is even higher when underpayments from Medi-Cal are included, according to an outline of the proposal.

But under the proposed system, providers won't have to continue "loading" their charges. For employers, that will mean "providing health coverage to their employees will be more affordable," the proposal says.

Impact on cost-shifting

That scenario may indeed result in less provider cost-shifting and lower employer costs, some believe.

"Potentially, costs could go down" as more of the uninsured are covered, said Bob Burnett, a principal with Buck Consultants L.L.C. in San Francisco.

"Cost-shifting affects premiums. The more people there are in the system, the more we can keep costs under control," said Bruce Benton, a regional vp with National Assn. of Health Underwriters and an independent insurance agent in Woodland Hills, Calif.

Others, though, say enactment of the proposal might lead to new cost-shifting by providers, who may boost charges to offset costs of the new assessments they would have to pay.

"Everything tells me that will get passed back onto payers" in the form of higher rates, said Ron Mason, a principal in the Irvine,

Calif., office of Towers Perrin.

In addition, there are other key concerns for employers, including a provision that would make it an unfair business practice for employers to differentiate, except as part of a collective bargaining agreement, the premium contributions they make for employees' health insurance coverage.

Such a requirement could make it illegal for employers not to pay for health coverage for part-time employees while subsidizing health insurance coverage for full-time employees.

"Do I have to provide the same benefits to part-timers? That is a big unknown," said Towers Perrin's Mr. Mason.

Paradoxically, such a requirement could have a negative impact on lower-income employees whose employers set a sliding scale for employee premium contributions, in which such contributions rise in tandem with salary. About 8% to 10% of employers, including such well-known companies as Chrysler Group, the big Auburn Hills, Mich.-based auto manufacturer, have such premium-salary linked arrangements, Mr. Mason said.

But experts question whether such a requirement or the 4% assessment on employers would pass legal muster (see related story).

In addition, others wonder whether the employer assessment could lead to a dilution of employment-based coverage.

Some employers might decide it would be cheaper to close their health insurance plans and pay the 4% assessment, said Lea Gerber, director of risk management and benefits at Elixir Industries, a diverse manufacturer in Mission Viejo, Calif.

Health insurers have concerns about other parts of the proposal, most notably one that would require them to use at least 85% of health insurance premiums to provide medical care to health plan enrollees.

Blue Cross of California, a unit of WellPoint Inc. in Thousand Oaks,

EMPLOYER IMPACT

A comparison of fees imposed on employers for employees' health care coverage in a law proposed in California vs. laws in effect in Massachusetts and Vermont.

MASSACHUSETTS

Annual assessment of up to \$295 per employee imposed on employers with at least 11 employees that do not offer health insurance coverage.

VERMONT

Annual assessment of \$365 per employee imposed on employers with nine or more employees that do not offer coverage. Employers exclude eight employees in calculating the assessment. For example, employers with nine employees not offering coverage would pay an annual assessment of \$365, while those with 20 employees that do not offer coverage would pay \$4,380. In future years, assessment will apply to smaller employers.

CALIFORNIA*

Employers with at least 10 employees that do not offer coverage pay assessment equal to 4% of payroll.

* As proposed by Gov. Schwarzenegger

Calif., notes that an "arbitrary" medical loss ratio requirement could be counterproductive in controlling costs.

"Much of a health benefits insurers' administrative effort serves to control costs, such as disease management, care management, anti-fraud efforts and information technology. Ultimately, our goal is to serve our enrollees by controlling costs and improving medical outcomes, not to spend an arbitrary amount on medical care," the insurer said in a statement.

Growing trend

Criticisms aside, California observers say the Schwarzenegger proposal is just that, with many

See **HEALTH CARE** next page

California proposal may face legal challenge

Employer fee raises questions on ERISA

SACRAMENTO, Calif.—Some benefit experts question whether aspects of the California plan are legal.

In particular, they say challenges may arise over one of the foundations of Gov. Arnold Schwarzenegger's plan—the imposition of a 4% assessment on employers that do not offer health insurance plans.

Such assessments, benefit legal experts say, may run afoul of the federal Employee Retirement Income Security Act. The act, which pre-empts state rules and laws that relate to employee benefit plans, could void Gov.

Schwarzenegger's proposed requirement—at least as it applies to self-funded health care plans.

Health insurance plans offered by commercial insurers are not covered by ERISA pre-emption.

In questioning whether California's plan would survive a legal challenge, some experts point to a somewhat similar Maryland law that was struck down last year by a federal judge who said it was pre-empted by ERISA.

The Maryland law required any employer with at least 10,000 employees in the state that did not spend an amount equal to at least 8% of payroll on health insurance to contribute the difference to a state fund that pro-

vides coverage to the low-income uninsured.

The way the Maryland law was written, it would have applied only to retailer Wal-Mart Stores Inc. A federal appeals court is now reviewing the lower court ruling.

"Could (California) even do this?" asked J.D. Piro, an attorney in Norwalk, Conn., office of Hewitt Associates Inc., referring to the 4% assessment. "We are talking about a provision that is quite similar" to the Maryland law, he added.

"This would run the risk of an ERISA pre-emption challenge," said Chris Renz, a principal in the San Francisco office of Mercer Health & Benefits.

—By Jerry Geisel

News In Brief

CONTINUED FROM PAGE 1

New Orleans, according to a spokeswoman for Louisiana Insurance Commissioner James Donelon. The insurer had been considering nonrenewal of about 80% of the commercial coverage that it provides in the area, the spokeswoman said—amounting to about \$2.4 billion in premiums—but revised those plans following negotiations with Mr. Donelon. A spokeswoman for St. Paul Travelers confirmed the 40% reduction, but declined to detail the insurer's original plans.

AIG names diversity officer

American International Group Inc. has appointed Terri D. Austin as chief diversity officer, a new position providing oversight and leadership for the insurer's diversity efforts worldwide. Ms. Austin, formerly chief compliance officer for AIG's domestic brokerage group, will be responsible for expanding and implementing AIG's diversity initiatives in the workforce and those relating to company products, suppliers, vendors and customers. She will be based in New York.

Gamble to step down as head of AIRMIC

The Assn. of Insurance & Risk Managers is setting up a company to promote risk management training. The new company, Risk Publishing Online, will be headed by David Gamble, who will step down as executive director of London-based AIRMIC, a position he has held since 1998. Mr. Gamble's successor has not been named.

Missouri comp reform law upheld

A state judge has upheld a workers compensation reform law supported by employers and adopted by Missouri lawmakers in 2005. Among other changes, the law modified the definition of a compensable accident to include events where work is the "prevailing" factor contributing to an injury instead of a "substantial" factor. Labor groups across the state challenged the law in court by claiming that the law is so unjust that

the workers compensation system should no longer provide an exclusive remedy.

Bowler steps down as Mass. regulator

Julianne Bowler has resigned as Massachusetts insurance commissioner, leaving the vacancy to be filled by newly installed Gov. Deval Patrick. Joseph Murphy, the Insurance Division's first deputy commissioner, was named acting commissioner until the Democratic governor names Ms. Bowler's successor, said a spokeswoman for the Office of Consumer Affairs and Business Regulation, which oversees the Massachusetts Insurance Division.

ACE Tempest Re opens Canadian unit

The ACE Tempest Re Group at ACE Ltd. has created a Canadian subsidiary to write property/casualty reinsurance in Canada. The Montreal-based unit, ACE Tempest Re Canada, is authorized to write reinsurance on behalf of ACE's licensed and admitted Canadian insurance companies. In addition, ACE Tempest Re Canada is a Lloyd's of London-approved coverholder. Constantin Petalas has been appointed president of the new operation. He most recently served as chief executive officer and chief underwriting officer of AXA Re Canada.

Markel forms U.S. unit for onshore energy

Markel Corp. last week announced the launch of a new division within its Global Marine & Energy Inc. unit in Houston, dedicated to U.S. onshore energy risks. Ed Duffy, vp, was tapped to head the new division, which has already begun writing policies with \$10 million in available limits.

Ryder to phase out defined benefit plan

Ryder System Inc. is phasing out its defined benefit pension plan and beefing up its 401(k) plan. Effective Jan. 1, 2008, new employees and employees whose combined age and service are less than 65 will receive retirement savings benefits exclusively through a 401(k) plan. Regardless of whether an employee contributes, the Miami-based truck leasing company will make an automatic contribution equal to 3% of employee pay. About 9,400 of Ryder's 27,000 employees will be affected by the change.

Apple: iPhone legal issues

CONTINUED FROM PAGE 3

are out there using the term iPhone," Mr. Cutner said.

According to the U.S. Patent and Trademark Office's Web site, three companies besides Cisco and Apple have iPhone products, and all three have applied for trademarks.

The Trademark Office's Web site also shows that Cisco last obtained formal trademark registration approval on Nov. 16, 1999. But a spokesman for the office said trademarks must be renewed sometime between the fifth and sixth year after the initial registration has been approved. The Web site does not show any request by Cisco or Trademark Office approval for a renewal.

A Cisco spokesman asserted, however, that the company has "taken all actions necessary" to protect its trademark.

Regardless of the strength of the various legal positions in the trademark infringement case, Apple may face indemnity coverage problems if it eventually turns to insurers to pay any losses, brokers said.

Apple could not be reached for comment on its insurance coverage, but sources note that trademark disputes typically would be covered under professional liability and occasionally under commercial general liability policies.

Apple's negotiations with Cisco "clearly show a fear or acknowledgement that the potential of a claim was present," said Kevin Kalinich, a Chicago-based manag-

ing director of Professional Risk Solutions at Aon Corp.

"So the timing (of a claim notice) is the issue," agreed Ted Doolittle, a principal with Integro Ltd. in San Francisco. Insurers want notice of a claim "as soon as practicable," which means within about 30 days after a policyholder suspects an issue may lead to a claim, he said.

Insurers typically argue that if negotiations between a policyholder and a potential claimant go on for months "and then turn nasty, it's too late" to file a claim notice, Mr. Doolittle said.

Apple's coverage also could turn on its policy wording over what amounts to the organization's state of mind when it introduced its product, Mr. Kalinich said.

If the policy bars coverage for "malicious" trademark infringement, then Apple's coverage likely would not be jeopardized, because of the various questions about Cisco's trademark rights, he said. But, if the policy excludes coverage for "knowingly" violating a trademark, "Apple can't say it didn't know" about Cisco's position, he said.

While Apple could use a defense that Cisco has not protected the iPhone name, the fact that several other companies have applied for a trademark "is going to muddy the water" for Apple's insurer, Mr. Doolittle said. That shows there are many other potential trademark infringement claimants, he said.

"So, I don't know if that argument helps or hurts," he said.

Health care: Calif. proposal

CONTINUED FROM PREVIOUS PAGE

details to be filled in and much negotiating yet to come.

"There is a long way to go, and it will change," predicted Chip Moore, chief human resources officer at Pepperdine University in Malibu, Calif.

Still, many believe that when the dust settles, California will enact legislation that will significantly expand health insurance coverage.

"There is overwhelming support for universal coverage in California," said a spokesman for Blue Shield of California in San Francisco.

"Something could well pass. The timing is right as other states are going in similar directions," said Mercer's Mr. Renz.

Indeed, the Schwarzenegger proposal borrows heavily from what

some call the Massachusetts model, under which low-income individuals' premiums are heavily subsidized by the state in the hope that will prove less expensive than the uninsured using hospital emergency rooms for primary medical care. Massachusetts enacted such a plan last year, with Vermont following a few months later.

"If one state moves forward with a bold plan like Massachusetts, that provides fuel to other states," said Laura Tobler, a health care analyst with the National Conference of State Legislatures in Denver.

At the same time, there is a lot of momentum for such proposals, Ms. Tobler said, adding that survey after survey has found that access to health care coverage is a top issue for the public.

"Lawmakers are responding to that concern," she said.

Stock Index

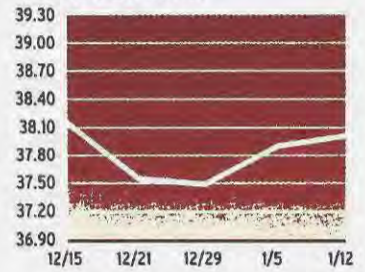
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Up-to-the-minute data for all 82 companies that comprise the BI Stock Index can be found at www.BusinessInsurance.com.

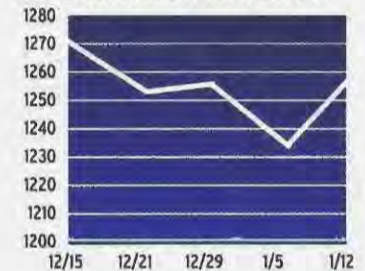
BI STOCK INDEX



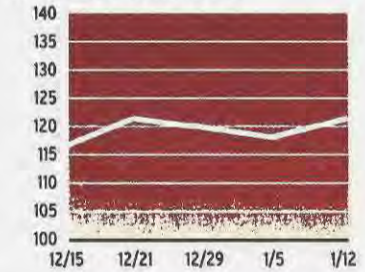
BI BROKERS INDEX



BI INSURER/REINSURERS INDEX



BI MANAGED CARE ORGANIZATIONS INDEX



Percentage change of BI Stock Index vs. key indicators

BI STOCK INDEX	3249.64	▲ 2.03%
DOW JONES	12556.08	▲ 1.27%
S&P 500	1430.73	▲ 1.49%

LARGEST GAINS

Meadowbrook Insurance	9.62%
AEGON N.V.	7.12%
NYMAGIC Inc.	6.99%
AFLAC Inc.	5.66%
AXA	4.98%

LARGEST LOSSES

XL Capital Ltd.	-3.82%
Endurance Specialty	-2.60%
RLI Corp.	-2.60%
St. Paul Travelers	-2.58%
SAFECO Corp.	-2.49%

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Business Insurance

END PAGE

Contributing: Louise Esola,
Rupal Parekh, Sally Roberts

Allstate dips into the world of forgiveness

Nothing says forgiveness like a plunge into the Chicago River; or so Allstate Corp. would like people to think.

As part of a new advertising campaign, the Northbrook, Ill.-based auto insurer dangled an automobile off the 17th floor of one of the famed corn-cob-shaped Marina City Towers overlooking the river in downtown Chicago from Dec. 29, 2006, through Jan. 10.

The move was an effort to "highlight the realities of the road and the need for accident forgiveness" an Allstate spokeswoman said, explaining that "accident forgiveness" is a new insurance feature offered by Allstate that holds rates in place after policyholders get in accidents.

The suspended car, which was held in place by cables, coincides with 30- and 60-second TV commercials that debuted last week during college football's Sugar Bowl, of which Allstate was a first-time sponsor.

The 60-second spot features a car chase scripted to suspenseful music through the Windy City that ends with one of the cars plunging into the Chicago River from one of the cylindrical towers.

"Now would be a good time to have accident forgiveness," longtime Allstate spokesman and actor Dennis Haysbert says in a voice-over after the plunge. "Are you in good hands?"

Allstate's Web site at www.allstate.com has a link featuring a behind-the-scenes footage of the making of the TV spot, including a link to view the plunge from seven different camera angles.

According to Allstate, one car accident occurs every five seconds in the United States.



ERIK UNGER, CRAIN'S CHICAGO BUSINESS

A car only appeared to dangle precariously from one of the Marina City Towers in Chicago, as Allstate Corp. used it as a prop in its recent advertising campaign.

Google perks make it No. 1 place to work

Whoever said there's no such thing as a free lunch—breakfast, dinner, shuttle service to work, or \$500 worth of takeout meals when little junior arrives—never worked at Google.

The Mountain View, Calif.-based Internet giant snagged the No. 1 one spot on Fortune magazine's 100 best places to work for 2007.

A company spokesman said Google is honored to be selected and that Fortune's ratings are mostly based on employee surveys. "We have never forgotten since our startup days

that great things happen more frequently within the right culture and environment," the spokesman said.

Google offers employees, affectionately referred to as "Googlers," a variety of retirement plans, stock options and compre-

hensive health care packages that include onsite physicians, nutritionists, gyms and exercise classes.

But wait, there's more. Google perks that make a job hunter salivate include: unlimited sick days, three free meals a day, free shuttle transportation to and from surrounding cities, onsite dry-cleaning and free laundry rooms, game rooms, maternity and parental leave, access to a childcare center, and up to \$500 in reimbursed takeout meals for new parents within a month after they have a child.

Several insurance industry-related companies also made Fortune's list, including: Vision Service Plan, at No. 23; Ernst & Young L.L.P., No. 25; American Fidelity Assurance Co., No. 47; PricewaterhouseCoopers L.L.P., No. 58; AFLAC, No. 73; Deloitte & Touche USA L.L.P., No. 76; Principal Financial Group, No. 77; Bright Horizons Family Solutions, No. 92; and KPMG L.L.P., No. 97.

'Apprentice' reject to Trump: You're sued

Reality TV isn't getting old—at least for some.

After getting turned down for a spot on NBC's "The Apprentice," in which contestants compete to win a senior-level job with real estate mogul Donald Trump at a salary of \$250,000, R. Joseph Hewett of New Hampshire has leveled charges of age discrimination against Mr. Trump, producers of the show and others.

Over six cycles of the show that began in September 2004, only two of 106 finalists plucked to appear on the show were older than 40, states the lawsuit filed in federal court in Boston.

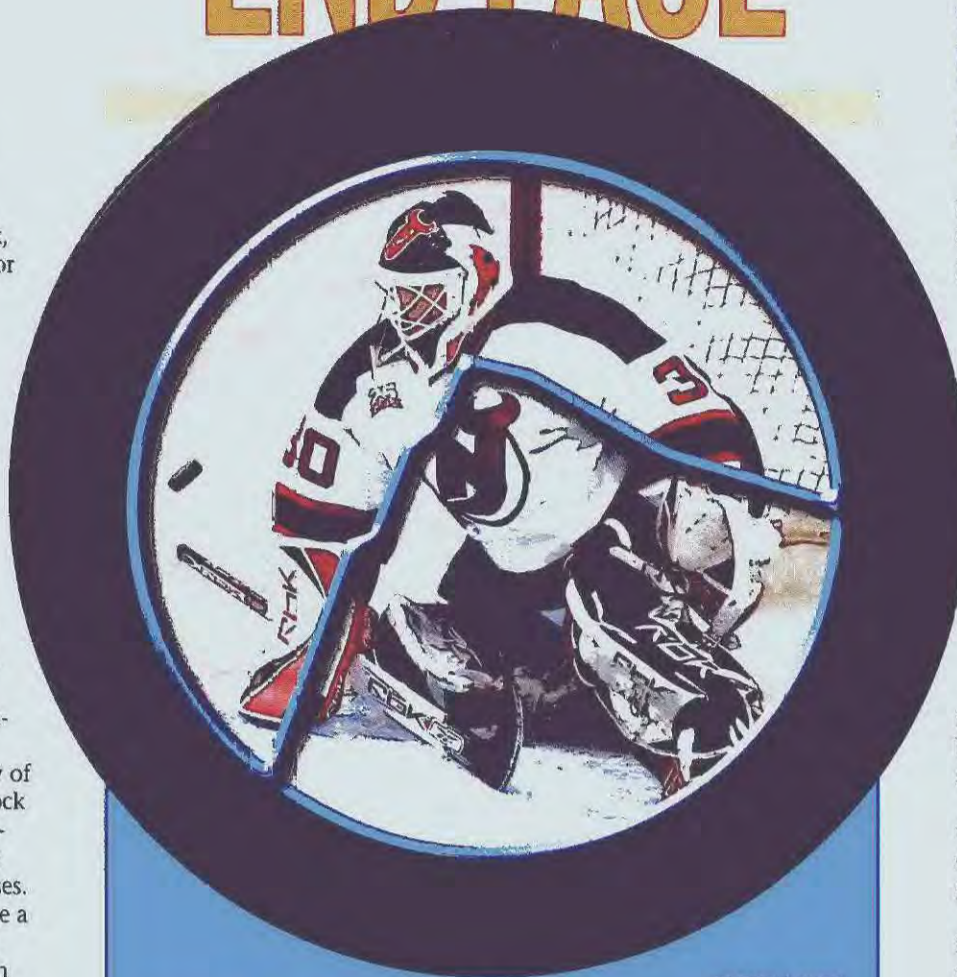
Mr. Hewett was 49 at the time he was rejected in July 2005, according to the suit filed earlier this month that contends the reality show must live up to the real requirement under the Age Discrimination in Employment Act.

"If it's a reality show where real-life job applicants win a real-life job, then Mr. Trump...must obey the law," says a statement at Web site www.stoptrump.org started by Mr. Hewett.

The Web site seeks other rejected contestants 40 and older to join the lawsuit that seeks class action status.

"We have had very few people over a certain age apply to be on the show. If they did and we liked them, we would love to cast them on the show," Mr. Trump said in a statement.

The suit also challenges "illegal questions" such as health history that "Apprentice" wannabes must answer.



REUTERS/LANDOV

New Jersey Devils goalie Martin Brodeur, who keeps a close eye on the puck in a recent contest, soon will play home games at the Prudential Center in a \$105.3 million naming deal.

Prudential plays Devils' advocate with new arena

The New Jersey Devils soon will have a piece of the rock.

Prudential Financial Inc. last week said it will pay \$105.3 million over 20 years for the naming rights to the NHL team's downtown Newark, N.J., arena to be called Prudential Center.

The \$375 million arena, which is under construction, is expected to open this fall and seat 17,625 people for hockey games, 18,500 for basketball games and 19,500 for concerts. Other amenities include a 4,800-square-foot high-definition TV monitor, two high-end club lounges, a bar and terrace area, a 350-seat restaurant, 2,200 club seats and 78 luxury suites.

In addition to the three-time Stanley Cup Champion New Jersey Devils, Prudential Center also will be home to a new Major Indoor Soccer League franchise as well as collegiate and other professional sports, the Newark, N.J.-based financial services giant said in a statement.

"Prudential Center will be a beautiful, new arena that will help bring economic growth, excitement and a championship team to Prudential's hometown of Newark. We look forward to all the benefits it will bring to our community," said Art Ryan, Prudential's chairman and chief executive officer, in the statement.

At a news conference announcing the deal, Mr. Ryan reportedly said he suspects that before long the Prudential Center would be referred to as "The Rock," based on the company's longstanding icon the Rock of Gibraltar.

"That's been our icon for over 100 years and we're not uncomfortable with that," Mr. Ryan reportedly said.



REUTERS/LANDOV



WITH AIG PASSPORT,SM YOUR D&O PROTECTION WON'T GET LOST IN TRANSLATION.

Today's global economy means increased risk for directors and officers of multinational companies. Compliance requirements and regulatory scrutiny are more rigorous. Your existing global D&O policy may not provide enough protection.

Protect your international operations and subsidiaries with AIG Passport,SM a global program with locally crafted Directors & Officers policies in local languages, consistent with local regulations, with local claims support. Most insurers simply aren't able to do this.

Fortunately, the AIG companies can. No D&O insurers cover the world like the AIG companies. With operations in more than 130 countries and jurisdictions around the world, no one has greater knowledge of local laws, regulations and customs than AIG. In fact, the AIG companies have offered locally admitted D&O policies for more than 30 years, longer than many other insurers have been in business.

Why take a chance with your international D&O coverage? The AIG companies' global network and financial strength means your executive liability protection won't get lost in translation.

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