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Late News

XL's Veghte named reinsurance chief

XL Capital Ltd. has appointed James Veghte to the position of chief executive of reinsurance general operations. Mr. Veghte most recently served as chief operating officer of XL's reinsurance operations and president and chief executive officer of XL Reinsurance America Inc. He will replace Henry Keeling, who will continue as head of XL's Global Business Services unit. In addition, Sarah Street, who joined XL in 2001 from J.P. Morgan Chase & Co., has been named chief investment officer designate to replace Christopher Greetham, who will retire from that post in September.

Whistleblower shield doesn't apply overseas

The Sarbanes-Oxley Act's whistleblower protection provision does not apply to foreign citizens working outside of the United States for the

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TO THE BANK

New Acordia chief sees strength in numbers.

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A PENNY SAVED

IRS unveils final rules for Roth 401(k) plans.

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Thirteen miners were trapped deep in the Sago Mine for nearly two days.

Comp for miner deaths written by new insurer

Private company replaced state fund

By MEG FLETCHER

TALLMANSVILLE, W. Va.—The owner of the West Virginia coal mine where twelve miners were killed last week is insured for its primary workers compensation exposure with a private insurer that assumed the business of the state's exclusive comp fund just a day before the accident.

On Jan. 1, Charleston, W.Va.-based Brick-Street Mutual Insurance Co. took over International Coal Group Inc. and other employer clients of West Virginia's former exclusive state fund as part of a privatization effort. The state plans to have a multi-insurer marketplace for workers comp coverage by July 1, 2008.

Early on Jan. 2, an explosion of undeter-

mined origin at the Sago Mine in Tallmansville trapped miners for nearly two days, killing 12 of the men and critically injuring another, who remained in a coma late Friday.

The accident at the mine—which is operated by Ashland, Ky.-based ICG's Wolf Run Mining Co. subsidiary—prompted an investigation by an independent team of mine safety professionals "to determine what caused the explosion and whether any safety and health standards were violated," David G. Dye, the U.S. Department of Labor's acting assistant secretary for mine safety and health, said in a statement.

Currently, surviving families are eligible for workers compensation death benefits equal to

See **MINE** / page 31

Tort reform backers hope to stay on winning streak

By MARK A. HOFMANN

Tort reform advocates hope to maintain the momentum they gained last year as they push their agendas in 2006.

Last year began with enactment of the most comprehensive federal tort reform in recent memory, the Class Action Fairness Act. Now, the two chief federal legislative initiatives being pushed by pro-reform forces are the Lawsuit

Abuse Reduction Act—H.R. 420—and the Personal Responsibility in Food Consumption Act—H.R. 554. Both passed the House, but face uncertain fates in the Senate (*BI*, Oct. 24, 2005).

There's also the unresolved matter of reforming the system by which victims of asbestos-related disease receive compensation, an issue the Senate may take up in the next few weeks.

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IBM to freeze its DB plans to cut costs

IT giant will enhance 401(k) plan in 2008

By JERRY GEISEL

ARMONK, N.Y.—IBM Corp.'s decision to completely freeze its massive defined benefit plans could accelerate what is already a large-scale movement by big employers to close out their plans in favor of beefed-up 401(k) plans, experts say.

Last week, in an announcement that stunned observers, IBM said it would freeze its defined benefit plans—among the largest in corporate America, with \$48 billion in assets—in 2008, with all future benefits provided through an enhanced 401(k) plan.

IBM said the pension revamp in the United States, along with changes it is considering for pension plans it offers to employees in several other countries, could generate between \$2.5 billion and \$3 billion in savings between 2006 and 2010.

The Armonk, N.Y.-based information technology giant said cost control and the need to offer a retirement plan with costs that are closer to its competitors' were the primary drivers behind its decision to freeze its defined benefit plans.

"These changes...will give us more predictable retirement plan costs, along with benefits that remain ahead of—but more in line with—our competitors," Randy MacDonald, IBM's senior vp-human resources, said in a statement.

The phase-out of IBM's defined benefit plans, which are cash balance and pension equity plan designs, comes on top of a change IBM made last year. Under that move, employees hired as of Jan. 1, 2005, are covered only by an enhanced 401(k) plan; existing defined benefit plan participants, though, continued to earn benefits under the plans in which they were enrolled.

Under the latest change, beginning in 2008, former cash balance plan participants will receive a dollar-for-dollar match on the first 6% of pay deferred and an automatic 2% company contribution. PEP plan participants will also receive a dollar-for-dollar match on deferrals, up to 6% of pay, plus an automatic 4% company contribution.

That is a significant enhancement to the

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SPOTLIGHT

PROPERTY/CASUALTY MARKET REPORT

Hurricanes hit many property rates, but the liability market weathered the storms.

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Focus

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*Severe weather cycles
will continue to be a factor
in the hardening property market.*

JANUARY 9, 2006

Stormy weather ahead for the property market



Al Tobin is Aon's national property syndication leader for complex property risks. His team works closely with 50 dedicated property claims experts to provide comprehensive post-catastrophe services. Al can be reached at alfred_tobin@aon.com.

The property market is predicted to harden dramatically as a result of the uncommonly severe 2004 and 2005 storm seasons. In all, 2005 saw a record 14 hurricanes among an unprecedented 26 tropical storms, marked most notably by the devastation wrought by Hurricane Katrina in August. The insurance and reinsurance industries must now face the consequences of the past two years, as well as prepare for what will most likely be a difficult 2006 renewal season.

Many meteorological experts believe that our weather presents itself in cycles. In the 1930s through the mid-1960s, we experienced a cycle of severe weather that lasted 35 years. According to these experts, we are now 10 years into another cycle, meaning the severity of storms is expected to remain constant or to increase. Since property insurance is based on a complex rating system that includes catastrophic event modeling based in part on weather cycles, coverage will no doubt be restricted, prices will rise and the market will continue to harden, especially for those organizations whose businesses are at risk for catastrophic exposure.

Additionally, the property insurance marketplace is supported by the risk-spreading mechanisms of the reinsurance market, which also suffered a reduction in overall capacity related to severe weather. This reduction in capacity, coupled with increase in demand, is driving significant reinsurance cost increases for many organizations. Amid this dynamic change, the general landscape of property insurance and reinsurance is shifting in two important ways. In the near term, there is a potential \$20 billion in new capital entering the reinsurance market in 2006 in the form of additional equity raised by established insurance companies and several new startup companies.

It remains to be seen whether that capacity will reach the marketplace in time for January 1, 2006, renewals. From a longer-term perspective, as property insurance evolves into an extreme-event risk management industry, we are developing a more anthropogenic focus regarding weather-related trends, historic events and shifts in climate as we strive to stay ahead of these risks.

Organizations should prepare now to develop the necessary strategies to understand the changes in the property insurance market and obtain adequate insurance at affordable costs. For example, organizations can take advantage of alternative products, such as captives, to efficiently access insurance, reinsurance and capital markets. Organizations should also conduct comprehensive benchmarking and obtain consistent access to information resources, such as insurance company data, to make informed decisions on property insurance coverage. A particularly effective strategy is the use of advance natural catastrophe perils modeling as part of the renewal process. Advance modeling enables companies to understand how underwriters will underwrite specific risks for catastrophic exposure. These tools, coupled with an in-depth market analysis, provide the baseline to develop cost-effective placement strategies.

Organizations must make sufficient investments to formulate a successful marketing strategy and create a framework for successful execution. By making those investments, businesses will be positioned to achieve the best possible outcome in what will most likely be a challenging 2006 property insurance market.

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

To stay competitive, companies must develop key employee rewards, benefits

Many organizations expect to lay off workers in 2006, and, according to new research, more than a quarter of these companies may part with employees without providing severance pay. Of nearly 500 major organizations surveyed, results show that 28 percent of companies are planning layoffs in the new year, and 30 percent don't have formal severance plans in place. Experts warn that in today's volatile and competitive job market, attracting and retaining top employees means companies must offer key rewards like severance plans and other benefits. For more information, visit www.aon.com/focus.

Businesses take steps to identify risks, liabilities of new Internet service

With 939 million Internet users around the world, connectivity is essential to nearly all businesses and governments, as well as many homes. Utility companies are leveraging a new Broadband Over Power Lines (BPL) service, which provides access to high-speed broadband services using existing utility and power networks that other broadband competitors cannot match. However, with this expansion into new service lines, utilities and the businesses they serve must take steps to understand the risks and potential liabilities associated with BPL. One key risk is greater cyber security exposure. For further insight, read Broadband Over Power Lines: Exposures and Solutions at www.aon.com/focus.

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Dominican Republic shifts approach to disasters

New emphasis on preparation moves away from recovery-focused approach. Page 4

Heinz seeks to use captive to reinsure group term life

The food company is the latest to join a growing benefits-funding trend. Page 4

Calif. Democrats push for workers comp law revamp

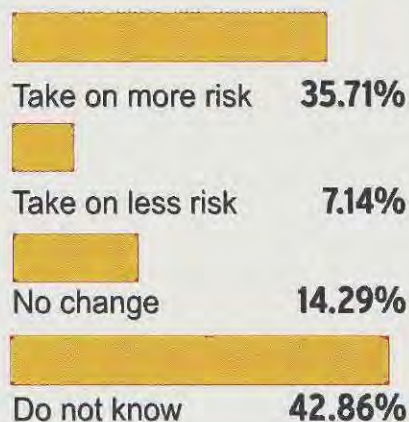
Lawmakers seek to water down some reforms passed in recent years. Page 4

IBM move shows state of defined benefit plans

Move to freeze DB plans is more evidence that the system is in trouble. Page 8

Online poll - [1/2 - 1/6]

Compared with 2005, will your organization's captive in 2006:



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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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New Acordia CEO Wissinger banking on strength of integrated Wells Fargo units

By SALLY ROBERTS

CHICAGO—Wells Fargo & Co. has some lofty goals when it comes to the insurance industry—namely becoming the world's largest insurance brokerage.

To do this, the banking giant last month said it was integrating all of its insurance operations under the leadership of Peter J. Wissinger, a 20-year Wells Fargo veteran who officially took over the helm as president and chief executive officer of Chicago-based Acordia Inc. last week.

The 51-year-old former head of Wells Fargo Home Mortgage also will continue to oversee St. Louis Park, Minn.-based Wells Fargo Insurance Inc., which is the bank's personal lines agency, and Minneapolis-based Rural Community Insurance Services, its crop insurance managing general agency, which he was given responsibility for in 2004.

Executives say the management change was not due to any disappointment in Acor-



Mr. Wissinger

dia's performance or in the performance of its immediate past chief executive, Kevin W.

Conboy, but was simply made to align the bank's insurance practices under one senior leader.

"We felt we really needed to put them under a consolidated control, but that control really needed to be led by Acordia, because Acordia is really our franchise in the insurance business," said Dave Zuercher, Acordia's chairman and head of international and insurance services for Wells Fargo in Los Angeles.

"By having all three businesses report to one officer, we can force faster synergies and leverage across the skills and scales that exist in all the business," Mr. Wissinger said. Whether that's technology or vendor management, "we can just become more efficient and more effective by leveraging the infrastructure that's there vs. replicating it times three."

And after spending the past 18 months cre-

See ACORDIA / page 28

Final regulations provide guidance on Roth 401(k)s

By JERRY GEISEL

WASHINGTON—The Internal Revenue Service is moving to clear the way for employers to offer a new type of tax-favored 401(k) plan, but plan adoption is likely to be slow.

Named after William Roth, a former chairman of the Senate Finance Committee, Roth 401(k) plans, which have been allowed since Jan. 1, require participants to make aftertax contributions.

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

The final IRS regulations, released late last month, largely affirm both the requirements laid down by the Economic Growth & Tax Relief Reconciliation Act—the 2001 federal law that authorized Roth 401(k) plans effective Jan. 1, 2006—as well as earlier rules the IRS proposed.

Among other things, the rules make clear that employers must keep traditional 401(k) and Roth 401(k) accounts separate, but that the contributions to the plans will have to be combined when employers run the basic nondiscrimination test that compares contributions made by

highly compensated and rank-and-file employees. To pass that test, the average deferrals of higher-paid employees, as a group, generally cannot exceed the deferrals of lower-paid employees by more than two percentage points.

The final rules, affirming the earlier rules, make clear that be-

"There are a lot of nitty-gritty tax questions that still have to be addressed."

Rich Koski
Buck Consultants Inc.

fore a contribution is made, the employee has to designate whether the contribution is for the Roth portion of the plan or for the traditional 401(k) plan.

Employees also have to decide and notify their employers how much of their contribution will go into the Roth 401(k) and how much into the traditional 401(k) plan. Any combination is allowed, as long as the total contribution doesn't exceed the overall

ULR pays \$2 million to settle Spitzer suit

NEW YORK—Defunct life and disability insurance broker Universal Life Resources and its chief executive officer, Douglas P. Cox, have paid \$2 million to settle charges that ULR took undisclosed contingent commission to steer clients' business to certain insurers.

New York Attorney General Eliot Spitzer and the New York Insurance Department leveled the allegations against San Diego-based ULR in November 2004. A complaint filed by Mr. Spitzer charged that ULR received undisclosed fees to channel business to several large life insurers, including Metropolitan Life Insurance Co., Prudential Insurance Co. of America and UnumProvident Corp. ULR also collected inflated fees from insurers for "communications services," such as printing informational materials, the cost of which the insurers then passed on to plan participants in the form of higher premiums, the suit alleged.

Under the Dec. 30 settlement, Mr. Cox paid \$2 million into a fund to compensate group insurance clients whose policies inception or renewed between Jan. 1, 1999, and Dec. 31, 2004. Mr. Cox is to calculate the amount due each eligible policyholder and report the amounts to New York insurance regulators, and notification letters will go out to eligible clients by Feb. 1. Clients will have until May 1 to request a distribution from the fund, and the money will be distributed by June 1.

Mr. Cox also agreed that he will no longer collect contingent commissions or other forms of payment from insurers when acting as a broker, and agreed that his compensation will consist only of fees or commissions paid by clients, a copy of the settlement agreement shows. ULR shut down in July 2005, several months after being sued by Mr. Spitzer and California Insurance Commissioner John Garamendi. Mr. Cox now operates a Web-based benefits consulting business, selfmanagedbenefits.com.

In settling the New York complaint, Mr. Cox neither admitted nor denied Mr. Spitzer's charges.

The ULR settlement is the smallest so far by a broker charged with contingent commission abuses. Previous settlements have ranged from \$27 million for Arthur J. Gallagher & Co. to \$850 million for Marsh & McLennan Cos. Inc.

—By Douglas McLeod



Mr. Spitzer

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Caribbean nation changing outlook on disaster preparation

Dominican risk management gets international aid

By MICHAEL BRADFORD

SANTO DOMINGO, Dominican Republic—The Dominican Republic is changing its approach to disaster risk management by preparing for calamities rather than emphasizing recovery efforts after hurricanes, floods, earthquakes and other catastrophes that have killed thousands and cost the country billions of dollars in damages.

While large multinationals in the Caribbean nation are said to follow state-of-the-art risk management and disaster preparedness procedures, the government of the Dominican Republic, like many others in Caribbean countries, has not been aggressive in protecting the nation's communities and infrastructure from nature, sources say.

The Dominican Republic is a frequent target of natural disasters. Hurricanes and windstorms have killed and injured more than 15,000 and cost around \$2.6 billion in insured and uninsured damages in the past 75 years, according to the World Health Organization's Collaborative Centre for Research on the Epidemiology of Disasters. Floods have killed and injured around 3,800 over that same period and cost \$44.7 million in damages, the research center says.

Disaster preparedness help has arrived in the Dominican Republic in the form of a \$5 million loan and technical assistance from the Washington-based Inter-American Development Bank, which provides lending, research and other services to Caribbean and

Latin American countries.

Under a program executed by the Dominican Republic's National Planning Office, the money will be used to help develop a national strategy for risk management aimed at reducing losses from natural disasters.

The first beneficiaries of the program will be several municipalities and schools.

"It will start in eight municipalities," said Caroline Clarke, senior specialist in disaster prevention and risk management at the Inter-American Development Bank. "They were selected because they are large, medium and small and a cross-section of the hazards they are facing."

Ms. Clarke explained that part of

See RISK / page 6



Hurricane Georges devastated parts of the Dominican Republic in 1998. The Caribbean nation is taking steps to develop a national strategy for risk management to help reduce losses from natural catastrophes.

Heinz catches up with growing trend of captive benefits

By JERRY GEISEL

WASHINGTON—One of the nation's best-known consumer food products manufacturers is asking the Labor Department for permission to fund employee benefit risks through its Vermont captive, while the U.S. affiliates of a huge U.K.-based pharmaceutical company have received regulatory clearance to do the same.

Last month, Pittsburgh-based

The company now uses its captive to fund a variety of property/casualty risks for Heinz and related companies. In its most recent fiscal year, Heinz-Noble generated just over \$13 million in net premiums.

In its application, Heinz said the transaction would enable its term life insurance plans to provide benefits "in a cost-effective manner."

Meanwhile, last week, the Labor Department gave final approval to the U.S. affiliates of AstraZeneca P.L.C. to fund benefit risks through the pharmaceutical manufacturer's 11-year-old Vermont captive, A-Z Mont Insurance Co.

AZ-Mont will reinsure long-term disability policies written by Metropolitan Life Insurance Co. and life insurance and accidental death and dismemberment policies written by Prudential Insurance Co. of America. MetLife will retain 10% of the LTD risk, while Prudential will fully reinsure the life and AD&D risk with A-Z Mont.

A-Z Mont now is used by AstraZeneca to fund property/casualty risks in the United States and Canada. Last year, A-Z Mont, which is owned by AstraZeneca U.K. Ltd., the main operating unit of AstraZeneca P.L.C., generated about \$15.5 million in premiums. Funding life insurance, AD&D and LTD risks for more than 12,000 participants will funnel about \$3.8 million in additional premiums to the captive.

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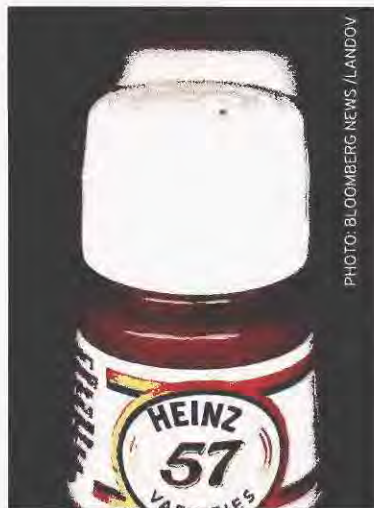


PHOTO: BLOOMBERG NEWS / LANDOV

A.J. Heinz Co. filed an application with the Labor Department to use its Vermont captive, Heinz-Noble Inc., to reinsure group term life insurance policies written by Minnesota Life Insurance Co. The transaction would cover about 9,300 individuals, mostly hourly employees and retirees.

Heinz, which in 2004 generated more than \$8.9 billion in revenues, has about 41,000 employees worldwide, including more than 10,000 in the United States.

Appeals court rejects AWI's plan to resolve asbestos liabilities

By DOUGLAS MCLEOD

PHILADELPHIA—A federal appellate court has upheld a ruling rejecting a Chapter 11 reorganization plan aimed at resolving Armstrong World Industries Inc.'s massive asbestos liabilities.

A panel of the 3rd U.S. Circuit Court of Appeals ruled late last month that the provisions of the AWI plan violate bankruptcy rules by granting stock warrants to AWI's parent company before asbestos and other higher-priority claimants are paid in full. The ruling affirmed a federal district court's decision

in February 2005.

In a statement, Armstrong Holdings Inc., AWI's Lancaster, Pa.-based parent, said it "has been investigating other options to resolve this Chapter 11 case with the representatives of its creditor groups," but that it cannot predict when AWI may emerge from reorganization.

The company also noted that federal asbestos reform legislation, if adopted by Congress, could "substantially affect" AWI's liabilities.

After asbestos claims forced it into bankruptcy in 2000, AWI proposed an amended reorganization

plan in 2003 that would have paid \$1.8 billion into a trust for current and future asbestos claimants and that would have allowed other unsecured creditors to recover 59.5% of their \$1.65 billion in claims. The plan also provided that new AWI stock warrants worth an estimated \$35 million to \$40 million would be granted to Armstrong Holdings or an intermediate holding company of AWI. If AWI's unsecured creditors rejected the plan, it provided that the warrants would go to the asbestos claimants, who in turn

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California lawmakers take aim at workers comp law reforms

By ROBERTO CENICEROS

SACRAMENTO, Calif.—California legislators returned to work last week with key Democratic lawmakers vowing to revamp portions of the workers compensation reforms that have helped insured and self-insured employers slash costs.

Additionally, the state attorney general's office last week received proposals for three ballot initiatives seeking to water down the reforms signed into law in 2003 and 2004. The attorney general's office must prepare a title and summary before proponents can circulate petitions to qualify the proposed initiatives for voter consideration.

Among other changes, the three proposals seek to allow injured employees to sue employers outside

the workers comp system, to give injured workers the right to seek medical care outside of the provider networks established by insurers and employers, and to increase disability benefits.

But the proposals face substantial hurdles before becoming initiatives that are put before the public, noted Dominic DiMare, vp-government relations for the Sacramento-based California Chamber of Commerce. For now, they are not a large concern, Mr. DiMare said.

It remains unclear if any organized groups are backing the proposed initiatives, with the title and summary request submitted only by a registered voter named Danielle L. Viohl.

How much headway legislators can make in their efforts to revamp

the reforms also remains to be seen, observers say.

But legislators hear daily complaints about insurers denying adequate benefits to injured workers, said a spokesman for Assembly Speaker Fabian Nunez, D-Los Angeles. It's a "front-burner" issue, he added.

Attacking post-reform regulations for awarding permanent partial disability benefits is on legislators' political front burner, agreed a spokeswoman in Sacramento for the American Insurance Assn. Labor union and applicant's attorneys have attacked the reforms or the administrative regulations that govern their implementation, which have helped reduce average workers

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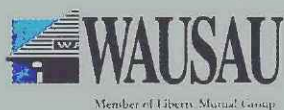
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Risk: Dominican Republic looks to manage risks

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the \$5 million will be used to fund a pilot project to conduct risk evaluations and simulate disaster scenarios for the municipalities. The money also will be used to train local emergency personnel, create information systems, devise public awareness campaigns and buy emergency response equipment.

A second pilot project will help schools protect their facilities and prepare students to respond to catastrophes in their communities. Around 5,000 teachers will be trained to educate students about natural disasters and risk reduction. About 500 schools will receive basic emergency response equipment.

The education sector is "a little further along" than municipalities in disaster preparedness, said Ms. Clarke. "They have had for some

time a school safety program" that gives students some education in responding to disasters, she said. Under the pilot project, much of the funds will go to determining how to build and maintain school facilities to withstand disasters such as floods and windstorms.

The knowledge gained from the pilot projects is expected to be shared with the remaining municipalities and schools to further strengthen the nation's preparedness.

Risk management among municipalities in the Caribbean and Latin America generally is considered weak, sources say, while multinationals in the region tend to give preparedness a lot of attention.

The government in the Dominican Republic has generally been "very reactive, not proactive" with

regard to disaster risk management, said Alejandro Marmorek, Miami-based director of Aon Corp.'s Latin American and Caribbean global business unit.

And throughout the Caribbean, "it's very much the same," said Mr. Marmorek. The Cayman Islands government has taken a more aggressive disaster preparedness stance in recent years, but other Caribbean countries have not, he noted.

Mr. Marmorek called the bank loan and the Dominican Republic's moves toward disaster preparedness "a very good step," and he said he hopes the country's government will not attempt to handle the effort alone but will reach out to preparedness experts and consultants who can help.

Ms. Clarke said the risk management attitude of most Caribbean countries is "essentially, cross your fingers and hope it doesn't happen. And when it does, you go to the international community" for assistance, she said.

Mr. Marmorek pointed out, though, that large multinationals that have facilities in the Dominican Republic bring sophisticated risk management standards to the country. Those companies take pains to adhere to loss control standards in place at all their sites worldwide, he said.

Mr. Marmorek referred to Verizon Inc., an Aon client, as one large multinational with a facility in the Dominican Republic that has taken care to make sure it is well protected from the threat of natural disasters.



A man sits on the remains of his home in the Dominican Republic village of Samana, which was hit by a tropical storm in September 2004.

Asbestos: AWI reorganization set back by stock warrants ruling

Continued from page 4

would automatically transfer them to Armstrong Holdings.

The unsecured creditors later objected to the plan, arguing that it favored AWI's parent, the lowest-priority creditor, over higher-priority claimants whose claims would not yet have been fully paid. Those objecting were also motivated by the Fairness in Asbestos Injury Resolution Act, then pending in Congress, which would have cut AWI's asbestos liabilities to between \$520 million and \$805 million and would have freed \$1 billion or more from the asbestos trust for distribution to other creditors, court filings say.

Though a federal bankruptcy judge in Wilmington, Del., recommended approval of the plan in December 2003, a U.S. District Court judge in Wilmington rejected it early last year, citing the stock warrant provision.

In a ruling late last month, the 3rd Circuit appeals panel affirmed the district court, finding that the warrants violate the "absolute priority" rule in bankruptcy law against favoring lower-priority creditors.

"We recognize that the longer that the reorganization process takes, the less likely that the purposes of Chapter 11 (preserving the business as a going concern and

maximizing the amount that can be paid to creditors) will be fulfilled. Nevertheless, we conclude that the absolute priority rule applies in this case," the panel wrote.

Babcock & Wilcox plan recommended

Separately, a federal bankruptcy judge in New Orleans has recommended approval of a Chapter 11 plan filed by Babcock & Wilcox Co., the company's parent, New Orleans-based McDermott International Inc., announced.

The plan must now be confirmed by a U.S. District Court judge in New Orleans and obtain McDermott shareholder and other approvals before becoming effective by its Feb. 22 target date.

Last August, McDermott and Babcock's asbestos claimants agreed on the plan, under which McDermott would pay \$350 million into an asbestos trust and assign it the rights to the company's insurance recoveries.

Babcock and McDermott would also provide contingent funds of \$250 million and \$355 million, respectively, on condition that no federal asbestos reform legislation has been enacted by Nov. 30, 2006. If reform legislation is passed, the contingent obligations would be canceled.

California: Workers comp laws face fresh round of challenges

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comp rates by more than 30% in California.

Utilization review is also likely to come under attack, as California doctors complain that national insurers providing coverage can now have doctors in other states provide the review services, the AIA spokeswoman said.

Changing workers compensation laws is "far from certain it's going to be the big deal some people say it's going to be."

Dominick DiMare
California Chamber of Commerce

The AIA spokeswoman said she expects several bills to be introduced this session.

Mr. DiMare acknowledged that he expects parties unhappy with aspects of the reforms to make a lot of noise. He said, though, that their potential for success remains unclear, because other issues will be competing for interest

groups' attention.

For example, with Gov. Arnold Schwarzenegger considering a massive infrastructure funding measure, labor could focus mainly on jobs creation concerns, Mr. DiMare said.

"There are some people out there who might think" changing the workers comp system is currently a big deal, Mr. DiMare said. "But for me right now, it's far from certain it's going to be the big deal some people say it's going to be."

Even if legislators act to make changes, there is no indication that the governor would deal away workers comp reforms, Mr. DiMare said. After all, passage of the reforms has been the biggest accomplishment of his tenure.

Tweaks vs. major change

VotersInjuredatWork.org, a group representing injured workers and partially financed by applicants attorneys, realizes that tweaking the system rather than making major changes may be their best bet, said Peggy Sugarman, the organization's director.

She acknowledged that the governor is not likely to overturn his landmark legislation.

To that end, Ms. Sugarman said she hopes a compromise can be reached with employers and insurers, rather than having to resort to a full-scale political battle.

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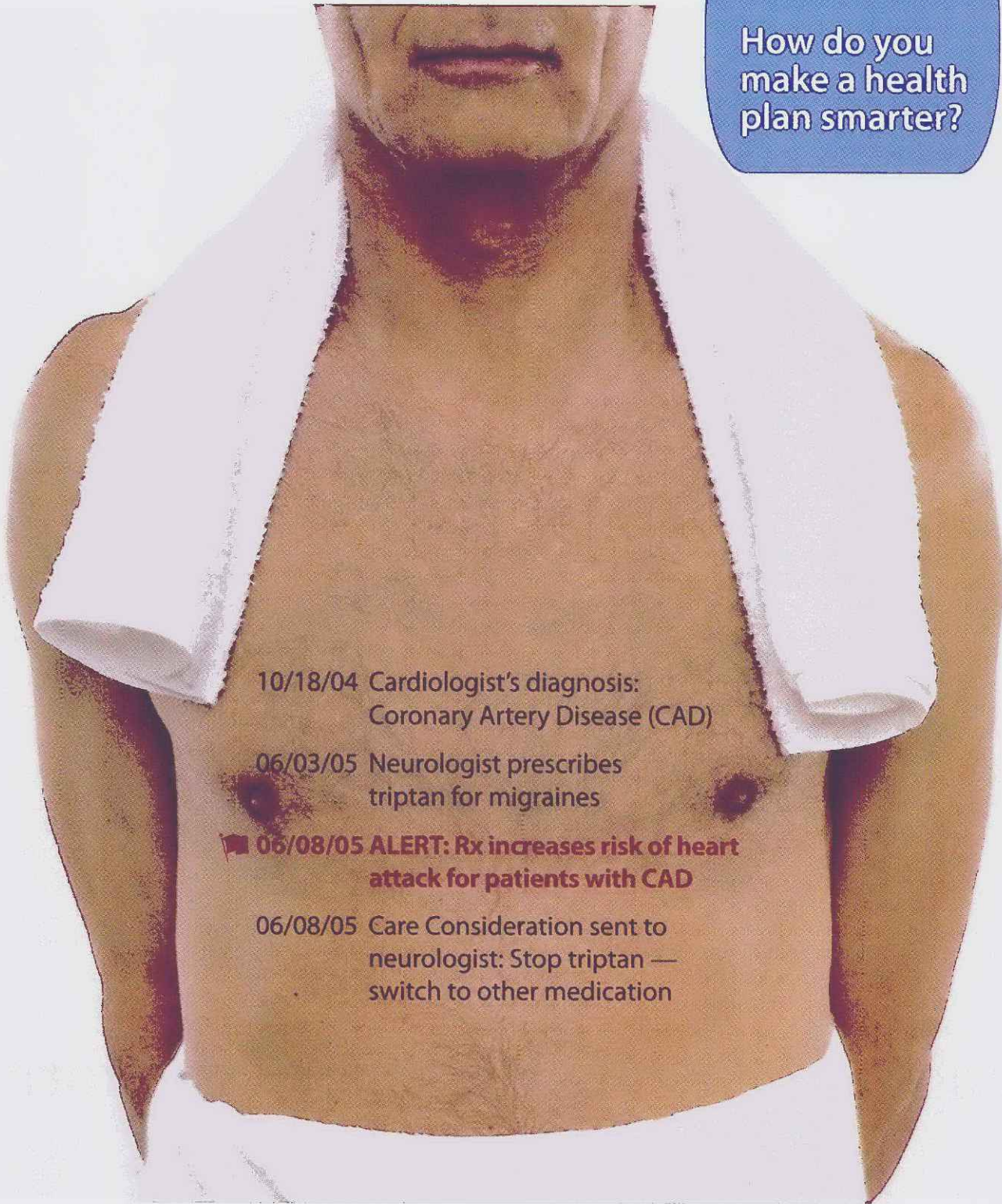
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Editorial

Think twice before ending defined benefits plans

IF ADDITIONAL EVIDENCE IS needed to show how rapidly the nation's defined benefit plan system is eroding, last week's announcement by IBM Corp. that it is freezing its plans should provide it.

IBM, after all, isn't just some employer. It is not only one of the country's best-known—as well as biggest—corporations; it also is a company whose employee benefit plans have been regarded as a symbol of corporate generosity.

If IBM, whose financial resources are immense, says its needs to move away from defined benefit plans and toward defined contribution plans to keep benefit costs more in line with its competitors, surely many other employers have to be considering such a move.

Indeed, IBM already has plenty of corporate company. Verizon Communications Inc., Lockheed-Martin Corp., Hewlett-Packard Co. and Sears Holdings Corp.—just to name a few—also in recent months have announced they are phasing out their defined benefit plans.

Benefit plan changes are, to be sure, common in corporate America. Benefit plans that once made perfect sense, may, due to factors such as workforce demographic changes, cease to be suited to a company's needs. A pension

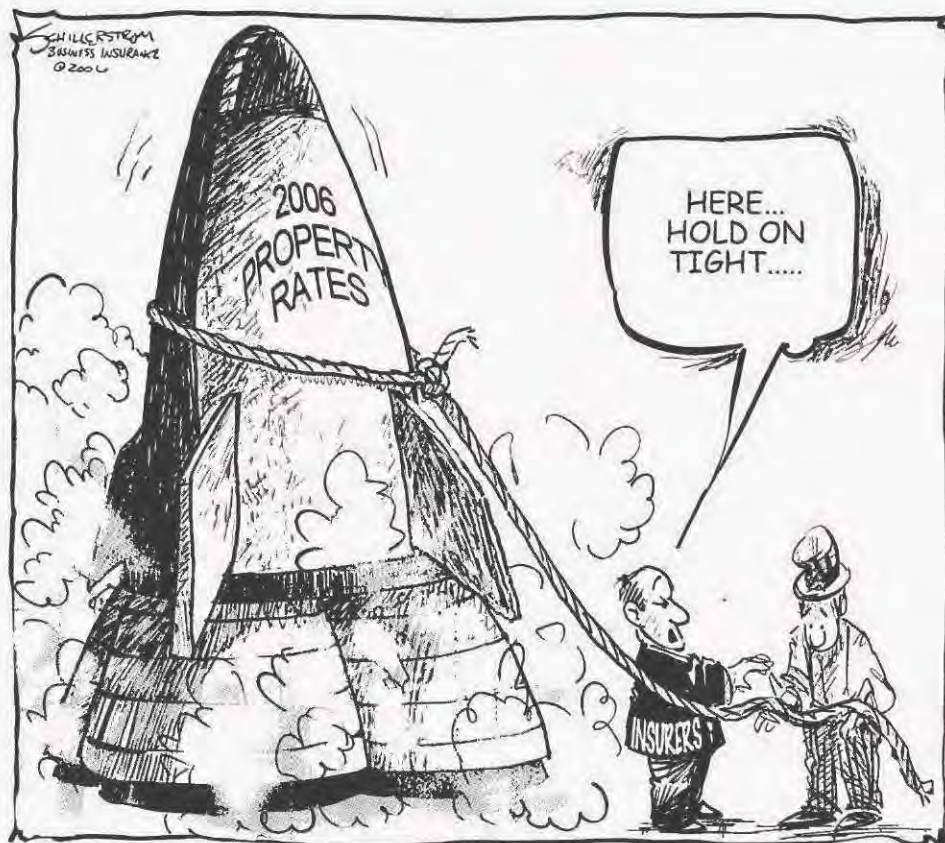
plan whose formula heavily subsidized early retirement benefits as a way of encouraging employees to retire at relatively young ages obviously would no longer be appropriate if an employer—because of a shortage of experienced employees—wanted to retain such workers.

That said, we do have concerns about the move away from defined benefit plans. In particular, we wonder whether companies have fully considered the ramifications of such actions. Yes, jettisoning a defined benefit plan in favor of an enriched 401(k) plan may cost less and transfer investment risk to employees—no small issues.

Conversely, though, if employees don't save enough through their 401(k) plans—a real-world possibility—they could, due to economic necessity, keep working past their productive years. Or, if their defined contribution plan account balances balloon because of savvy investments, employers could lose through retirement those employees they most want to retain.

In short, there are many issues for companies to consider before deciding the fate of their defined benefit plans, and those issues can be resolved only through careful and broad analysis.

Schillerstrom



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Senate passage of LARA would keep tort reform rolling

LAST YEAR WAS among the most rewarding that tort reform advocates have experienced in a long time. We certainly hope they can build on that success this year.

In 2005 Congress passed and President Bush signed the most comprehensive federal tort reform in memory—the Class Action Fairness Act. CAFA—like most recent tort reform legislation—originated in the House. But unlike most recent tort reform bills, CAFA did not die in the Senate.

The Senate has a chance to further that positive trend by taking up another piece of common sense civil justice reform legislation

approved by the House—the Lawsuit Abuse Reduction Act—as soon as possible.

Where CAFA brought some needed balance to the theory and practice of class action lawsuits by allowing class actions in which the defendants and plaintiffs are from different states to be moved to federal from state courts under some circumstances, LARA would do the same for curbing frivolous lawsuits by requiring judges to impose sanctions on the lawyers who brought such suits.

LARA would also help rein in what reform advocates have long branded as abusive “forum shopping.” That occurs when attorneys

seek the most plaintiff-friendly jurisdictions in which to sue, even if the connections among venue, plaintiffs and defendants are tenuous at best. LARA would allow suits to be filed only in the jurisdiction in which the plaintiff lives, where the injury occurred or where the defendant has its principal place of business.

We know that LARA will be a tougher sell in the Senate than it was in the House. To win Senate approval, LARA may also have to be scaled back, such as by making sure that its venue-shopping provisions apply only to interstate—rather than intrastate—actions.

That would certainly be an acceptable change.

LARA won't be the first piece of new business to be considered by the Senate. Senate Majority Leader Bill Frist has already said that distinction will go to a bill that would establish a national no-fault trust fund to replace the current litigation-based system for compensating victims of asbestos-related disease. But we truly hope that consideration—and passage—of LARA won't be far behind. By doing so, the Senate could set the stage early for another notable year for tort reform.

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Spotlight

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Storms bring tough times for property cover buyers

By SALLY ROBERTS
and MARK A. HOFMANN

If property underwriters had played Santa Claus this holiday renewal season, many risk managers probably would have found lumps of coal in their stockings.

Last year's unprecedented hurricane losses hit the reinsurance market hard, and ceding underwriters were moving quickly at the end of the year to pass their significant treaty rate hikes on to renewing buyers and pulling back from the market.

As a result, risk managers with catastrophe-exposed accounts are seeing high double-digit rate increases on their year-end renewals, which in many cases are still in the process of being completed, underwriters and brokers say.

But not all is doom and gloom.

At least one broker said he continued to see some rate reductions on property accounts in mid-December. And while underwriters are attempting to pass rate increases on to noncatastrophe-exposed accounts, brokers say there is some

PROPERTY RENEWALS

optimism that underwriters might redeploy their catastrophe capacity to noncatastrophe business, keeping supply and, therefore, rates in check on those accounts.

But observers say, in general, that before the market gets any better, it's going to get worse.

"It's tough and going to get decidedly tougher in '06," said Gary

Marchitello, head of Integro Ltd.'s property insurance practice in New York.

From the time that Hurricane Katrina struck until now, "you're probably seeing average rate increases of 20% or more and some retention adjustments or deductible adjustments," Mr. Marchitello said. But with a marked decrease in the supply of catastrophe coverage, "I think you could see average increases in excess of 50%" throughout 2006, he said, particularly for those accounts with large catastrophe components and those that took big losses with the hurricanes.

"Compared to this time last year, we are seeing increases across the board for even the most benign risks, and for those with catastroph-

See PROPERTY / next page

D&O rates moderate, but increases loom

By DAVE LENCKUS

Risk managers are finding a relatively stable directors and officers liability insurance market during January renewals, with minimal rate movement, ample capacity and no significant problems with terms and conditions, according to market executives.

"Stabilization is the buzzword these days," said Gary Dubois, chief underwriting officer at New York-based Liberty International Underwriters, a unit of Liberty Mutual Group Inc.

But by midyear, a tighter reinsurance market likely will firmly stabilize the primary market and drive up rates 10% to 20% for the toughest D&O risks, market executives say.

If the rate increases come through, that would mark a market turnaround from early 2004 through mid-2005, when, despite

higher loss severity and frequency, ample capacity helped fuel a competitive market.

Market executives' estimates of worldwide capacity range from \$1 billion to \$1.7 billion.

D&O RENEWALS

Some account churning, triggered by investigations into alleged illegal activities surrounding contingency commissions, also fostered market competition, said Tony Galban, senior vp and global D&O product manager at Warren, N.J.-based Chubb Specialty Insurance, a unit of Chubb Corp.

But rates "should stabilize" now, Mr. Galban said. "They've been headed that way the last half of the year."

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Rate increases for reinsurance prove narrower than expected

By JUDY GREENWALD
and SARAH VEYSEY

Reinsurance rates increased significantly during the January renewals for property catastrophe accounts that had losses in 2005, but the across-the-board increases many expected never materialized, say reinsurers and intermediaries.

They warn, though, that the market may harden further with midyear renewals.

As a result of last year's catastrophe losses, "I think there was a sense in the market that rates would go up rather dramatically across the board," said Richard DiClemente, president of New York-based THB Intermediaries Inc., a reinsurance broker.

Instead, there have been selective increases in cat business only, "and it has not moved into other areas of the marketplace," he said. "I think people are quite surprised at this

point," he said. They "felt losses of that magnitude would bring about changes in the general marketplace."

REINSURANCE RENEWALS

Gregory T. Doyle, Shelton, Conn.-based executive chairman of BMS Vision Re, a reinsurance intermediary, agreed. "My sense is that reinsurers had more of an expectation of a broad, almost across-the-board rising of rates, not just in property but in all lines, and, clearly, that has not been the case here as of Jan. 1, 2006, renewals."

Mr. Doyle said that even though the market experienced loss activity in 2005 that went well beyond that seen in the terrorist attacks of 2001, "the underlying financials were much better in the industry, and I think that's probably the funda-

mental reason why we haven't seen across-the-board price increases."

The market has not reacted "as one to the storms of 2005 and raised rates across the board," noted Seymour Matthews, managing director of the reinsurance division at broker Heath Lambert Group in London. Cedents with U.S. wind-storm exposure were charged significantly more for their reinsurance coverage at the Jan. 1 renewals, he said, but buyers with exposure in areas of the world less prone to catastrophes were not subject to large rate hikes.

Buyers of property reinsurance in some European areas, such as the United Kingdom and Northern Europe, which do have storm exposure and saw some storm-related losses last year, did experience rate increases, Mr. Matthews acknowledged.

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Property: Hurricanes drive up rates, with cat-exposed accounts hit hardest

Continued from previous page

ic exposures, we're seeing increases in the 15%-plus range," said Alexandra Glickman, managing director and practice leader of Arthur J. Gallagher & Co.'s Gallagher Real Estate & Hospitality Services in Glendale, Calif. "Fifteen percent is minimum; if there were losses due to the recent storms or a substantial concentration in quake or wind, the increases easily reach 25%-plus."

"No matter where I go or who I ask, it seems pretty unanimous that (property) rates in the industry are expected to rise and, depending on who you ask, it's anywhere between 10% and 50%," said Randy

Schreitmüller, a vp at Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global.

On average, FM Global accounts may see rate increases of 10% to 12% in 2006, Mr. Schreitmüller said. Accounts with natural catastrophe exposures will probably see more than that.

"It's developing as markets see their treaty costs increase," he said. "Ours renewed July 1," and that put FM Global "in a good position," while other insurers with Jan. 1, 2006, renewals saw an immediate increase in costs, he noted.

"The market's changing," said

Tim Rose, president of Liberty Mutual Property in Weston, Mass. "Rates are firming up. The initial reaction to the early hurricanes was that rate decreases that were initially happening stopped. The firming up is particularly true for risks with cat losses and/or cat exposures—meaning wind and, to a lesser extent, quake."

The market will "absolutely" continue firming, predicted Mr. Rose. "The total cost of the events—the estimates—I think, will continue to move upward."

Kevin H. Kelley, chairman and chief executive officer of Boston-based Lexington Insurance Co.,

speaking in mid-December, said: "We're seeing solid rate increases running in the range of 25% to 35%, with some accounts in the 45% to 50% range."

Mr. Kelley said he expected further rate increases as the renewal season progressed.

The big issue right now is how the market is going to treat the "multi-wind-zone national account," Mr. Kelley said.

"That's the type of account that has produced a sizable loss to the market in '05 as well as '04, and I think clients there can expect major increases in deductibles, a much tougher time buying meaningful ca-

capacity and other terms and conditions the market will attempt to impose."

Market drivers

Insurers and brokers point to the unprecedented losses from last year's hurricanes and their effect on the reinsurance market as the reason for the market shift. Hurricane Katrina became the costliest natural disaster in U.S. history in August, causing at least \$40 billion in insured damages. In addition, hurricanes Rita and Wilma resulted in billions of dollars in insured damages.

"The main thing was the hurricanes," FM Global's Mr. Schreitmüller said. Losses were "unprecedented," and "every major model out there proved to be inadequate when it came to predicting the extent of the damage." As a result, "there's bound to be some reallocation and repricing of catastrophe coverage," he said.

"This is very much a reinsurance-led market at this point," said Lexington's Mr. Kelley. Cedents are being forced to take higher retentions, and "this means companies such as ours will have much more net exposure."

"This is very much a reinsurance-led market at this point."

Kevin H. Kelley
Lexington Insurance Co.

As a result, aggregate wind, earthquake and even terrorism coverage "is going to cost a lot more for us to provide in the late stages here of '05 and into '06," he said.

And it's not just wind-exposed and earthquake-exposed accounts that will see cost increases, Mr. Kelley said. The magnitude of treaty costs and the magnitude of the retention increases are "just too significant," he said.

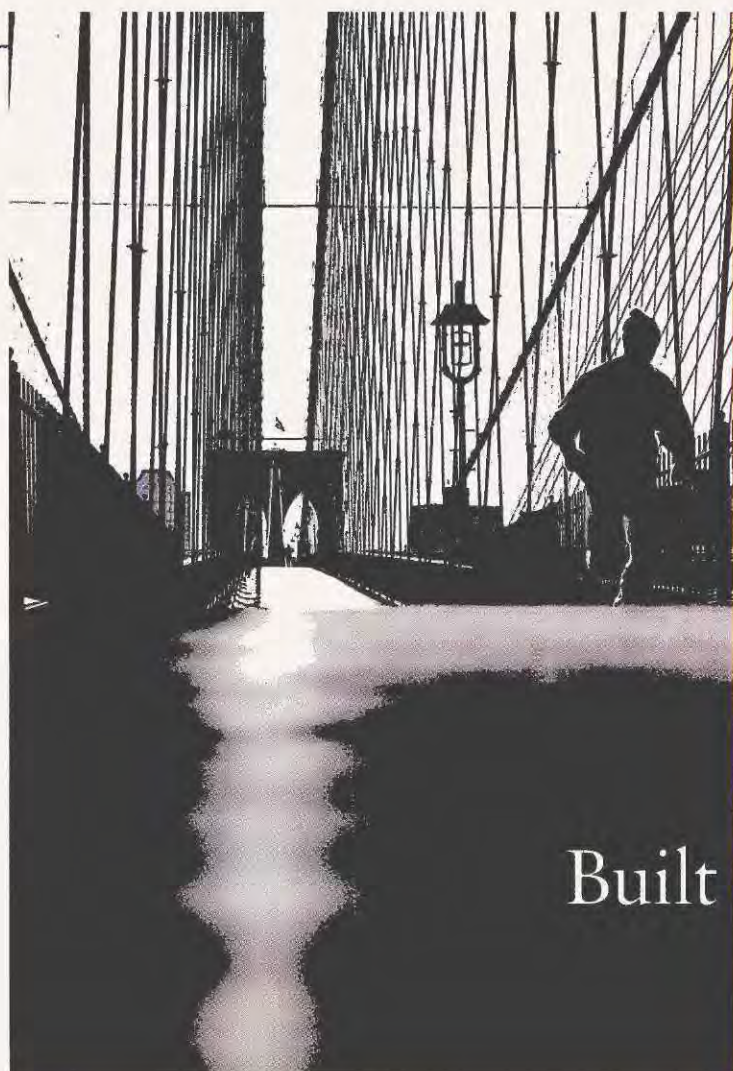
Having complete information for underwriters is key, particularly for risk managers with cat exposures, said Liberty Mutual's Mr. Rose.

"I think, for those with upcoming renewals, it will be important to get to the market early with complete renewal information, and it may even take the entire renewal process...to really place your program," said Liberty Mutual's Mr. Rose.

Risk managers should re-examine "their disaster recovery plans, particularly in terms of how they would react and who would react"—meaning who is in charge of their disaster recovery program, said Liberty Mutual's Mr. Rose. They also need to look at "the critical points in their business process. They should look at their business interruption coverage to make sure that it properly addresses those exposures."

But not every risk manager got bad news at year-end renewals.

"This renewal was probably the best we've ever had," said Leslie Seabrook, director-risk management of Seattle-based Emeritus Corp.,



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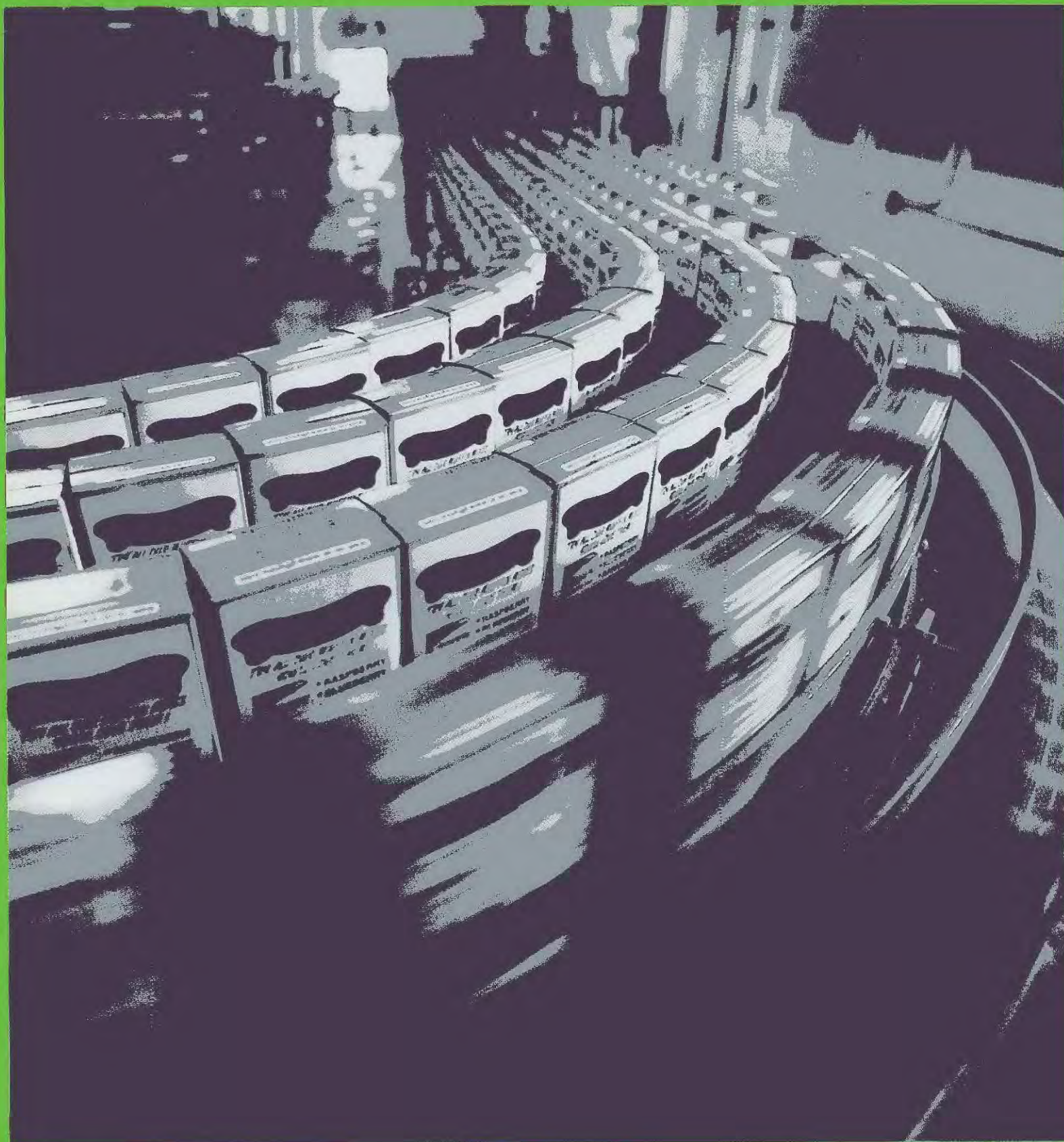
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INSURING PROGRESS™

Property: Hurricanes drive up coverage prices

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which operates assisted living communities across the country. That was even though Emeritus operates facilities in hurricane-prone areas and suffered a significant hurricane-related loss in 2005.

"We were anticipating the worst," Ms. Seabrook said. But she was pleasantly surprised that, despite the loss, Emeritus enjoyed a small rate decrease and some expanded coverage.

"I think we were more focused on this renewal and we were more of a team with our broker," she said, referring to Kansas City, Mo.-based Lockton Cos. Inc.

In addition, "we have a very large

portfolio, the spread of risk is quite good for a very large portfolio and we have a good loss history," Ms. Seabrook said.

Although James E. Crockett, manager of risk and benefits for Denver Water, had yet to receive his final quote from FM Global in mid-December, he said he was not expecting any rate change on his property account.

"I thought perhaps there might be some carryover from Katrina or Wilma...but they didn't anticipate large losses because of their selective underwriting," he said of FM Global.

Indeed, Robert Howe, managing

director and head of the U.S. property practice for Marsh Inc. in New York, said in mid-December that noncat business was still experiencing some rate reductions.

"And that may continue," Mr. Howe said. "While insurers will try to pass along increases to noncatastrophe-exposed business, there will be other insurers that want to rebalance their portfolios and seek to write less catastrophe-exposed coverage and replace those accounts with noncatastrophe business," he said. As a result, "we may end up with more supply and more control over pricing for the noncat-exposed accounts."

Reinsurance: Widespread hikes fail to materialize at renewals

Continued from page 11

Catastrophe reinsurance rate hikes "seem to be more specific than originally thought," agreed Steven Bolland, president of reinsurance intermediary Gill & Roeser Inc. in New York.

"Obviously, if you had losses in 2005, you're looking to see significant increases," he said. "I would say, as a general rule, some reinsurers would be just a little bit disappointed they didn't get all they wanted, but they certainly got some," Mr. Bolland said.

"If you were handling a program

that was hit with losses, depending upon the severity of those losses, companies received increases in some instances of 50% or more," according to John N. Gilbert Jr., chairman of reinsurance intermediary Holborn Corp. in New York.

Adam Fox, a senior partner at Glencairn Ltd. in London, said some underwriters were quoting price increases of between 30% and 40% for business in the United States and the Caribbean with windstorm exposure, but, on average, rate increases for such business were probably about 15% to 20% "across the board."

But non-U.S. business is not seeing large rate hikes, Mr. Fox noted. Non-U.S. catastrophe-exposed business is likely to be subject to about a 5% rate increase on average, he estimated.

Such business is seeing "flattish to single-digit increases," said Charlie Cantlay, chairman of reinsurance at Aon Ltd., the U.K. arm of Aon Corp. in London. Most European property programs are seeing "modest" rate increases, apart from those programs that were heavily affected by the storms and flooding last year in parts of Europe, he said.

Roderick P. Thaler, executive vp and national director of reinsurance intermediary Willis Re in New York, said, "If you go back 20, 30 years, you'll see the same pattern has played out, with the Jan. 1 renewals immediately following a bad hurricane season" not bearing the full brunt of the change in market conditions.

Nonetheless, "we anticipate that there'll be further hardening at April 1 through July 1, which is when many of the largest national global catastrophe programs that experienced significant" hurricane losses renew, Mr. Thaler predicted.

Donald Kramer, chairman and CEO of Bermuda-based Ariel Reinsurance Co. Ltd., one of the new Bermuda-based reinsurers that entered the market late last year, said, "I think everybody expected somewhat stronger pricing." He added, though, that many of the programs that were severely hit by the hurricanes won't renew until later this year.

Meanwhile, even insurers that did not experience significant losses saw their property cat rates increase 10% to 20% because of the greater cost of capital for reinsurers, said Chuck Hewitt, Boston-based executive vp, client development, for intermediary Benfield Blanch Inc. "Most of them had to go out and raise more capital following the events, and that additional capital had a charge to it," Mr. Hewitt said.

Also affecting pricing was the fact that rating agencies are "not allowing the reinsurers to leverage their capital to the extent they were before, so one dollar of incremental capital did not generate one dollar of incremental capacity. It was less



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Reinsurance: Widespread hikes don't materialize

Continued from page 16

than that," explained Mr. Hewitt.

The good news, though, is there was adequate capacity, said Larry Spoolstra, Barrington, Ill.-based chief underwriting officer for North American and Asian Pacific reinsurance business for GE Insurance Solutions. "There was capacity there if the market got the appropriate level of price, so if you wanted the capacity, pretty much it was available," he said.

Casualty business, though, remained relatively flat, say observers. Mr. Spoolstra said, "It was our hope and expectation that after all the catastrophe losses that the casualty

market would not lose ground, and it did not. It pretty much held its ground."

Accounts with better-than-average adverse loss development saw rates that were flat or decreased as much as 5%, said Jim Bradshaw, executive vp and managing director at Willis Re, who leads the Willis Re New York office property and casualty operation. It was a "very rational marketplace," he said.

Patrick J. Denzer, president and CEO of reinsurance intermediary John B. Collins Associates Inc. in Minneapolis, said, "We saw rate decreases on the casualty side where

warranted and no real impact from the hurricanes in 2005 reflected in 2006 pricing."

But according to Benfield Blanch's Mr. Hewitt, "The higher cost of capital also percolated over into the casualty lines. We were looking at the cost of capital going up, so the returns needed to move up."

In general, though, "the impact on casualty was less than on property, and it would be kind of in the 0% to 10% range of increase," he said.

Also influencing the casualty market was a "fairly benign casualty year," said Mr. Hewitt.

Undercutting not seen among new reinsurers

Latecomers' added capacity moderates prices

New Bermuda catastrophe reinsurers quietly entered the January renewal reinsurance market, providing additional capacity while simultaneously conducting their underwriting prudently and cautiously, say observers.

Validus Reinsurance Ltd., which was one of the handful of reinsurers formed following last year's hurricanes, was "appropriately cautious," said Edward Nocnan, Vali-

dus Re's chairman and chief executive officer.

"We got pretty good acceptance across the board from everybody," said Donald Kramer, chairman and CEO of Ariel Reinsurance Co. Ltd. "We saw our share of submissions. Once you see that, you do your business."

The new Bermuda reinsurers would have been more effective had they entered the market earlier, but they still added meaningful capacity to the market and had "an impact on moderating price increases," said Patrick J. Denzer, president and CEO of reinsurance intermediary John B. Collins Associates Inc. in Minneapolis.

Observers said the reinsurers have generally acted as followers rather than leaders in setting terms. The new Bermuda companies wrote "round-the-edges stuff" at the Jan. 1 renewals and did not aggressively underwrite at lower rates than more-established insurers, said Adam Fox, a senior partner at Glencairn Ltd. in London.

The new reinsurers are "supporting the existing terms, not undercutting them," agreed Roderick P. Thaler, executive vp and national director of reinsurance intermediary Willis Re in New York.

Chuck Hewitt, Boston-based executive vp, client development, for intermediary Benfield Blanch Inc. said, "I think that they will have more impact, frankly, as we go along, because I think what we're seeing is companies are using up their capacity quicker than they have in the past because of the new capital constraints the rating agencies have put on them and, as a result, they'll run out of capacity simply writing the same lines they were writing before." The new Bermuda startups generate some needed new capacity, he said.

Callum Stewart, a board member and head of the North American treaty reinsurance team at London-based Alwen Hough Johnson Ltd., said buyers will be more likely to look to new Bermuda reinsurers at the midyear renewals if they become concerned about their aggregates and whether they have purchased enough reinsurance protection.

James Illingworth, managing director, business intelligence and monitoring for London-based Amlin P.L.C., which set up Bermuda operation Amlin Bermuda Ltd. late last year to write catastrophe reinsurance business, among other lines, said the company expects to see an increase in demand for catastrophe coverage during the coming year.

The Bermuda reinsurers "will probably have the effect of quelling some of the increases that might otherwise have taken place," said John N. Gilbert Jr., chairman of reinsurance intermediary Holborn Corp. in New York.

—By Judy Greenwald and Sarah Veysey



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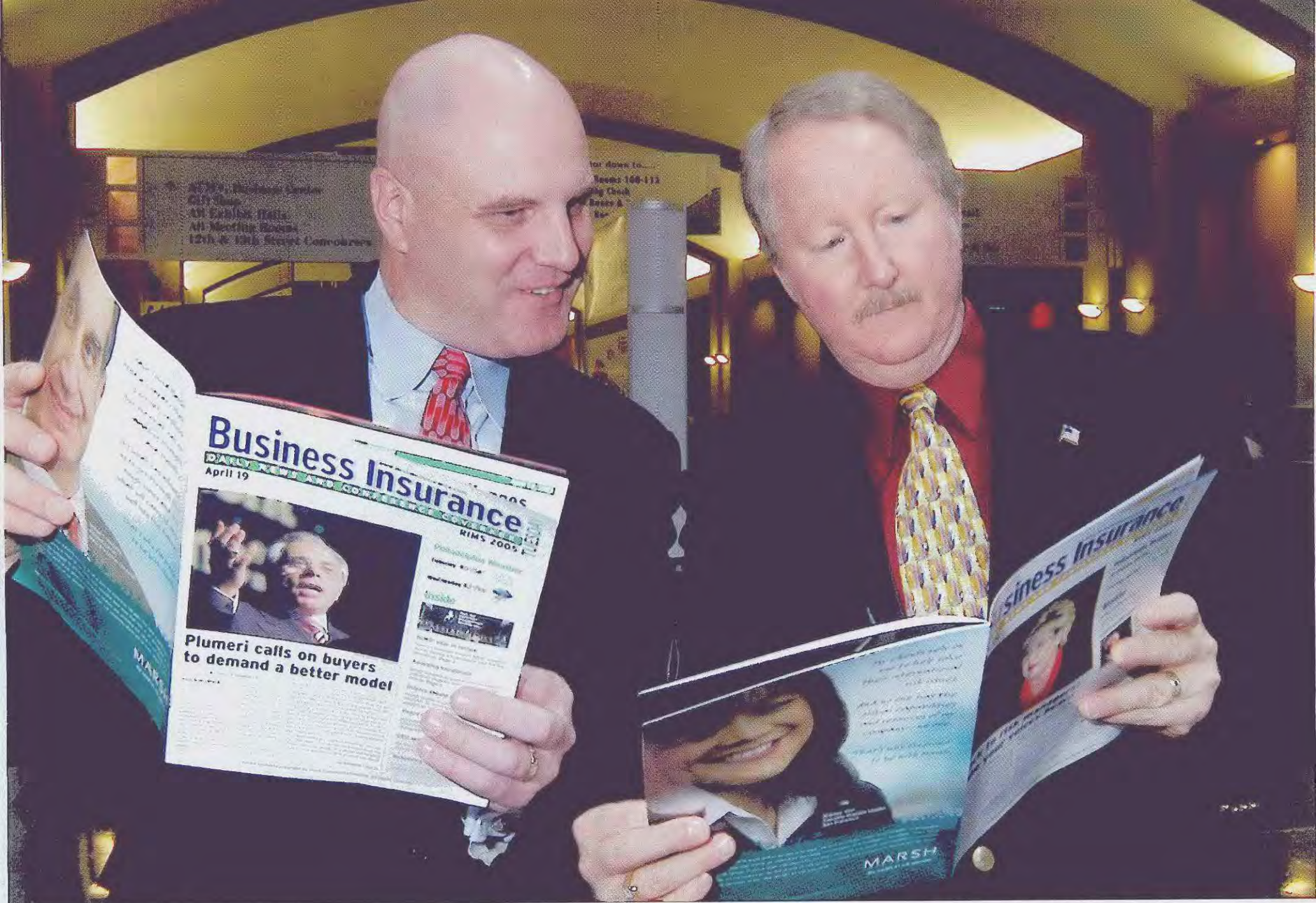


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D&O: Rates moderate for most lines, but some tough risks see price increases

Continued from page 11

Many market executives agree.

Record hurricane losses that reduced insurers' profits in 2005 have contributed to rating stabilization, said Ann M. Longmore, a New York-based senior vp and the D&O product leader with the executive risk practice at Willis North America, a unit of Willis Group Holdings Ltd.

"Statistically, we see everything hanging around zero right now" in terms of rate movement percentages, which has been the trend for the past four or five months, said Greg Flood, an executive vp and chief operating officer at National

Union Fire Insurance Co. of Pittsburgh, Pa., a subsidiary of New York-based American International Group Inc.

Underwriters have not competed much on primary layers, but there is some competition on excess coverage, Ms. Longmore said. While excess insurers want 75% to 80% of the underlying rates, risk managers have negotiated 70% to 75%, she said.

Some risk managers are making even better deals, some brokers say.

Unless a buyer is in a tough class of business, is being investigated for securities irregularities or faces a large claim, its renewal should be

"straightforward and fairly favorable," said Lou Ann Layton, a managing director and the national D&O practice leader for Marsh Inc. of New York. That could mean a rate cut of 5% to 10% for primary and excess limits while obtaining additional coverage, she said.

Broker Steve Shappell sees even better market conditions. After rate decreases of 10% or more last year, "the pressure remains" on insurers to cut rates, said Mr. Shappell, director of the legal and claims practice in Denver-based Aon Financial Services Group, a unit of Aon Corp.

"The carriers are certainly push-

ing back, but I see no signs they are successful," he said.

The most attractive risks are those in the small to mid-market arena—privately held companies or those with less than \$1 billion in market capitalization—because of their minimal exposure to catastrophic losses, Liberty International's Mr. Dubois said. Those risks are able to purchase coverage at no worse than expiring rates and possibly negotiate single-digit rate decreases, he said.

In addition, some companies that previously had "extraordinary problems have worked through those problems" and have been

able to negotiate "up to double-digit rate decreases," National Union's Mr. Flood said.

Meanwhile, underwriters continue to negotiate tougher with risks in those classes that have generated the biggest losses in recent years.

Risks that face the biggest problems are large-cap companies—those with \$10 billion or more in market capitalization—as well as financial institutions and financial services companies, Mr. Dubois said. Those risks face rate hikes of a few percentage points, but some have been able to purchase coverage at their expiring rates, he said.

Mr. Flood said some financial institutions face double-digit rate hikes, depending on their risk profile and how widely their stock is held. Some technology firms also face increases, he added.

"The carriers are certainly pushing back, but I see no signs they are successful."

Steve Shappell
Aon Corp.

Some pharmaceutical manufacturers also face rate increases, Mr. Galban said.

Ms. Layton noted that some heavy manufacturers also face rate hikes, because either their financial reports did not meet securities analysts' expectations or they have not adequately funded their employee pension plans.

In addition, rates for not-for-profit organizations are flat to 10% higher, Ms. Longmore said.

Risk managers and insurers are not quibbling much over terms and conditions.

The biggest change in the market during the past year is that Side A towers of coverage, which respond when an organization is legally prevented from indemnifying its directors and officers or refuses to do so, are becoming a traditional element of standard coverage.

The Side A towers sit above the traditional coverage that provides Sides A, B—or reimbursement for an organization's indemnification of its executives—and C—or entity coverage—protection.

Side A towers can provide difference-in-conditions protection as well as drop down to cover losses on a lower layer if an underlying insurer is financially incapable of responding to a loss.

There has been a "huge expansion" of that coverage, with most Fortune 500 companies now purchasing it, AIG's Mr. Flood said.

Ms. Layton said that among mid-cap companies, or the Fortune 250 to 500, some are adding Side A coverage and others are purchasing greater limits for traditional ABC coverage.

Also, some risks that are smaller than that group, such as large independent companies and not-for-profit organizations, are buying Side A cover, Ms. Longmore said.

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E&O rates flat or lower as capacity remains plentiful

By GLORIA GONZALEZ

Most buyers of errors and omissions liability insurance encountered a stable market in 2005.

Pricing for the majority of E&O risks was flat to as much as 10% lower—a welcome change after years of double-digit price hikes—due to increased competition in the E&O market. Capacity is seen as plentiful for most E&O risks, although certain markets are constrained, with buyers forced to either pay higher premiums or seek alternative coverage.

But several factors bear watching,

namely the growing privacy exposure for the E&O market and the potential impact of recent catastrophic events on future capacity.

E&O RENEWALS

Currently, capacity is generally not an issue in the E&O market, with most carriers ready and willing to write up to \$25 million in coverage.

Jane A. Keegan, enterprise risk manager for the Port of Oakland in California, with responsibility for

Oakland International Airport, said she was able to secure \$25 million in limits this year. A few years ago, it was impossible to get more than \$15 million, Ms. Keegan noted.

Ted Doolittle, a principal with Integro Insurance Brokers Ltd. in San Francisco, attributed the increased capacity to some carriers becoming more willing to write certain risks such as technology E&O.

"There's more capacity than there ever was," he said. "It's easier to build a \$50 million program now than it ever was. Even if the market wanted to get hard, the new capacity and the extra capacity is keeping

it where it is."

The major writers of E&O insurance are National Union Fire Insurance Co. of Pittsburgh, Pa.; Philadelphia-based ACE USA; Chicago-based CNA Financial Corp.; and Lloyd's of London syndicates Beazley Group P.L.C. and Hiscox Syndicates Ltd., said Patrick Donnelly, co-managing director, technology and professional risks, for Aon Financial Services Group in Chicago.

Certain industries, though, fall into hazard classes for which not as many carriers are willing to write the risks.

For example, the market for lawyers' E&O coverage has become tight, noted Sandy Coddington, co-leader of the national E&O practice and senior vp for Marsh Inc. based in New York. Competition for primary capacity has decreased as carriers show less of an appetite for the risk, he explained.

It is similarly challenging for large accounting firms to get sufficient capacity, and the coverage is expensive, said Jeff Grange, senior vp and professional liability manager for Chubb Specialty Insurance in Warren, N.J.

The main reason for the constraints in these particular markets is the frequency and severity of claims for the groups, observers say.

Companies with worse-than-average loss histories continue to have the toughest time securing coverage, noted Bruce Eisler, senior vp of E&O for Liberty International Underwriters in New York. Insurers are constantly trying to find ways to accommodate these risks, Mr. Eisler said, either by incorporating larger deductibles or meeting with risk managers to identify common connections in their loss histories.

Certain companies with difficult or expensive placements are looking at alternative risk transfer opportunities, brokers say.

Mr. Donnelly noted, for example, that there is limited capacity for patent infringement risks, and a company seeking coverage might use a captive for that risk because commercial insurance is expensive. "Even for those risks where there is a lot of capacity, commercial insurance may not be the right vehicle," he added.

Generally speaking, E&O pricing is expected to remain fairly consistent in 2006, with renewal rates projected to remain flat to as much as 5% lower. "I expect E&O prices to just maintain," Mr. Doolittle said.

Going forward, the key issue for the E&O market will be coverage for privacy violations and identity theft, which affect most E&O sectors. Many clients are asking about that exposure, given all the recent news of security breaches and loss of data, brokers say.

"I think that's something that will have an impact on the market," Mr. Donnelly said.

Insurers are devising coverage enhancements to address the exposure. National Union has developed an endorsement that will provide full coverage for privacy violations up to a \$15 million limit, according to Mike Smith, New York-based president of National Union's professional liability division.

Another concern is whether the losses incurred due to the surge of hurricane activity in 2005 will result in E&O capacity being shifted to other lines of business.

"We haven't seen any capacity move away from E&O yet, but that's not to say it won't happen in '06," Mr. Smith said.

"I think it's more likely that capacity would be allocated away from E&O rather than attracting capacity," Mr. Grange said.

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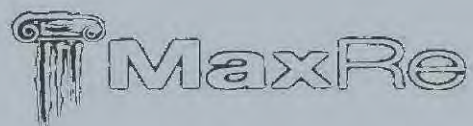
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Carl Smith

Liability rates slip as most buyers enjoy easy renewals

By MICHAEL BRADFORD

A quiet year in the general liability market is a good year for insurance buyers.

Rates didn't rise in 2005 for many policyholders, and some are seeing reductions at current renewals. And, unless reinsurers have been so badly hurt by this year's property catastrophe losses that they raise rates for both property and casualty business, the general liability market should be little changed at the end of 2006, market sources predict.

LIABILITY RENEWALS

Ellen Vinck, vp-risk management and benefits at BAE Systems Ship Repair in San Diego, was gathering quotes late last year for her primary and excess general liability renewals. "It doesn't look like there will be an increase" in coverage costs, and excess limits may increase, she said.

"Overall, the market is doing fine," Ms. Vinck said.

Brokers and insurers agree that general liability renewals have largely been trouble-free this renewal season.

"We're seeing very little in the way of increases unless the risk is really distressed," said Janis Berger, managing director at Marsh Inc. in

New York. The worst-case situation for general liability insurance buyers is a flat-rate renewal, she said, while many buyers are seeing "moderate decreases."

In some instances in which accounts have been put out to bid, "we're seeing some very competitive bidding," Ms. Berger said.

"From my perspective, on the primary casualty side, we certainly see stability, and, for lack of a better word, a seizure on rate increases," said Joe Buono, casualty marketing manager with Willis Risk Solutions in New York.

And the excess market "has not moved significantly in the course of the year," said John Doyle, president of American Home Assurance Co., a New York-based unit of American International Group Inc.

Mr. Buono said primary general liability renewals are flat or, "depending on the risk," 5% to 10% lower than last year.

"As the year has gone on, the market has continued to soften," Ms. Berger said of the general liability market as a whole. "It's a case of the market continuing to attract capacity," she said of the softening, while "insurers are not going through a lot of consolidation, so there are a lot of insurers chasing market share."

Sources also say insurers are not eager to take back the generous terms they negotiated in prior

renewals.

"Terms and conditions, and primary limits, have held up quite well," said Louis Iglesias, president of AIG Global Risk Management Inc., an AIG unit in New York.

That's true for BAE Ship Repair, according to Ms. Vinck, who also is asking this year for some "added embellishments," such as higher limits, while insurers are in a generous mood. Now is the time to get those "extras," so the buyer has something to give back when the market hardens, she said.

"Terms and conditions on the primary general liability side have held," said Doug Cauti, chief underwriting officer, national market-products division, at Boston-based Liberty Mutual Insurance Co.

Accounts that meet the insurer's expectations in the Fortune 1000 market that Liberty Mutual serves "will get competitive prices," Mr. Cauti said.

Mr. Buono said many buyers are not changing deductible levels, many of which were raised during the hard-market. "Insureds have become comfortable with those deductibles, and most are renewing at expiring levels," he said.

AIG's large accounts are increasing their retentions in some cases, which means their excess coverage attachment points are higher than in the past, according to Mr. Doyle. Such moves happen most frequently among "higher-risk" classes of business, he noted.

Market sources agree that there remain tough risks that will pay high rates.

"At any point in the insurance cycle, there will be certain classes that stand out" as those considered risky and, therefore, costly to insure, said Mr. Doyle. The construction, transportation, energy and pharmaceutical industries are ones that are tough to write in the current marketplace, he said.

Homebuilders have a particularly hard time finding affordable general liability insurance, Mr. Cauti noted. "The controls that good contractors try to put in place don't always eliminate the construction defect claims that arise," he explained. "It's a tough industry to get your arms around."

Sources say there exists a wild card with the potential to tip the market, and it is one that could be played by reinsurers.

Reinsurers were stung by hurricane losses in 2005, and it is "certainly no surprise" that property reinsurance rates are rising, said Mr. Cauti. "Being they can only get so much" on the property side, there is speculation that reinsurers may raise casualty rates as a way to moderate increases on property accounts, he said.

Mr. Doyle said that while "we don't buy a lot of reinsurance" and American Home doesn't expect to see much of an impact if reinsurers raise casualty coverage costs to make up for property losses,

"some of our competitors" could feel the pinch if that scenario plays out.

But Paul Smith, regional marketing officer with Willis in New York, said casualty price hikes due to property losses, while a concern last fall, "were never realized. And we don't see anything on the radar that indicates that will happen in '06 either."

One trend that continues in the casualty marketplace is the demand by underwriters for "quality submissions," said Mr. Smith. Insurers want lots of historical information, he stressed. "Quality counts and will be looked for. Underwriters will take a pass if they feel good information is missing."

"Smart underwriters will always ask the appropriate questions," said Brian Lowe, umbrella and excess liability manager with Liberty Mutual in Boston.

Insurance buyers, too, are more inclined to demand answers these days, according to Mr. Lowe.

"They are looking for stability and long-term relationships in the excess market" and are concerned about whether they are partnered with stable coverage providers, he said.

That approach is "a little bit of a change," according to Mr. Cauti of Liberty Mutual. While excess insurance in the past has largely been regarded as a commodity, "we feel it has become more of a value purchase," he said.

Insurers compete in stable workers comp markets

By ROBERTO CENICEROS

Buyers with January renewal dates for workers compensation policies are facing a stable market with nearly flat rates, although some accounts have seen decreases of as much as 10%.

On average, rates nationwide are flat, give or take a few percentage points, said Don Pickens, Boston-based Liberty Mutual Group's chief underwriting officer for national markets.

WORKERS COMP RENEWALS

Recent rates have been flat to slightly up, according to Mike Pesch, area chief operating officer for Arthur J. Gallagher Risk Management Services Inc. in Chicago. When insurers push for rate increases, the overall competitive market conditions are not allowing many of those increases to go through, he said.

Insurers are competing hardest to retain existing clients, particularly those with good loss histories, Mr. Pesch said.

Recent insurer filings in most states have merely adjusted rates within a narrow band, either increasing or decreasing them about 5% to 8%, said Richard Thomas, se-

nior vp and chief underwriting officer for American International Group Inc.'s domestic brokerage group. Insurers in the majority of those states are lowering rates by about 2%, Mr. Thomas added.

But after filing rates, insurers typically have been adjusting their pricing to reflect their competitive posture in the marketplace.

"Currently, we believe the work comp marketplace is fairly competitive, and we are seeing underwriters exercise their judgment to price on a competitive basis," Mr. Thomas said.

For his company's year-end renewal, Philip Bly, director of risk management for Crescent Heights, a Miami-based condominium converter, said Liberty Mutual Group provided him with a 10% rate reduction.

Crescent Heights has never pierced its workers comp deductible and purchases insurance and claims services from Liberty Mutual for several business locations across the United States, Mr. Bly said. During his renewal process, Mr. Bly found underwriters continued to ask questions concerning employee concentration, an issue that arose after the Sept. 11, 2001, terrorist attacks.

On average, buyers nationwide are seeing rate decreases of 10%, said Janis Berger, managing director for Marsh Inc.'s casualty practice

in New York.

Policy structures and arrangements are also relatively stable with little change occurring, Ms. Berger and others say. Yet because of competitive pressure, buyers are likely to find insurers a little more flexible on issues such as retention levels and the collateral requirements they will consider, Ms. Berger added.

California stands apart from the rest of the nation. Reforms adopted there in 2003 and 2004 are helping increase competition and drive significantly steeper price declines than those seen elsewhere, observers agree.

The average insurer rate filing in California fell to \$4.42 per \$100 of payroll during the third quarter of 2005, according to the San Francisco-based Workers Compensation Insurance Rating Bureau of California. The amount was down 18% from rates charged during the first six months of 2005 and 32% below the average rate charged in the second half of 2003.

The San Francisco-based California State Automobile Assn., though, saw its rates drop 50% for a Jan. 1 renewal, said Jeff Huebner, director of risk management. Mr. Huebner attributes the favorable pricing to the return-to-work and safety programs that the association has implemented over the past few years, along with greater insurer competi-

tion stirred by the reforms.

For the first time in four years, the CSAA put its workers comp program out to bid and found four insurers that met its criteria, Mr. Huebner said. In the end, though, he stayed with the incumbent insurer, ACE USA, which last year provided him with a 5% discount.

Workers comp insurer results nationwide have continued to improve over the past two years or so, yet observers note that insurers are not looking to win market share by slashing their rates drastically. The conditions insurers experienced between 1999 and 2002 remain fresh in their minds, they note.

Back then, inadequate pricing helped force a deterioration in combined ratios, according to Boca Raton, Fla.-based NCCI Holding Inc. Insurers' accident year combined ratio in 1999 peaked at 139%. The NCCI estimates that workers comp insurers' combined ratio improved to 94% at the end of 2004—a level that hasn't been seen since the mid-1990s.

Given that recent history, insurers are feeling their pricing is now about adequate, several insurers say.

"There have been a lot of rocky years in the past, and workers compensation, knock on wood, for the time being seems in most places to have settled in a pretty reasonable place," said Paul Ramont, se-

nior vp workers comp product manager for St. Paul Travelers Cos. in Hartford, Conn.

AIG's Mr. Thomas agreed. "Generally, across the country we believe that rates are adequate or close to adequate," he said. Some exceptions exist, though, such as in South Carolina, where insurers feel a substantial rate increase is warranted.

Optimism over reforms recently put in place in several states, particularly in California and Texas, is helping shape favorable market conditions, as are improving interest rates and the extension of the Terrorism Risk Insurance Act of 2002, Liberty Mutual's Mr. Pickens said.

He added, though, that several factors are weighing on the market. Those include the potential for reinsurers to use other lines to compensate for Hurricane Katrina losses by raising their prices when workers comp insurers renew their treaties this month and later in the year.

To counter that possibility, some brokers have advised their policyholder clients to meet very early with their underwriters, Gallagher's Mr. Pesch noted. One Gallagher client with a March 1 renewal, for example, met with its underwriter in December and committed to renew its coverage in January for March.

Buyers resist rate hikes as higher reinsurance costs loom

By CAROLYN ALDRED

Marine renewals were chaotic at year-end 2005, as insurers anticipated higher reinsurance costs but failed to push through large increases for primary coverage.

Several underwriters expected that the magnitude of losses from hurricanes in the United States would have an impact on several

MARINE RENEWALS

markets, including the marine market, but buyers successfully resisted large increases for hull and cargo risks, insurers and brokers say.

"The marine market is in a state of flux, with no one really knowing what is going on, particularly with the reinsurance market," said Nigel Roberts, chairman of Aon Marine, a unit of Aon Corp. in London.

With catastrophe losses running, by some estimates, as high as \$75 billion in 2005, underwriters expected increases across several lines of coverage, but the losses have had little impact on rates or capacity in the marine market, he said.

"Underwriters are trying to get some form of increase, but it is being resisted by clients," said Nigel Russell, a consultant with HSBC Insurance Brokers Ltd. in London.

Reinsurance costs likely will increase but there is still plenty of capacity in the marine market, he said.

"Almost without exception, everyone is having to pay more for their reinsurance, but how much more and how much reinsurance they will get is not certain," said Andrew Coutts, marine underwriting manager for CNA (Europe) Ltd., in London.

Those increases could stop further softening in the marine market, he said.

But brokers and underwriters do not expect massive rate increases in the marine market because of plentiful capacity.

The cargo market, in particular, remains competitive, according to Mr. Roberts.

"The current reality is that cargo insurance is the cheapest commodity afloat," he said.

Despite increases in the price of raw materials and a growth in global trade, cargo rates fell by about 25% during 2005, according to Mr. Roberts, in a summary of the mar-

ket written for clients.

However, current renewals of cargo reinsurance treaties may curb more rate cuts, he said.

"The market is still making an assessment of the cargo claims, but it looks like the U.S. hurricanes may be the catalyst to reverse the cargo market's downward cycle," Mr. Roberts said.

While the ocean cargo market experienced significant losses, particularly on the warehouse side, as a result of the 2005 hurricanes, "rates have been perversely soft," said Mark Blackman, senior vp underwriting for New York-based

NYMAGIC Inc. and the MMO Group of Cos., pointing out in an e-mail response that "certain markets appear to be trying to collect premium dollars to pay claims."

Following the hurricanes, MMO, like many insurers, has been mapping and modeling its cargo warehouse exposures.

"Going forward, MMO intends to pay greater attention how its warehouses handle perishable goods, including the availability of backup power sources and evacuation plans," Mr. Blackman said.

Although the cargo market remains "fairly flat," there is a short-

age of aggregate capacity for catastrophe exposures as a result of the 2005 hurricane season, according to Marcus Baker, deputy CEO of Marsh Ltd.'s Marine and Energy Practice in London.

The picture in the hull market is confusing, according to Mr. Roberts. While the hull market is still competitive, poor returns on capital have resulted in few new entrants to the hull market in recent years, and if rates increase dramatically in other markets as a result of the hurricanes, the market may lose more capacity, he said.

"There are a lot of difficult con-

versations going on in the marine market," said Ken Alston, a managing director at Marsh's Marine and Energy Practice in London.

Most hull underwriters are looking for increases of between 5% and 10%, while buyers are trying to get similar rates as last year, noted Mr. Alston.

Although there have been few losses on the hull side, underwriters are concerned about declining reinsurance capacity, he said.

"A lot of the direct marine market still had not got their reinsurance programs in place toward the end of December," he said.



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Between the Lines

Compiled by Joanne Wojcik

Name, rank and serial number

Injecting computer chips under the skins of pets for identification purposes is becoming increasingly common, but what about using them in people?

Applied Digital, maker of the implantable VeriChip for humans, has received approval from the U.S. Food & Drug Administration to sell its chips to hospitals, which would use them to identify patients, their blood types, the details of their conditions and treatments, etc.

The Palm Beach, Fla.-based chip maker claims the devices are so small—about the size of a grain of rice—that patients shouldn't even notice they are there.



The new FDA-approved VeriChip is intended for human implantation.

Are the kids' ears alright?

Pete Townshend, the British rocker long dubbed the "spokesman for his generation," now has an important message for the iPod generation—that the phenomenally popular device is a liability waiting to happen.



Earphones are more damaging to hearing than live music, says The Who's Pete Townshend.

In a posting on his official Web site, Mr. Townshend recently warned music enthusiasts that listening to loud tunes through headphones could put them at risk of serious hearing damage, or deafness.

As guitarist for legendary rock band The Who, Mr. Townshend is no stranger to ear-piercing music. But, according to him, a tiny pair of earbuds can be more hazardous than even the most raucous of live shows.

"It is not live sound that causes hearing damage. Earphones do the most damage," the veteran rocker, who blames his own irreparable hearing loss on headphones, wrote on his Web site.

"If you use an iPod or anything like it, or your child uses one, you MAY be OK...But my intuition tells me there is terrible trouble ahead," he wrote on his Web site.

Apple, which owns and distributes the iPod, did not return calls seeking comment on Mr. Townshend's claims.

Was ist im Deutschland verboten?

Ethics rules like those that many U.S. companies have to deter sexual harassment in the workplace don't apply in Germany, Wal-Mart Stores Inc. has found.

The Bentonville, Ark.-based company recently lost a court battle trying to impose its 28-page ethics code.

Among other things, Wal-Mart's code forbids: "lustful glances and ambiguous jokes," "sexually meaningful communication of any type" and "having a relationship with someone who could influence your employment situation or whose employment situation you could influence."

While such ethics rules may be common in the United States, the regional industrial tribunal in Dusseldorf, Germany, decided that rules governing personal relationships in the work place are incompatible with German labor laws.

In upholding a lower court's decision, the tribunal informed the U.S.-based retailer that it would have to obtain an agreement from the regional labor council before such ethics rules could be implemented.

Wal-Mart has one more chance to appeal the verdict at the Federal Labor Court in Erfurt, Germany.

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

Gulf energy rates surge 500% as cat loadings are reapplied

By CAROLYN ALDRED

Energy insurance for Gulf of Mexico risks is increasing as much as 500% as underwriters reassess their exposures following the massive hurricane losses in 2005.

Loadings for catastrophe exposures, which had almost disappeared during the past several years, are being reapplied and capacity is shrinking as reinsurance costs are soaring.

And the hurricanes' impact is being felt outside the affected region as energy risks with no exposure in the Gulf are seeing 25% to 30% rate increases, insurers and brokers say.

ENERGY RENEWALS

With Gulf risks increasing by 400% to 500%, this is proving a "mixed and muddled renewal season with no landing yet," said Rod Smith, director of Natural Resources at London-based broker Heath Lambert Ltd.

Speaking in late December, Alan Brooks, managing director of Willis Energy in London, said "the reinsurance renewal season will be later than ever but direct market placements have to continue regardless. As a result, capacity is shrinking dramatically."

"We are going through a very extraordinary reinsurance renewal season. It is one of the latest and most difficult we have ever seen," said Tim Fillingham, chairman of Aon Ltd.'s UK Energy Division. With uncertainty over reinsurance capacity, pricing primary risks is "very difficult," he said.

"The offshore energy market for the U.S. Gulf has almost dried up since Katrina and Rita," according to New York-based Mark Blackman, senior vp Underwriting for NYMAGIC, Inc. and the MMO

group of companies.

"Current offshore energy rates are multiples of historical rates," he wrote in an e-mail response.

Accounts that MMO wrote in the fourth quarter of 2005 "have included an annual aggregate limit for U.S. Gulf windstorms. In many cases, the aggregate limit is a sub-limit to the overall policy limit," he noted, adding that "deductible levels are increasing as well."

Hurricanes Katrina and Rita made underwriters realize that "they have got their underwriting wrong in the Gulf of Mexico. They have largely ignored the hurricane risk there in recent years," said Mr. Smith, noting that hurricane loading has been ignored in the soft market of recent years.

Underwriters are carefully monitoring their exposure in the Gulf, resulting in a "severe curtailment of natural catastrophe capacity there," said Willis' Mr. Brooks.

"Risk managers are having to provide much more detailed information and, in many cases, are having to accept more complex, piecemeal packages in order to optimize capacity," he said.

Risks are being placed in tranches with some layers including specific exclusions, particularly for coverages such as contingent business interruption, he said.

Mr. Brooks estimates that world commercial market capacity has fallen from about \$2.2 billion to \$1.7 billion, but for single risks in the Gulf it would be a fraction of

this number.

Business interruption losses "were a significant feature of Katrina," he said, as the cost of re-drilling and making wells safe was much higher than underwriters had expected. "In some cases, these were multiples of the platform's physical damage value. As a result, the control of well and re-drill component of risks are commanding much greater attention from underwriters," he said.

"Coverage for loss of hire and loss of production has been substantially reduced. Going forward, such coverage may be limited to fixed costs rather than maintaining a revenue stream," said Mr. Blackman.

Despite all the advances in modeling disaster scenarios, underwriters failed to model Hurricane Katrina accurately, said Ken Alston, a managing director of Marsh Ltd.'s Marine & Energy Practice.

"Nobody quite realized how many rigs could be in the path of a hurricane there," he said.

In the future, "one would expect the energy market to devote significantly more resources to the mapping and modeling of individual platforms," said Mr. Blackman.



Hurricane Katrina, which hit this oil tank in Venice, La., caused significant energy insurance losses.

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Co-op, Arcadia to revamp pension plans

Unions oppose reduced benefits

By SARAH VEYSEY

Two more well-known U.K. companies last week announced changes to their pension offerings designed to curb the costs associated with providing retirement benefits.

Manchester, England-based retail company The Co-operative Group said it would replace its three defined benefit pension plans with one plan, in which benefits would be based on members' average earnings over their careers rather than on their final salary.

In addition, London-based clothing retailer Arcadia Group Ltd. announced that it would require the members of its defined benefit pension plan to increase their pension contributions and to raise the retirement age for the plan.

In the United Kingdom, defined benefit pension plans often involve both employer and employee contributions.

The Co-op said in a statement that it had conducted a review of its three final salary plans and decided to replace them with a single, ca-

reer-average plan, to which employees would be required to contribute 6% of salary. Currently, employee contributions in the final-salary plans are between 5% and 9%, depending on when a member joined, a spokesman said.

Career-average plans generally are less costly to employers than final-salary plans, as the benefits promised are lower.

The changes, which the company said have been agreed in principle with plan trustees, will apply to pension benefits accrued after April 5, 2006; pensions in payment and deferred pensions will not be affected.

The company said in the statement that the changes "will ensure that Co-operative Group employees continue to benefit from a high quality occupational pensions scheme, despite the increased costs associated with providing a defined benefit pension arrangement."

In 2004, the latest year for which figures are available, the Co-op's pension plans had total assets of £4.70 billion (\$8.36 billion) a deficit of £76.2 million (\$135.6 million).

The three plans have about 98,000 participants, about 22,000 of whom are active employees.

Fashion retailer Arcadia last week announced that it would require the 3,600 members of its defined benefit pension plan to increase their pension contributions to 6% of salary from 4%, and said that in order to receive full benefits, staff would have to retire at 65 rather than 60.

Arcadia's bigger bite

Arcadia announced that it would require members of its defined benefit pension plan to increase their pension contributions to **6% of salary from 4%.**

Arcadia is not publicly listed, but the company said that under Financial Reporting Standard 17, which requires quoted companies to include information about pension assets and liabilities on their balance sheets, the plan was almost fully funded.

Donald Duval, chief actuary at Aon Consulting in London, said the moves are part of a trend among U.K. employers to seek to address

the cost of running defined benefit pension plans.

He noted, however, that while both The Co-op and Arcadia had announced plans to change the benefit formula for their occupational pension plans, neither employer was proposing to move the risk of the plans to their employees by introducing a defined contribution arrangement.

Tim Keogh, a worldwide partner at Mercer Human Resource Consulting in London, said that many U.K. employers have been looking at ways to reduce the costs of running defined benefit pension plans, even in instances where those plans are closed to new entrants.

While he did not wish to comment on individual employers, Mr. Keogh said that many companies, once they have decided to close their defined benefit plans to new members, then seek ways to reduce their liabilities to those closed plans, such as by changing the contribution rate or raising the retirement age.

Employee groups said they would oppose the companies' proposals.

See CO-OP/page 26

Updates

JLT forms reinsurance unit

Jardine Lloyd Thompson Group P.L.C. has launched a wholly owned reinsurance subsidiary, JLT Reinsurance Brokers Ltd. headed by Alan Griffin as chairman and chief executive officer. JLT Re will handle much of the reinsurance business previously placed by JLT Risk Solutions. Currently about 50% of the business handled by the unit is marine and energy reinsurance, 25% is aviation reinsurance and 25% nonmarine reinsurance. JLT Re will target nonmarine business, in particular, for expansion, Mr. Griffin said. The London-based unit has about 105 staff and a representative office in Tokyo.

Beazley scraps plan for third syndicate

Beazley Group P.L.C. has abandoned plans to set up a third Lloyd's of London syndicate because it was unable to agree with potential investors on the structure of the proposed deal, the company said. Beazley, which currently manages two Lloyd's syndicates and a U.S. operation, had announced in November that it was in talks with current capital providers to its syndicate 623 about setting up an additional syndicate to underwrite more property insurance, property reinsurance and marine and energy business. Beazley had proposed that the syndicate would have had capacity of up to £200 million (\$343.76 million) for 2006.

Insurer revenue-sharing implemented in Ireland

A revenue-sharing plan for health insurers in Ireland came into force Jan. 1 after the High Court in Dublin refused to grant an injunction to stop the plan. The so-called "risk equalization" plan is intended to make newer insurers subsidize longtime state-owned health insurer VHI for the extra cost of insuring the older, higher-risk individuals that it covers. Rival health insurer BUPA Ireland, objected to the plan and filed suit seeking an injunction to stop its implementation, alleging that the plan was in breach of European anticompetition laws. BUPA plans to launch further legal challenges.

U.K. pension deficits up 24% in 2005

The pension plan deficit of the FTSE350 companies, the largest 350 publicly listed companies in the United Kingdom, rose 24% to £93 billion (\$163.6 billion) in 2005, according to Mercer Human Resource Consulting. According to Mercer's research, the pension assets values of FTSE350 companies grew by about £60 billion to £422 billion (\$103.1 billion to \$725.3 billion) in 2005, but pension grew similarly.



Munich insurer wrote ice rink liability

BAD REICHENHALL, Germany—Liability insurance for the ice skating rink that sustained a collapsed roof last week in southern Germany killing 15 people, was written by municipal insurer Versicherungskammer Bayern Konzern.

A spokesman at the Munich-based insurer confirmed that it provided liability insurance for the facility but said it is not the property insurer for the ice rink, which collapsed Jan. 2.

Rescue workers in Bad Reichenhall, a spa town in the mountainous Bavarian region, recovered the final body from

the rubble on Jan. 5.

According to German news sources, the roof collapsed just as the rink was closing for the day, after 12 inches of snow had fallen in a matter of hours. Twelve children and three adults were killed.

A spokesman for the Bad Reichenhall City Council said he could not comment on the property or liability insurance for the ice rink building, which was built in 1972. The spokesman said only that it was "too early" to say how much the damage is likely to cost.

—Barbara Cockburn

Hurricanes, other cats cost insurers \$75 billion

Munich Re says 2005 losses double previous year's totals

By SARAH VEYSEY

Insured losses from natural catastrophes totaled a record \$75 billion in 2005, almost double the previous highest total set in 2004, according to estimates from Munich Reinsurance Co.

Hurricane Katrina was the largest single loss of 2005, causing insured losses of about \$45 billion, according to estimates by the Munich, Germany-based reinsurer.

The hurricane was the sixth-strongest ever recorded, according to Munich Re, and it caused an economic loss of about \$125 billion.

Munich Re has increased its own net loss estimate from Hurricane Katrina by €815 million (\$965.1 million) to €1.6 billion (\$1.9 billion), but the reinsurer said it remained on course to meet its profit target for 2005.

The company said this increased estimate was the result of additional claims notifications and reports from loss adjusters since the previous estimate was announced in November.

Munich Re said its loss estimates for the other hurricanes last year remain unchanged and that its overall net loss from the series of hurricanes would be about €2.3 billion

(\$2.7 billion) before tax.

Hurricane Rita was the fourth-strongest ever recorded, according to Munich Re, and it caused an economic loss of about \$15 billion in the United States and the Gulf of Mexico, more than half of it insured.

Hurricane Wilma was the strongest hurricane on record, according to Munich Re, and it caused insured losses of about \$10 billion and economic losses of about \$16 billion.

In addition to these losses, Hurricane Vince developed in the eastern North Atlantic, an area not previously affected by hurricanes, according to Munich Re, but it caused only minor damage in southern Spain.

And Hurricane Delta hit the Canary Islands in November 2005, the first storm in that region since the recording of tropical storms in the Atlantic began in 1851, according to Munich Re.

In January 2005, Windstorm Erwin caused damage in Northern Europe and led to insured losses of about \$2.5 billion, according to Munich Re's estimates.

Heavy rainfall caused flooding in parts of Europe in August, notably in Switzerland, and resulted in insured losses of about \$1.7 billion, Munich Re said.

Overall, the number of natural catastrophes recorded in 2005 was 650, the same number as in 2004 and in line with the 10-year average, according to Munich Re.

Co-op: Unions object to further pension changes

Continued from page 25

The Trades Union Congress, which represents U.K. labor unions, said it would "stand ready to resist pension cuts in companies that can afford to fund deficits."

The Union of Shop, Distributive & Allied Workers, which represents retail workers, said it was "disappointed" by The Co-op's move.

The moves follow announcements by two other large British employers about changes to defined benefit pensions late last year.

In late December, Bradford, England-based financial services company Provident Financial P.L.C., said it would ask members of its defined benefit pension plan to double their contributions to 14% of salary.

Later last month, East Grinstead, England-based business services company Rentokil Initial P.L.C. became the first FTSE100 company—the United Kingdom's 100 largest public companies—to announce plans to phase out its defined benefit pension plan to active employees (BI, Dec. 26).

COMINGS & GOINGS - INDUSTRY

Brokers

Bradley Hamburger has joined New York-based Foa & Son as a senior vp. Previously, he was a vp for the Halland Cos.

Heath Lambert National has appointed **Alan Carnegie** managing director of its operations in Aberdeen, Scotland. Before joining the company, Mr. Carnegie was head of the Aberdeen office for Marsh & McLennan Cos. Inc.

The London-based Cooper Gay Group has appointed **Steve Barton** deputy managing director of its marine and aviation division. Previously, he was managing director of the marine division for Willis Ltd.

Kirk Jensen has joined William Gallagher Associates as senior vp and leader of the risk management practice group. Before joining the Boston-based broker, he was a managing director for Marsh Inc.

Also at WGA, **Louisa C. Bolick** has been promoted to senior vp in the employee benefits practice. Previously, she was a vp.

Willis Group Holdings Ltd. has named **Todd J. Belden** executive vp and managing partner in Cincinnati.

Before joining Willis Group, he was a senior vp and property/casualty practice leader for Acordia Wells Fargo.

Hilb Rogal & Hobbs Co. has named **Sherman Reynolds** senior vp in HRH's new Chicago office. Previously, he was senior vp for Marsh & McLennan Cos. Inc.

Insurers

Jose L. Aviles has been promoted to managing director of commercial lines in the northwest region of Mexico for Grupo Nacional Provincial S.A. in Ciudad Juarez, Mexico. Previously, Mr. Aviles was senior vp of La Prov Corp., the liaison office for GNP in New York.

Reinsurers

Minneapolis-based John B. Collins Associates Inc. has hired four new senior vps in its new Hartford, Conn., office, all of whom previously were brokers for Palmer & Cay Reinsurance Services L.L.C. They are **John W. Threlfall**, who also is manager of the new office; **Peter V. Jackson**; **John F. Gentile**; and **Salvatore M. LoBello**.

Other providers

Deborah V. DiBenedetto has joined Risk Navigation Group L.L.C. in Mendham, N.J., as practice leader of the new integrated health and productivity management practice. Most recently, Ms. DiBenedetto was corporate manager of health and productivity at The Kellogg Co.

The London-based law firm of Beachcroft Wansbroughs has named **David Tiplady** a partner in its insurance and reinsurance group. Previously, he was a partner with Kendall Freeman.

New York-based Buck Consultants Inc. has made several senior-level appointments:

Kathy Ledford is now a principal in the compensation practice in Atlanta. Previously, she was a senior vp with Sibson Consulting.

Jennifer Beattie has been named director in the retirement practice in Buck's Atlanta office. Previously, she was a consultant with Towers Perrin.

David Pitts has been named principal in the retirement practice in the Secaucus, N.J., office. Previously, he was market leader for Connecticut for Mellon Human Resources & Investor Solutions.



Mr. Hamburger

James Otto has joined Buck's Atlanta office as director in the compensation consulting practice. Previously, he was a director at PricewaterhouseCoopers.

Jay Egelberg is now director in the retirement consulting practice in Secaucus, N.J. Previously, he was a vp and actuary for The Segal Co.

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

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LEGAL NOTICE

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT - SOUTHERN DISTRICT OF NEW YORK

In re Petition of Board of Directors of
CAVELL INSURANCE COMPANY LIMITED,
Debtor in a Foreign Proceeding.

In a Proceeding Under Section 304
of the Bankruptcy Code
Case No. 04-B-17990 (SMB)

NOTICE IS HEREBY GIVEN that, in connection with the Petition filed on December 21, 2004, pursuant to section 304 of the Bankruptcy Code (the "Petition"), with respect to **Cavell Insurance Company Limited** ("Cavell"), the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") has scheduled a hearing for March 30, 2006 at 10:00 a.m., or as soon thereafter as counsel may be heard (the "Hearing") before the Honorable Stuart M. Bernstein, Chief United States Bankruptcy Judge, United States Bankruptcy Court, One Bowling Green, New York, New York to consider the Petitioner's request for a permanent injunction order (the "Permanent Injunction") on the terms as substantially set forth below:

1. that the Scheme (as defined in the Petition and as subsequently amended or modified) shall be given full force and effect in the United States, and shall be binding on and enforceable against all Scheme Creditors (as defined in the Scheme) in the United States;

2. that all Scheme Creditors are hereby permanently enjoined from taking any action in contravention of, or inconsistent with, the Scheme;

3. that all Scheme Creditors are permanently enjoined from seizing, repossessing, transferring, relinquishing, or disposing of any property of Cavell in the United States, and its territories, or the proceeds of such property, to any person or entity other than Cavell or the Petitioner;

4. that all Scheme Creditors are permanently enjoined from: (a) commencing or continuing any action or legal proceeding (including, without limitation, arbitration, mediation or any judicial, quasi-judicial, administrative or regulatory action, proceedings or process whatsoever), including by way of counterclaim, against Cavell or any of its property in the United States, and its territories, that is involved in the foreign proceeding, or the proceeds thereof, and seeking discovery of any nature against Cavell, except as provided in the Scheme; (b) enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order, or arbitration award and commencing or continuing any act or any other legal or equitable action or proceeding (including, without limitation, arbitration, mediation or any judicial, quasi-judicial, administrative or regulatory action, proceedings or process whatsoever) to create, perfect or enforce any lien, set off, attachment, garnishment, or other claim against Cavell or any of its property in the United States, and its territories, or any proceeds thereof, including, without limitation, rights under reinsurance or retrocession contracts, except as provided in the Scheme; (c) invoking, enforcing or relying on the benefits of any statute, rule or requirement of federal, state, or local law or regulation requiring Cavell to establish or post security in the form of a bond, letter of credit or otherwise as a condition of prosecuting or defending any proceedings (including, without limitation, arbitration, mediation or any judicial, quasi-judicial, administrative or regulatory action, proceedings or process whatsoever) and such statute, rule or requirement will be rendered null and void for proceedings; (d) drawing down any letter of credit established by, on behalf of, or at the request of, Cavell, in excess of amounts expressly authorized by the terms of the contract or other agreement pursuant to which such letter of credit has been established; and (e) withdrawing from, setting off against, or otherwise applying property that is the subject of any trust or escrow agreement or similar arrangement in which Cavell has an interest in excess of amounts expressly authorized by the terms of the contract or other agreement pursuant to which such trust, escrow, or similar arrangement has been established;

5. that all persons and entities in possession, custody, or control of property of Cavell in the United States, or its territories, or the proceeds thereof, will be required to turn over and account for such property or proceeds to Cavell or the Petitioner;

6. that nothing in the Permanent Injunction shall in any respect prevent the commencement or continuation of proceedings against any person or entity other than Cavell; and

7. that no action taken by the Petitioner, its successors, agents, representatives, advisers, or counsel, or any of them, in preparing, disseminating, applying for, implementing or otherwise acting in furtherance of the Scheme, the above-referenced section 304 case, any request for relief in the section 304 case, or any adversary proceedings in connection therewith, will be deemed to constitute a waiver of the immunity afforded to the Petitioner, its successors, agents, representatives, advisers, or counsel pursuant to section 306 of the Bankruptcy Code.

PLEASE TAKE FURTHER NOTICE that, all parties-in-interest opposed to the Petitioner's request for the Permanent Injunction must appear at the Hearing at the time and place set forth above or any subsequent adjourned date. All papers submitted for the purpose of opposing the request for a Permanent Injunction shall be filed with the Bankruptcy Court with a copy to Chambers of the Honorable Stuart M. Bernstein and served on Chadbourne & Parke LLP (Attn: Howard Seife, Esq.) so as to be received at least fourteen (14) days before the Hearing. The Petition and any supporting papers will be made available upon request at the offices of the Petitioner's United States counsel at the address below:

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Roth: Take-up likely to be slow for 401(k) plan

Continued from page 3

401(k) contribution limit, which this year is \$15,000.

The final rules also state that a Roth 401(k) plan must be part of a traditional 401(k) plan. "These final regulations clarify that, in order to provide for designated Roth contributions, a qualified cash or deferred arrangement must also offer pretax elective contributions," the final rules say.

Additionally, matching employer contributions cannot be allocated to a designated Roth account.

The final rules also make clear that employers can set up automatic enrollment programs in conjunction with a Roth 401(k) plan. Under an automatic enrollment program, new employees who have not signed up are, unless they specifically object, enrolled in the employer's 401(k) plan, with a stipulated percentage of pay contributed to the plan.

In the case of a 401(k) plan with a Roth feature, the employer must spell out which contributions—made through automatic enrollment—will be pretax 401(k) contributions and which contributions will be aftertax Roth account contributions.

Still, the final rules do not address a variety of tax issues relating to distributions from Roth 401(k)

plans. For example, while the law says contributions must be held in the plan for five years in order for an employee of at least age 59½ to take a tax-free distribution, some experts say guidance is needed on whether the five-year period starts from when the first contribution was made or from the start of the plan year in which the contribution was made.

"The vast majority of employers will adopt these plans, though it may not be for a few more years."

Michael Weddell
Watson Wyatt Worldwide

"There are a lot of nitty-gritty tax questions that still have to be addressed," said Rich Koski, a managing director with Buck Consultants Inc. in Secaucus, N.J.

"There are still a lot of unknowns," concurred Valerie Kupferschmidt, a consultant with Hewitt Associates Inc. in Lincolnshire, Ill.

And then there is, perhaps, the biggest unknown: whether Congress will allow the authorization

for Roth 401(k) plans to expire. Unless Congress takes action, the EGTRRA provision that created Roth 401(k)s will expire at the end of 2010. A pension funding reform bill passed by the House of Representatives last month would make the plans permanent, while the reform bill earlier passed by the Senate lacks a comparable provision.

Because of those uncertainties, most employers, so far, have held off on adding the feature to their 401(k) plans, experts say.

Initial "client interest has been much less than we thought," said Michael Weddell, a consultant in the Southfield, Mich., office of Watson Wyatt Worldwide.

"It has been slow to catch on," said Buck's Mr. Koski, citing the lack of complete regulatory guidance, as well as the time involved to make the administrative changes necessary to accommodate Roth 401(k) contributions.

Still, given the plans' significant tax advantages, especially for younger employees, whose contributions could grow tax-free for decades, employers expect large numbers of employers to add the feature eventually.

"The vast majority of employers will adopt these plans, though it may not be for a few more years," Mr. Weddell said.

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Acordia: New CEO will bank on cross-selling opportunities

Continued from page 3

ating a growth strategy for Wells Fargo's personal lines and small commercial segment, Mr. Wissinger said he is ready to focus on growing Acordia's predominately middle market commercial business as well. And he's not shy about his goals.

"Our intent is to grow both sides of the insurance business robustly," he said of commercial and personal lines. "So I don't see why, down the road, we shouldn't aspire to be No. 1. Wells is No. 1 in a lot of different categories in the businesses they're in, and we intend on being a major player in insurance."

Mr. Zuercher noted that while becoming the world's largest insurance brokerage is a goal, the first step is to be No. 1 in terms of customer satisfaction.

"We want to become No. 1 in terms of size because people view us as No. 1 in terms of services," he said.

Given the current size of Wells Fargo's insurance brokerage operations, however, that may take some time.

In 2005, Wells Fargo ranked as the world's fifth largest brokerage, with \$943.7 million in 2004 brokerage revenues derived from Acordia and Wells Fargo Insurance (*BI*, July 18, 2005). In comparison, the world's largest brokerage, New York-based Marsh & McLennan Cos. Inc., generated \$10.4 billion in 2004 brokerage revenues.

"We will look at every way possible to grow the business," Mr. Wissinger said. "We will hire sales people and train them, we will hire

experienced sales people, we will continue to do acquisitions and we will pursue all of those with equal emphasis," he said.

Cross-selling also remains a core focus in growing the business.

"We've had a good deal of success in the middle market portfolio at the bank in terms of cross-selling," Mr. Zuercher said, noting that close to 10% of Wells Fargo's middle market clients use Acordia today and that figure continues to grow.

"I have to believe that they are either planning to pursue some large acquisition targets and/or really going after the personal lines cross-sell."

Jim Campbell
Reagan Consulting Inc.

The goal now is to build the same kind of "penetration" within the small commercial segments of the bank and insurance entities, he said. Wells Fargo also intends to focus on cross-selling personal lines insurance with Wells Fargo's existing individual bank clients.

New strategy

This is not the first time Wells Fargo has attempted to integrate its insurance operations.

Shortly after the 2001 acquisi-

tion, Wells Fargo moved Acordia to St. Louis Park, Minn., and began integrating it with Wells Fargo Insurance. It also set about changing Acordia's name to Wells Fargo Insurance Brokerage Inc.

But after operating for nearly six months as a subsidiary of Wells Fargo Insurance, Acordia moved back to Chicago, reverted to its original name and became a wholly owned subsidiary of the banking giant.

Acordia executives at the time said it was confusing from a marketing standpoint to combine Acordia with Wells Fargo Insurance, which, among other things, sells personal lines products via the bank's Web site (*BI*, Nov. 26, 2001). And in the aftermath of the Sept. 11, 2001, terrorist attacks, Acordia wanted to focus on its customers' needs rather than on internal integration issues.

"We really needed to make sure Acordia was comfortably integrated into the culture of Wells Fargo," Mr. Zuercher said.

Now five years later, Wells Fargo is once again attempting to integrate its insurance operations, but Mr. Zuercher noted that there are no plans right now to physically integrate the operations into one entity.

While the brand identities will remain separate, Wells Fargo does plan to make its name more prominent with respect to the Acordia name at some point this year, Mr. Zuercher said.

Industry observers say that while Wells Fargo's new strategy should help grow its insurance practice, they note that the company has ambitious goals, as well.

Despite seven years in the insur-

ance brokerage business, banks are just now starting to figure out how to navigate successfully through the insurance life cycle, said Patrick T. Linnert, senior vp for Marsh, Berry & Co. in Concord, Ohio. While banks have historically had well defined goals for their insurance programs, "there was no strategic recipe for success," he said. "Wells Fargo's latest insurance strategy coincides with what we have seen work the best."

With an existing strong insurance presence, it is correctly integrating and centralizing the managerial and operational insurance functions, Mr. Linnert said. "Such integration will leave the bank well positioned to capitalize upon cross-sell and other leverage activities, which will ultimately facilitate the

bank's wallet share and earnings targets," he said.

But as Jim Campbell, principal and head of the bank consulting practice at Reagan Consulting Inc. in Atlanta, points out, Mr. Wissinger has some lofty growth goals.

"If you're going to make the kind of statements that he's making about where they're going to be, then clearly, acquisitions have to be not only a part of it, but a very big part of it," he said.

"I have to believe that they are either planning to pursue some large acquisition targets and/or really going after the personal lines cross-sell, which is kind of untapped for banks and also finding ways to continue to aggressively cross-sell on the commercial side of the bank," Mr. Campbell said.

Acordia timeline

1989: Indianapolis-based Anthem Inc. forms Acordia to serve as its health care administration and distribution arm.

1991: Acordia emerges on the insurance brokerage scene with its acquisition of Robinson-Connor Inc.

1991-97: Scores of acquisitions position Acordia as the world's seventh-largest brokerage, with more than \$555 million in 1996 gross revenues.

1997: Acordia's management, together with various investment banking groups, buys \$285.9 million of Acordia's brokerage operations for \$310 million from Anthem.

2000: Acordia moves its corporate headquarters to Chicago from Indianapolis for better transportation access.

2001: Wells Fargo & Co. announces its acquisition of Acordia for an undisclosed sum, creating the first wholly bank-

owned insurance brokerage to break into *Business Insurance's* top 10 rankings of the world's largest brokers.

Mid 2001: Acordia moves to Minneapolis, begins integrating its business into Wells Fargo's existing insurance holding company and starts the legal process of changing its name to Wells Fargo Insurance Brokerage Inc.

Late 2001: Acordia returns to Chicago, resumes the use of its former name and begins to operate as a wholly owned Wells Fargo subsidiary.

2003: Kevin Conboy, Acordia's chief operating officer and executive vp, is tapped to succeed Frank C. Witthun as chief executive officer.

2005: Wells Fargo announces that Peter J. Wissinger is succeeding Mr. Conboy as president and CEO of Acordia and that it is combining the leadership of all of its insurance operations under Mr. Wissinger.

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Business Insurance



Heinz: Captive application filed

Continued from page 4

AstraZeneca executives earlier said advantages of the captive benefits funding arrangement include improved cash flow, greater flexibility in plan design and over the long term, cost-savings.

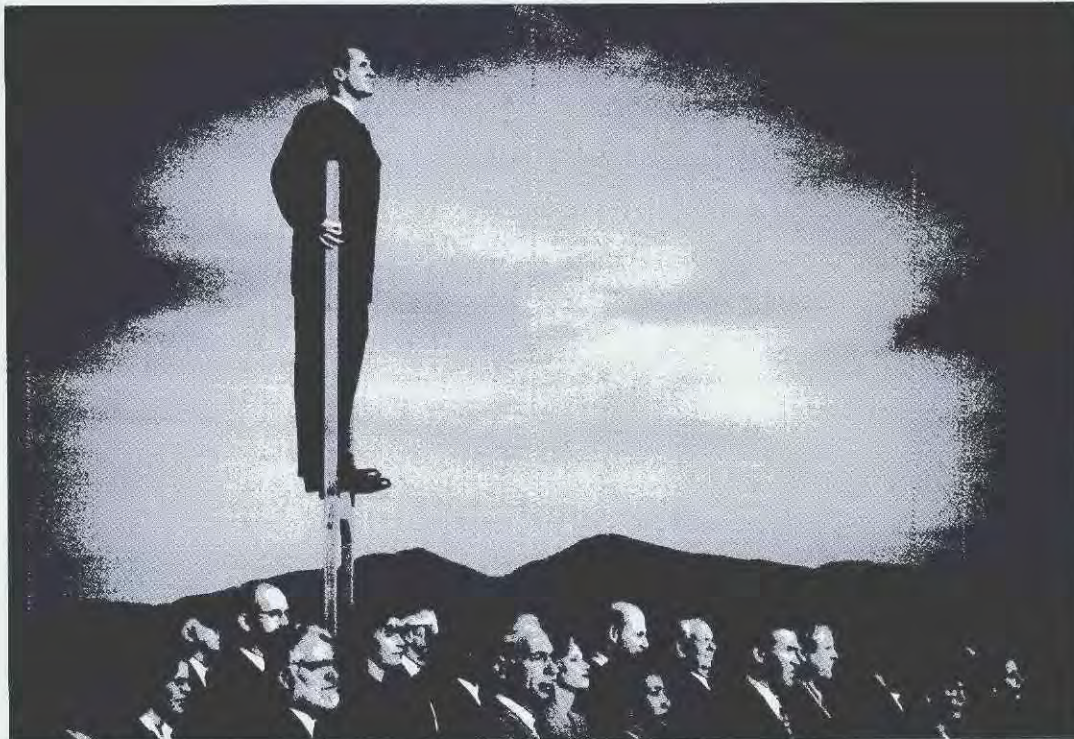
A third employer, AGL Resources Inc.—an Atlanta-based natural gas distributor—is awaiting Labor Department action on its proposal to fund benefit risks through the Hawaii branch of its British Virgin Islands-domiciled captive.

And in the months ahead, more employers likely will expand their captives' books of business to cover employee benefit risks, experts say.

"Employee benefits captives have clearly entered the mainstream of risk management strategy," said George O'Donnell, senior vp-benefit of funding strategies at Aon Consulting in Somerset, N.J., which filed Heinz's application with the Labor Department.

Aside from AstraZeneca's request, the Labor Department in 2005 approved benefit captive funding applications filed by Alcoa Inc. in Pittsburgh and Sun Microsystems Inc. of Santa Clara, Calif. Between 2000 and 2004, five other employers received Labor Department approval to fund benefit risks through their captives.

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IBM: Defined benefits plans freeze seen as 'watershed event' that others will emulate

Continued from page 1

401(k) plan for employees who, after Dec. 31, 2007, will no longer earn benefits in their PEP and cash balance plans. Currently, IBM matches 50% of 401(k) deferrals, up to 6% of pay, for employees covered under the PEP and cash balance plans.

In the case of all employees hired since Jan. 1, 2005, who are not cov-

ered under IBM's defined benefit plans, IBM's 401(k) plan sweetening is more modest. Currently, IBM fully matches those employees' salary deferrals, up to 6% of pay.

That will change slightly in 2008, when IBM will fully match, up to 5% of pay, employees' deferrals and will automatically make a contribution equal to 1% of pay.

With its action, IBM joins a grow-

ing number of employers that also are closing out their defined benefit plans.

More to follow?

In just the past six months or so, some of the nation's biggest and best-known companies—including Verizon Communications Inc., Lockheed-Martin Corp. and

Hewlett-Packard Co.—announced they are phasing out their defined benefit plans (see chart).

And more employers are likely to follow.

"In the retirement plan business, there tends to be a herd mentality," said Sheldon Gamzon, a principal in New York with PricewaterhouseCoopers' HR Services unit.

Indeed, Mr. Gamzon, who describes IBM's action as a "watershed event," said that within a day of IBM's announcement, several clients contacted him for information about the cost implications of a pension freeze.

Others note that there can be a domino effect within an industry when major players decide to close out their retirement plans. That puts pressure on other employers—to keep their benefit costs competitive—to close down their plans as well, said James Klein, president of the American Benefits Council in Washington.

"While many companies don't want to be the first to take such a step, they want to remain competitive. That is what drives a lot of this," said Ari Jacobs, a consultant with Hewitt Associates Inc. in Norwalk, Conn.

Others blame federal legislators, at least in part, for the move away

from defined benefit plans. Companies with cash balance plans, or those considering converting traditional defined benefit plans to cash balance plans, have grown tired of waiting for Congress to clarify the rules under which the plans can operate and are deciding to offer only 401(k) plans, some say.

Unless Congress soon provides such clarity, the "tidal wave" of defined benefit plan freezes will grow even stronger, warns Ethan Kra, chief actuary with Mercer Human Resource Consulting in New York.

Still, consultants urge employers to carefully consider benefit strategies. Closing a defined benefit plan may eliminate investment risk for an employer, but switching to a beefed up 401(k) can create new risks, including the risk that employees, if their investment returns on their 401(k) plan contributions are lower than they need to retire, may stay on the job longer than their employer wants. Conversely, if employees' 401(k) plan investments boom, employees may retire earlier than expected, leaving a hole in the corporate workforce.

"You transfer one type of volatility for another," said Syl Schieber, director of U.S. benefits consulting for Watson Wyatt Worldwide in Arlington, Va. X

How large employers are phasing out their defined benefit plans

Employer	Action	Effective date
IBM Corp.	Enriched 401(k) for all future benefits	1-1-08
Verizon Communications Inc.	Enriched 401(k) for all future benefits	7-1-06
Lockheed-Martin Corp.	DB plan limited to current employees; second DC plan added for new employees	1-1-06
Hewlett-Packard Co.	DB plan limited to older, longer-service employees; enriched 401(k) for others	1-1-06
Sears Holdings Corp.*	Enriched 401(k) for all future benefits	7-1-06
Motorola Inc.	DB plan limited to current employees; enriched 401(k) for new employees	1-1-05
NCR Corp.	Enriched 401(k) for new and younger employees; others given a choice between an enriched 401(k) or staying in DB plan	9-1-04

*For Sears, Roebuck & Co. unit

Tort reform: Advocates hope to maintain momentum; set sights on state elections

Continued from page 1

And reformers have their sights set on the states, where they managed to score some victories on such matters as venue reform last year. Judicial elections in several states will be key, they say.

"Our campaign for legal reform at the federal level, in the states and in the courts will move ahead on all fronts this year with as much or more energy" than has been the case in the past, U.S. Chamber of Commerce President Thomas J. Donohue said at a press briefing on the chamber's agenda in Washington last week. In particular, he said that the Chamber would "continue to pursue a legislative solution to the asbestos litigation crisis and seek passage of a bill to stop frivolous assaults on the food industry."

"With the Hill, things are always uncertain," given the number of issues lawmakers must deal with, said Victor Schwartz, general counsel of the Washington-based American Tort Reform Assn.

"It's going to be difficult," he said. But Mr. Schwartz quickly added that "the one bill that seems to have all the makings to become law is the Personal Responsibility in Food Consumption Act." H.R. 554 would ban new claims and dismiss pending personal injury claims brought against food manufacturers, marketers, advertisers, distributors, sellers and trade associations that allege that consumption of food products caused weight-related health problems.

Mr. Schwartz noted that the measure enjoyed considerable biparti-

san support in the House. He said the fact that it won more than 300 votes made it "one of the most successful federal tort reforms" ever.

"We're hoping that the Senate will pick up the obesity bill," said Lawrence Fineran, vp-regulatory and competition policy at the National Assn. of Manufacturers in Washington. Like Mr. Schwartz, he noted that the measure has "strong Democratic support" in addition to widespread Republican support.

The outlook for LARA appears murky.

Melissa Shelk, vp-federal affairs at the American Insurance Assn. in Washington, said the group was working on getting LARA introduced in the Senate. "It's very worthwhile legislation but probably a little more difficult" to move than the food liability bill, she said.

LARA would require federal judges to impose mandatory sanctions on attorneys who file lawsuits that are determined to be frivolous. Judges currently decide whether to impose sanctions.

LARA would also curb what tort reform advocates have long branded as abusive "forum shopping," whereby plaintiffs attorneys seek the most plaintiff-friendly jurisdictions in which to file lawsuits against corporate defendants. Under LARA, a suit could be filed only in the jurisdiction in which the plaintiff lives, where the injury occurred or where the defendant has its principal place of business.

Ms. Shelk called the general atmosphere on the Hill positive, but cautioned that this is an election year and passing legal reforms in an

election year is always more difficult than in a nonelection year.

Mr. Schwartz said believes the Senate version will differ slightly from the House version but could

"Our campaign for legal reform at the federal level, in the states and in the courts will move ahead on all fronts this year with as much or more energy" than has been the case in the past.

Thomas J. Donohue
U.S. Chamber of Commerce

be "more politically viable" because it would deal only with federal courts. He also pointed out that small businesses have lined up behind the bill and "small business often trumps the personal injury bar."

Mr. Fineran said NAM also hopes the Senate will take up LARA. He noted, though, that Senate Majority Leader Bill Frist, R-Tenn., has already promised that the Fairness in Asbestos Injury Resolution Act will be the first new piece of legislation that the Senate will take up when it reconvenes this year. The FAIR Act would create a national no-fault trust fund to replace the current litigation-based system for compensating victims of asbestos-related dis-

ease. Defendant companies, their insurers and existing asbestos compensation trusts would pay for the \$140 billion fund.

Mr. Schwartz called asbestos "the big enchilada" of liability issues before Congress. The problem, though, "is that those who have been adversely affected by the asbestos crisis are not yet united behind one piece of legislation." While many business groups support the trust fund, others oppose it, as do insurers.

Turning to the states, a key area of interest to reformers is judicial elections, said John Lobert, senior vp-state legislative affairs for the Property Casualty Insurers Assn. of America in Des Plaines, Ill. He said PCI will concentrate on races in Alabama, Kentucky, North Carolina, Ohio, Oregon and Wisconsin.

In Alabama, for example, "the litigation environment has improved because business has concentrated on judicial elections and we want to preserve that," he said.

"There will be other opportunities as we see, closer to filing time, who files for the judicial elections," he said. "In some states, unfortunately, challengers are hard to find. The business community will have to" become engaged in the process to enlist favorable candidates if that occurs.

The Chamber's Mr. Donohue also stressed the importance of state judicial elections, saying that the Chamber's Institute for Legal Reform "will educate voters in states where there are important elections for Supreme Court judges and attorneys general," with a potential of

being involved in as many as 60 elections.

PCI will also be pushing for asbestos liability reform in West Virginia. That state "is a poster child for a bad asbestos litigation environment," Mr. Lobert said. PCI also is seeking continued venue reform in Illinois, where the state Supreme Court has handed down a series of decisions regarding venue and class actions that have been welcomed by business.

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Mine: Insurer took over one day before explosion

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two-thirds of a miner's average weekly wage, up to a state maximum of \$568.78 a week, according to a BrickStreet spokesman. A widow can receive benefits until the year that the worker would have turned 70, unless she remarries. Dependent children typically are eligible until they reach the age of 18, or 25 if they are college students. The state also provides a burial allowance.

ICG, which began operating the mine in November 2005, may face claims beyond those falling under workers comp, though, especially if survivors of those killed are able to use safety-related issues as a basis for suing the company outside of workers compensation system, observers note.

Several questions already have been raised about the significance of the mine's poorer-than-average safety record, including 208 safety violations in 2005. In addition, miscommunications that occurred while miners' families awaited the outcome of rescue efforts resulted in anger at company officials.

"I would anticipate that many of the families will want some answers," said Bill Frame, a plaintiffs attorney with Wilson Frame Benninger Farrell & Metheny P.L.L.C. in Morgantown, W.Va.

"In West Virginia, if an employer's conduct rises to the level of deliberate intent or reckless indifference to the safety of employees, there is a cause of action for dam-

ages in excess of workers compensation benefits," he said. Punitive damages, however, are not permitted, Mr. Frame noted.

As mining operations at the Sago Mine increased between 2004 and 2005, so too did enforcement efforts and reported violations, according to extensive data from the federal Mine Safety and Health Administration.

"We never cut one penny out of any safety budget of any company we have invested in...nor rejected any request for any money for safety."

Wilbur J. Ross Jr.
International Coal Group Inc.

In 2005, the mine lost a total of 17.04 days of production as a result of nonfatal accidents, compared with the national average of 6.54. The year before, it lost 15.9 days, compared with an average of 5.66.

Safety officials also issued 208 "citations, orders and guidance" in 2005, including many for "significant and substantial" violations, including a few for accumulation of combustible materials such as coal dust. The company has corrected all

but three roof-related violations and is working on those, safety officials report.

In addition, the federal mine safety officials issued 18 separate "withdrawal orders" that shut down mining activity in specific areas of the mine until the problems were corrected.

Thus far, the company has paid \$24,155 in 2005 penalties.

ICG was formed in May 2004 by ICG Chairman Wilbur L. Ross Jr., who specializes in turning around companies in financially troubled industries.

His investment firm completed the purchase of the Sago Mine from a bankruptcy proceeding in November 2005.

In an interview, Mr. Ross expressed regret for the accident but noted that "all mines get safety violations" because the industry is extensively regulated. Had the mine been considered unsafe the day of the explosion, authorities there that day could have shut it down, he said.

"We have never cut one penny out of any safety budget of any company we have invested in...nor rejected any request for any money for safety," he said. Mr. Ross has contributed \$2 million to a company fund that was established to aid the victims' families.

An ICG spokesman declined to comment beyond saying that the company has closed the mine indefinitely and is transferring workers to other job sites.

Late News

Continued from page 1

foreign subsidiaries of covered companies, says the 1st U.S. Circuit Court of Appeals, in the first appellate court decision on the issue. In the case, *Ruben Carnero vs. Boston Scientific Corp.*, the plaintiff argued that "to limit the operations of the statute to purely domestic conduct in the United States would improperly insulate the foreign operations of covered companies" and "frustrate" the basic purpose of the Sarbanes-Oxley Act, which is to protect both investors in U.S. securities markets and those markets' integrity, says the decision. "While (that) argument has some force, it faces a high and we think insurmountable hurdle in the well-established presumption against the extraterritorial application of Congressional statutes," the panel reasoned.

Class action filings down in 2005: Study

The number of securities-related lawsuits seeking class action status during 2005 decreased by more than 17% compared with 2004, according to a report. The number of securities-related suits filed in 2005 fell to 176 from 213 in 2004, according to the report from the Stanford Law School Securities Class Action Clearinghouse in Palo Alto, Calif., and Boston-based Cornerstone Research. The study's authors said the drop may stem from the end of the "dramatic boom and bust of U.S. equities" in the late 1990s and early 2000s, improved corporate governance in the wake of scandals, and a decrease in stock market volatility in 2005 to a level not seen since 1996.

Montpelier Re launches retrocessional reinsurer

Montpelier Re Holdings Ltd., along with other investors, is launching a retrocessional reinsurer in Bermuda. Blue Ocean Reinsurance Ltd. plans to write property catastrophe retrocessional coverage for parties other than Montpelier. Blue Ocean has capital commitments of \$300 million in common and preferred equity, including a \$133 million investment by Montpelier; other investors were not identified. Policies will be underwritten by Montpelier Agency Ltd. Initially, Blue Ocean expects to write gross aggregate policy limits of \$350 million or more. The operations will be overseen by John Bassett, a director of

Montpelier Agency, who previously was responsible for Montpelier's retrocessional portfolio.

Bank sues Marsh over commissions

Nearly three months after the deadline for clients to participate in Marsh & McLennan Cos. Inc.'s \$850 million settlement of bid-rigging charges, a large regional bank is suing the broker to recover contingent commissions Marsh collected on its account. Marshall & Ilsley Corp., a banking and financial services company with \$45 billion in assets, filed the suit against Marsh in federal court in Milwaukee last month. Milwaukee-based M&I, which hired Marsh in 1995, charges that the broker secretly took kickbacks from insurers in the form of contingent commissions while placing the bank's coverage. M&I also claims it was unaware that Marsh collected interest income on M&I premiums held in fiduciary accounts before remitting them to underwriters. Charging breaches of fiduciary duty, the suit seeks restitution equaling the contingent commissions and interest income Marsh received on M&I's business, along with punitive damages. A Marsh spokesman declined to comment.

Maryland appoints insurance commissioner

Maryland Gov. Robert Ehrlich Jr. has appointed R. Steven Orr as the state's insurance commissioner. Mr. Orr previously worked as senior vp and chief information officer for Universal Underwriters Group, an Overland Park, Kan.-affiliate of Zurich Financial Services Group Inc. He replaces Alfred W. Remer, who resigned in October to take an appointment in the private sector.

W.R. Berkley forms online comp system

W.R. Berkley Corp. has formed Berkley Net Underwriters L.L.C., an online system that allows its producers to quote and bind workers compensation coverage on its behalf. While Berkley Net Underwriters will initially focus on workers compensation insurance, future expansion into other lines is expected, the Greenwich, Conn.-based company said. John K. Goldwater has been named president of the new operation. He most recently served as vp of GE CyberComp, another online system that allows producers to quote and bind workers comp policies.

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Largest gains

SCOR S.A.	9.35%
CNA Surety Corp.	8.44%
SCPIE Holdings Inc.	8.13%
Argonaut Group Inc	7.17%
AXA	7.02%

Largest losses

American Safety Insurance Holdings Ltd	-3.23%
Willis Group Holdings Ltd.	-2.63%
WellPoint Health Networks, Inc.	-1.08%
UNICO American Corp.	-1.07%
Odyssey Re Holdings Corp.	-0.88%

Weekly change by market segment

Brokers	0.79%
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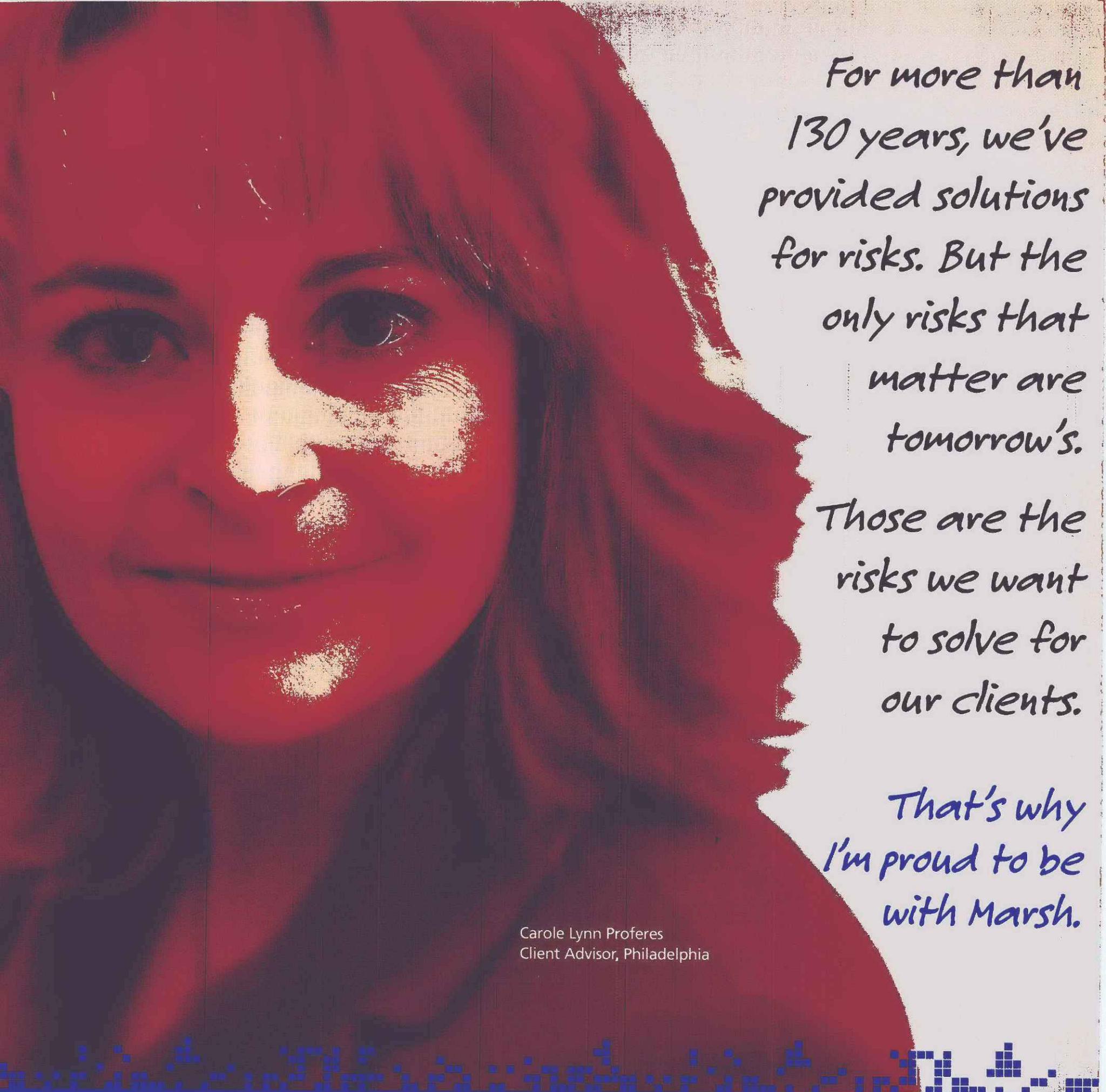
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matter are
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