

Business Insurance®

July 24, 2006

www.businessinsurance.com

\$5

Late News

Pension negotiations continue this week

Congressional conferees will resume negotiations this week after failing last week to come to a final agreement on a pension funding reform bill. "We don't have an agreement, but we are very close," said House Majority Leader John Boehner, R-Ohio, a conferee. The American Benefits Council, a benefits lobbying organization, earlier said conferees had reached a tentative agreement on several issues, including a three-year phase-in for employers with well-funded plans of a new rule that would require plans to amortize liabilities over seven years.

Most rates drop, but property rises

An analysis of Council of Insurance Agents & Brokers survey data by Lehman Brothers Inc. found that, overall, commercial premium rates declined by an average of 3% for all sizes of accounts during the second quarter of 2006. All lines saw decreases except commercial property, which had

See **LATE NEWS** / page 23

House panel passes regulatory reforms for surplus lines

By **MARK A. HOFMANN**

WASHINGTON—A House panel last week gave its approval to a measure that would reform state regulation of reinsurance and surplus lines insurance.

But the measure's definition of a "qualified risk manager" appears likely to mean that the Nonadmitted and Reinsurance Reform Act of 2006 will be the target of additional changes before the bill goes before the House Financial Services Committee.

The committee's Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises approved its version of the bill—H.R. 5637—on July 19 on a voice vote. The bill seeks to set up a uniform system for regulating and tax-

ing the surplus lines industry by making nonadmitted insurance subject only to regulation in the policyholder's home state. The policyholder's home state would collect the surplus lines premium taxes, and states would decide how to allocate the tax among themselves.

In addition, the bill would allow certain commercial buyers that have unique or large risks that require surplus lines coverage to bypass what the Risk & Insurance Management Society Inc. called "regulatory hurdles currently imposed by the states which add no meaningful value to the process."

The subcommittee's ranking member, Rep. Paul Kanjorski, D-Pa., expressed concern whether the

See **SURPLUS LINES** / page 23



ERISA pre-empts 'Wal-Mart' mandate in Maryland: Judge

By **JOANNE WOJCIK**

BALTIMORE—A federal court decision invalidating Maryland's so-called "Wal-Mart law" is likely to have a dampening effect on similar measures now pending in other states, health benefit experts say.

However, it is still unknown what impact the decision will have on broader statutes to expand coverage for the uninsured that were recently enacted in Massachusetts and Vermont, experts say.

Meanwhile, Maryland Attorney General J. Joseph Curran Jr. intends to appeal the decision.

U.S. District Judge J. Frederick Motz ruled July 19 that Maryland's Fair Share Health Care Fund Act, which would have required employers with 10,000 or more employees in the state to spend at least 8% of payroll on health benefits, violates a provision in the Employee Retirement Income Security Act. ERISA pre-empts state laws and rules that relate to employee benefit plans.

"The act violates ERISA's fundamental purpose of permitting

multistate employers to maintain nationwide health and welfare plans, providing uniform benefits and permitting uniform national administration," Judge Motz wrote.

The Maryland General Assembly passed the Fair Share Act on Jan. 12, 2006, overriding a veto by Maryland Gov. Robert Ehrlich. Although the law applied to employers with 10,000 or more employees in the state, only Bentonville, Ark.-based Wal-Mart Stores Inc. would have been affected, because the three other employers of that size in the state already met the law's health care spending thresholds of 8% of payroll for private employers and 6% for nonprofit employers. The act would have become effective on Jan. 1, 2007.

The Arlington, Va.-based Retail Industry Leaders Assn., of which Wal-Mart is a member, filed suit in February challenging the law, arguing that it was pre-empted by ERISA and also violated the equal-protection clause of the U.S. Constitution. While Judge Motz agreed with the RILA's argument

See **ERISA** / page 22

RRG group seeks OK to write property cover

ARRC cites market need

By **JERRY GEISEL**

WASHINGTON—With insurance rates climbing and coverage availability tightening, a lobbying group is asking federal legislators to allow risk retention groups to fund property risks.

The American Risk Retention Coalition, a trade group representing RRGs, is trying to drum up support on Capitol Hill for its proposal to expand the federal law that authorizes RRGs and gives them their special status.

Unlike commercial insurance entities, RRGs can provide coverage to policyholders in any state after meeting the licensing requirements of one state. RRGs, though, can only underwrite commercial casualty risks for their members, a limitation that the American Risk Retention Coalition says legislators should lift.

"The problem today is with the lack of availability of property insurance and Congress can help by taking the simple but important step of amending the LRRRA, on an emergency basis, to allow risk retention groups to sell property insurance," ARRC wrote in a letter sent

See **RRGs** / page 22

Inside



DISABILITY DEAL
California settles dispute over disability regulations.
PAGE 3

BROKER PORTALS
Marsh, Aon, Willis expand online client resources.
PAGE 3



INTERNATIONAL NEWS

EXEC BANNED
U.K., Australia disqualify former Cologne Re exec over finite deals.

PAGE 17

HARASSMENT
U.K. employers face vicarious liability for workplace bullies.

PAGE 17

To Subscribe Call
1-888-446-1422 in the U.S. or
1-313-446-0450 outside the U.S. or
go online to www.businessinsurance.com

HOW CAN YOU REDUCE MEDICAL COSTS IN WORKERS' COMPENSATION?



Heidi Mader is an assistant vice president in Aon Consulting's health and welfare practice.

With the medical component of workers' compensation soaring, many organizations see no end in sight. However, there are strategies that have proven effective in the group health arena that could also have a dramatic effect on the medical and pharmacy components of workers comp. Visit www.aon.com/ask to learn more about cost-containment strategies that can help your workers' comp program.

Contact me at
1.212.441.2116
or
heidi-mader@aon.com
Heidi



Inside

Treasury official calls for regulatory reform

Randal K. Quarles stops short of endorsing a federal chartering system. **Page 4**

System allows Chevron to cut disability costs

Data-driven management program allows company to reduce claims by 15%. **Page 4**

State's 'Wal-mart law' flunks ERISA test

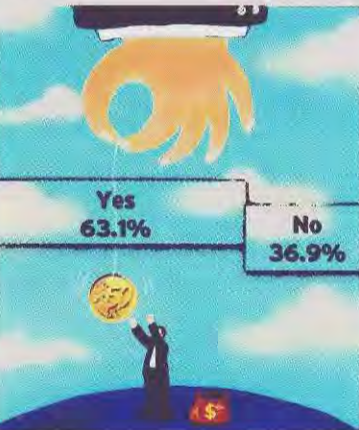
An editorial says a federal judge was correct to strike down Maryland health care law. **Page 8**

For WTO membership, Russia may open market

In a bid to join the World Trade Organization, Russia offers to open insurance markets. **Page 17**

Online poll [7/17-7/21]

Can brokers act in buyers' best interest if they are receiving contingent commissions from insurers?



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

Departments

Advertiser Index.....	22
Between the Lines.....	16
Book Review.....	10
Business Resources.....	16
Comings & Goings.....	12
International.....	17
Letters.....	8
Opinions.....	8
Professional MarketPlace.....	18
Ticker.....	23
World Updates.....	17

Reporting on corporate risk and employee benefit management news

Business Insurance (ISSN 0007-6864) Vol. 40, No. 30, is published weekly by Crain Communications Inc., 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to Business Insurance Circulation Department, 1155 Gratiot Ave., Detroit, Mich. 48207-2912. \$5 a copy and \$97 a year in the U.S. \$130 in Canada and Mexico (includes GST). All other countries, \$230 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 40012850, GST No. 136760444, Canadian return address: 4960-2 Walker Road, Windsor, ON N9A6J3. Printed in U.S.A. Copyright © 2006 by Crain Communications Inc.

Brokers expand risk information portals

MarshConnect debuts; Aon, Willis update offerings

By REGIS COCCIA

Risk managers looking for a centralized source of information on their organizations' risks and coverages worldwide, as well as tools to manage them, have new options from the three largest brokers, including an online portal that Marsh Inc. is rolling out to clients beginning this week and enhancements to existing technology from Aon Corp. and Willis Group Holdings Ltd.

While Aon has operated a portal called AonLine since 1996 and Willis has had Willis Online since the beginning of 2005, Marsh has integrated its information technology systems and recently developed a portal called MarshConnect. All three portals offer a menu of features and are available free to the brokers' clients.

While risk managers welcomed

the brokers' initiatives, some said the portals are not critically important and that they are more likely to rely on other measures to monitor and manage their risks (see story, page 21).

Marsh has spent the past five months creating and refining MarshConnect, which begins beta testing with selected clients on July 24 and will be available to all clients starting Sept. 1, said Robert G. Petrie III, managing director and head of North American operations and client technology at Marsh in Chicago.

Marsh is doing "two major things from a strategic standpoint," said Brian Storms, chairman and chief executive officer of the New York-based brokerage: integrating company operations worldwide and meeting market demands to use technology to clients' benefit.

"We became increasingly aware in the last nine or 10 months how our clients need us to operate more seamlessly," Mr. Storms said, explaining that Marsh has long had autonomous business structures. "Technology is among the most important tools" Marsh has to coordinate its various business units, and Marsh wants to provide "tools and capabilities that transcend what the industry is doing," he said.

Mr. Storms said MarshConnect was unveiled a few months ago at a meeting of the brokerage's Global Leadership Team, which comprises about 75 of its most senior executives. "A year ago, these people would've said they were disappointed in our use of technology. They were literally awestruck to sit through a demonstration of MarshConnect. People were stunned at how quickly we're accelerating our

use of technology," Mr. Storms said.

One of Marsh's largest clients, which he declined to identify, was "very critical of our lack of data," he said. While a competing brokerage won some of that client's business, the client came back after seeing Marsh's commitment to improving its technology, Mr. Storms said.

"The power of IT is all about data integration. MarshConnect is an integrated data platform," said Joseph A. Varnas, managing director and global head of operations and information technology at Marsh in New York. Mr. Varnas joined Marsh in January from UBS Global Asset Management (U.S.) Inc., with the task of bringing together the multiple technology platforms Marsh had been using.

"If you can't integrate data, you

See PORTALS / page 21

California settles disability dispute

Deal sets new policy standards

By JUDY GREENWALD

SACRAMENTO, Calif.—The California Insurance Department and several insurer associations have reached a settlement in a dispute involving disability regulations that insurer groups had challenged in a lawsuit.

The organizations, which filed suit Nov. 30, 2005, in State Superior Court in Sacramento, had contended that California employers would face skyrocketing group disability insurance rates and possibly have difficulty finding coverage if Insurance Commissioner John Garamendi succeeded in an effort to revise standard policy language (BI, Dec. 12, 2005).

The settlement agreement, announced July 19, creates a framework for submission and approval of group and individual disability insurance contracts that will be acceptable for sale in the state, according to two of the plaintiffs, the Sacramento-based Assn. of California Life & Health Insurance Cos. and the Washington-based American Council of Life Insurers.

According to the California Insurance Department, standards established by the settlement include requirements that:

- Disability insurance policies may not contain a discretionary clause that allows an insurer to determine whether a policyholder who makes a claim is entitled to benefits.

- Policies must contain a disability definition that is consistent with California's established definition, which holds that a

person generally would be considered totally disabled if he or she cannot perform all the substantial and material acts required by his occupation with reasonable continuity.



Mr. Garamendi

- The criteria for what constitutes a pre-existing condition are substantially narrowed and clarified.

ACLHC President Brad Wenger said, "It was a long, hard settlement negotiation," but "we feel positive about the way things came out. Certainly, it could have been much worse."

"The settlement reached with the department will permit life insurers to continue to meet con-

See DISABILITY / page 23



After bringing in experts to restore art damaged by Hurricane Katrina, the New Orleans Museum of Art had to file a detailed disaster plan with its insurer before renewing coverage.

Gulf Coast museums drawing up new plans to cope with disasters

By MICHAEL BRADFORD

Artwork and valuable relics in Gulf Coast museums and private collections must be better protected from the threat of hurricanes as insurers insist on stronger risk management measures to safeguard the treasures.

Hurricane Katrina's winds and storm-driven waters that ravaged New Orleans and coastal Mississippi last August were responsible for millions of dollars in losses of artwork and collectibles. Some institutions—the New Orleans Museum of Art among them—were caught without a plan to help protect their holdings.

That won't happen again at the New Orleans museum, which suf-

fered around \$6 million in losses from Katrina. The museum and others in the region are being required to pay more attention to loss control or go shopping for insurance.

"Some insurers are really concerned about an active hurricane season," said Deborah Peak, vp with Henderson Phillips Fine Arts Insurance, a Washington-based division of Arthur J. Gallagher & Co. "They're looking more closely at what protection is in place" and whether museums have disaster plans that will be triggered by approaching hurricanes.

"There's far greater analysis of the museum's disaster plans,"

See MUSEUMS / page 12

Treasury official says regulatory reform needed

Doesn't endorse a specific plan

By MARK A. HOFMANN

WASHINGTON—Advocates of allowing insurers and agents to choose federal rather than state regulation hope that a high ranking Treasury Department official's testimony before a Senate committee last week will give their cause the boost it needs, even if that means waiting until next year or beyond before regulatory changes are passed.

That's because Randal K. Quarles, the Treasury's undersecretary for domestic policy, told the Senate Banking, Housing and Urban Affairs Committee that the current system of insurance regulation must be reformed. "There appears to be virtually no disagreement that the current insurance regulatory system is in need of modernization," he said last week.

But Mr. Quarles stopped short of endorsing the National Insurance Act of 2006, which would allow property/casualty and life insurers to be chartered by the federal government rather than state governments. Instead, Mr. Quarles said,



PHOTO: ADAM ROUNTREE/BLOOMBERG NEWS

"There appears to be virtually no disagreement that the current insurance regulatory system is in need of modernization."

Randal K. Quarles
Treasury Department

Treasury is "closely monitoring" the development of various proposed regulatory reforms ranging from enhanced state regulation to creating a system of optional federal char-

ters.

Mr. Quarles told the committee the current regulatory system could lead to "inefficient economic outcomes" such as raising the cost of

and reducing the supply of insurance products, discouraging international participation in U.S. insurance markets, and limiting the ability of any single regulator "to have an overview of risk in the insurance sector and its contributions to risk in the financial system more broadly."

"This is likely to be one of our biggest topics in the coming year," said Sen. Wayne Allard, R-Colo., who chaired the hearing.

Sen. Tim Johnson, D-S.D., who introduced the measure with Sen. John Sununu, R-N.H., noted that

See CHARTER / page 20

Health plans expand access to care cost, quality data

By JOANNE WOJCIK

Many health plans provide cost and quality information to plan members in response to employer demand for greater transparency to encourage consumer engagement, a survey has found.

Forty percent of 93 health plans examined by eValue8, a request-for-information tool created by the Washington-based National Business Coalition on Health, make at least some information on the cost of health services available to plan members. Of those, 7% provide practitioner-specific unit cost information, while 3% provide information about how cost-effective providers are in treating particular illnesses.

In addition, 45% of health plans now allow members to create personal health records; 34% offer targeted communications to plan members; and 26% have a drug check program to alert plan members to possible drug contraindications.

In addition to sharing information with plan members, 36% of health plans pool data with at least one other health plan to create community

health report cards on practitioner performance.

NBCH's eValue8 report also found that 28% of the health plans surveyed participate in some form of pay-for-performance program, either rewarding providers directly through financial incentives or indirectly through plan designs that encourage plan members to go to better-performing physicians.

Results of the "eValue8 Health Care 2006" survey were released Tuesday at the NBCH/Leapfrog Group Incentives & Rewards Workshop in Chicago.

Developed by the NBCH, eValue8 is an evidence-based request-for-information tool used by employer coalitions and their individual members to assess and manage the quality of their health plans. Ensuring Solutions, a project of the George Washington University Medical Center, analyzed the data that was collected from 93 health plans, including 70 health maintenance organizations and 23 preferred provider organizations.

For more information about NBCH's eValue8 tool, visit www.nbch.org.

Ruling on denial of benefits may face high court review

By DAVE LENCKUS

PHILADELPHIA—A federal appellate court's refusal to allow an elderly woman to challenge the elimination of the health benefits she was guaranteed when she agreed to retire early could lead to U.S. Supreme Court or congressional action, some employer attorneys predict.

Despite earlier rulings by the Supreme Court as well as federal appellate courts, the 2-1 decision by a 3rd U.S. Circuit Court of Appeals panel may prompt the high court or Congress to clarify the Employee Retirement Income Security Act's complex rules governing who has legal standing to sue plan administrators, attorneys said.

The July 10 ruling sets a legal standing standard that is "a very difficult hurdle for plaintiffs" to clear, said employer attorney Nancy G. Ross, a partner with McDer-

mott Will & Emery L.L.P. in Chicago. Ms. Ross characterized the decision as "strange" and "result-oriented," which she said was surprising because the court typically is employee-friendly.

The decision—though "not inconsistent with good reasoning"—establishes "a relatively arcane procedural rule that plaintiffs have to figure out how to comply with," said Henry Savett, an attorney with Mercer Human Resource Consulting in New York. The rule is "difficult to impossible to comply with," he said.

The 3rd Circuit case largely revolves around the lifetime retiree health benefits that Blue Cross & Blue Shield of Northeastern Pennsylvania in Wilkes-Barre promised an employee in 1993 if she retired early. The Blues administers its own plan.

The plaintiff was 62 and had 13 years of service with the company in February 1993. She claims she

retired two months later and accepted a reduced pension from the company—as well as lower Social Security benefits since she retired before age 65—to secure her retiree health coverage. She contends the Blues told her it would not guarantee her lifetime health benefits if she did not retire early.

In 2001, the Blues amended its benefits package by eliminating retiree health benefits for all current and future retirees with less than 15 years of service.

As a result of losing her coverage, the plaintiff is paying up to \$600 per month in additional health care costs, according to plaintiffs' attorney Clifford Rieders of Rieders, Travis, Humphrey, Harris, Waters & Waffenschmidt in Williamsport, Pa.

The plaintiff sued to become part of another action started by a small group of Blues retirees who

See RULING / page 6

Data fuels Chevron efforts to reduce disability costs

By ROBERTO CENICEROS

SAN DIEGO—A data-driven disability management system has reduced Chevron Corp.'s short-term disability claims by 15% and pared the program's costs by nearly \$9 million in three years, an official of the global energy company told the Disability Management Employer Coalition.

The effort included indirect cost savings, improved Family and Medical Leave Act compliance and enhanced case management among other accomplishments, said Mark Huggins, Chevron's San Ramon, Calif.-based team lead for disability management.

To be successful, such programs must provide senior management and field managers with data re-

ports they need to address employee absences and run their business operations, Mr. Huggins told DMEC's 11th annual International Absence and Disability Management Conference last week in San Diego.

For more DMEC coverage, see page 20

Standardizing data and developing analytic metrics to measure success also are essential, he said.

"Data really drives any successful program," Mr. Huggins said. "You need to know what is going on. You need to have that data available to you so you can make

intelligent decisions. If you don't have the data you are basically grasping at straws."

Chevron's information sharing and reporting system, implemented in 2002, is based on an integrated database model, said Justin Schaneman, director of analytic services for OCI Integrated Information Systems in Cheyenne, Wyo., which created the system.

The system centrally warehouses data provided by Chevron and its vendors. For example, disability insurer UnumProvident Corp. feeds in claims information collected from Chevron's self-insured short- and long-term disability programs, Mr. Schaneman explained. UnumProvident also pro-

See CHEVRON / page 20

Errors & Omissions

Due to editing and other errors, several items in the July 17 issue contained incorrect information:

- Due to incomplete information supplied to *Business Insurance*, Mesriow Financial was omitted from the annual ranking of the 100 largest brokers of U.S. business. The revised chart appears on page 14.

- A chart ranking the leading U.S. retail brokers listed some companies in the wrong order. The revised ranking appears on page 16.

- A story on services that benefit brokers offer to clients misidentified CareCounsel L.L.C., a patient advo-

cacy firm, as well as a technology platform called Solutions100 by CBIZ Benefits & Insurance Services Inc. Solutions100, which is an expansion of CBIZ's existing data-mining and analytical tool, is designed for employers in the 100- to 1,000-life market.

- A story on startup brokers misstated the title of Steve Denton, who is the chief operating officer of Beecher Carlson Holdings Inc.

- Stories misidentified the headquarters location of brokerage Integro Ltd. Integro is based in New York.

THE AIRBAG IS NOW THE MOST DANGEROUS PART OF THIS CAR.

WAUSAU LOSS PREVENTION AT WORK. One of our customers in the recycling business takes scrap metal, including junked cars, and melts it so it can be cast into ingots and resold to other processors. Lighting in its sorting area wasn't as good as it could have been and occasionally an airbag detonator accidentally made its way into the furnaces.

Once heated, a detonator can explode, spraying 1200° molten metal in all directions and potentially endangering nearby employees. These injuries, combined with a high number of slips and falls due to poor housekeeping, were costing the company employee health, productivity and profits. Wausau's loss prevention experts worked with them to improve the lighting in the sorting areas and implement a stringent housekeeping process.

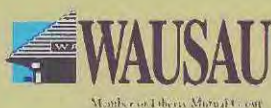
We also worked with them to foster a stronger safety culture. Within a year, the number of claims dropped 43% and the average cost of those claims dropped an astonishing 84%. Lost work days plummeted from 453 to 0. The total savings to the company was more than \$160,000. It's all part of Wausau TotalValueSM and our commitment to

PRICE ≠ COST.

lowering your total cost of risk. And it's backed by the financial strength of the Liberty Mutual Group. To learn more, visit wausau.com or contact your Wausau representative.



COMMERCIAL AUTO GENERAL LIABILITY PROPERTY UMBRELLA WORKERS COMPENSATION



BOTTOM LINE, A BETTER VALUE.SM

Wausau Insurance Companies
2000 Westwood Drive, Wausau, WI 54401
www.wausau.com

Study: More U.S. companies buying terrorism insurance as rates decline

By MARK A. HOFMANN

NEW YORK—The percentage of U.S. companies purchasing property terrorism insurance continues to increase, according to a survey conducted by Marsh Inc.

At the same time, the cost of property terrorism insurance has decreased, according to Marsh's "Marketwatch: Terrorism Insurance 2006."

Overall, the median terrorism insurance rate dropped about 25% last year compared to 2004, Marsh found. "There was a more moderate reduction in the median percentage of a company's annual property program costs attributable to terrorism premiums—from 4.7% in 2004 to 4.2% in 2005" according to the survey of 1,623 Marsh clients.

The survey noted that the "take-up rate in the fourth quarter of 2005 was nearly triple the rate in the second quarter of 2003, the quarter Marsh's analysis began," according to the survey. Marsh found that 64% of the respondents bought property terrorism insurance in the last quarter of 2005 vs. just 23% in the second quarter of 2003.

For 2005 as whole, the take-up rate reached 58%, up from 49% in 2004 and 27% in 2003.

Companies with total insured values between \$500 million and \$1 billion were the most likely to buy terrorism insurance in 2005, with 67% reporting purchasing the coverage. There was virtually no difference in the take-up rates of companies with total insured values of more than \$1 billion, or with

total insured values between \$100 million and \$500 million, with take-up rates of 63% and 62%, respectively. Even the smallest com-

Terrorism coverage take-up in 2005

Percentage of Marsh commercial property insurance clients that purchase terrorism coverage; metropolitan areas ranked by population size

Area	Take-up rate
New York metro	71%
Los Angeles	58%
Chicago	65%
Washington	70%
San Francisco	51%
Philadelphia	67%
Boston	80%
Atlanta	57%
Dallas	70%
Houston	27%

Source: Marsh Inc.

panies surveyed had a take-up rate of 47% last year.

Take-up rates for each category rose by at least 10% between 2004 and 2005.

But there are clouds on the horizon, Marsh found. Perhaps the most significant is what will happen if the federal government's financial backstop for insurers facing future catastrophic terrorism-related claims expires at the end of 2007, as it is currently slated to do.

The report notes that "detractors of the federal government's contin-

ued involvement in a program to provide terrorism insurance are quick to point out that the insurance marketplace has increased surpluses to a level that should be able to deal with future terrorism losses."

The survey adds, though, that this argument "takes little account of the pressures faced throughout the commercial property/casualty insurance industry as result of last year's heightened catastrophic hurricane activity, which, based on a number of estimates, is likely to continue for the foreseeable future."

With TRIA's expiration at the end of 2007, "market dislocation is likely to occur due to the obligatory nature of terrorism coverage for certain lines of insurance," according to the survey.

"As a result, insurers that provide workers compensation to U.S. clients—and where the peril of terrorism cannot be excluded—are unlikely to be able to also support property coverage including terrorism at the same level," the survey says.

"In addition, even in the event that a long-term solution comes to fruition, it will take a number of years to develop the surplus adequate to deal with catastrophic terrorism events of the magnitude of Sept. 11 (2001). Therefore, some combination of public- and private-sector involvement may still be required to appropriately address terrorism exposure in the United States," the survey concludes.

The entire report can be downloaded at www.marsh.com.

Risk issues to shape industry's future

By JUDY GREENWALD

Managing risk on an enterprisewide basis is growing in importance among insurance company executives, a survey indicates.

A survey of 48 senior insurance executives from around the world—conducted in November 2005 by New York-based Deloitte & Touche USA—found that managing risk is the most important issue facing insurers today, followed by promoting compliance, growing globally, innovation in products and delivery, and adapting to demographic shifts. The survey was

"Stricter enforcement by state and federal regulators in the U.S. and the specter of increased regulation worldwide have raised the cost of compliance and amplified the consequences of non-compliance," according to the report.

"Going forward, insurers need to adopt an enterprisewide approach, developing processes to monitor and document risks and implement training and controls throughout the organization," the report says. "The industry must embrace transparent fee arrangements and greater disclosure of ownership interests that can create conflicts."

Mr. Ryan said, "Companies are becoming even more keenly aware of reputational risk" and that a regulator or a consumer can decide that previously acceptable industry practices are "no longer appropriate." As a result, organizations are thinking about reputational risk as it relates to regulation and compliance "in a different way," he said.

The increased cost of compliance and regulation proliferation are concerns as well, said Mr. Ryan.

"Compliance has become such a significant item for organizations" in terms of time spent that it has "distracted management from going out and making money," developing innovative products and doing "the things you might typically expect to see in the insurance industry," Mr. Ryan said.

It has become "much more of an effort for companies to bring the cost of compliance under control and make it more effective and efficient," he said.

Of the respondents, 42% cited globalization as a major issue with which they must deal. "Whether through sales in new markets or overseas acquisitions, insurance companies are looking to grow globally more than ever before," according to the report.

"You're seeing the big getting bigger and the niche players continuing to focus on their niche" while midsized companies are squeezed in the middle, said Mr. Ryan. To survive, midsized are seeking opportunities to link up with one another through mergers and continuing to look at new and emerging markets, he said.

"Obviously, everyone is fairly hot on China and India, but I think we'll continue to see South America and parts of Eastern Europe" as emerging markets, he said.

Trends to watch

Participants in Deloitte & Touche's survey predicted the following in the next three to five years:

- Growth potential in overseas markets
- Greater demand by aging population for fixed-income products.
- Cat modeling and risk and capital management will improve.
- Regulatory compliance costs will drag down insurers earnings.

Source: Deloitte & Touche USA

described in the report "Global Insurance Industry Outlook."

Some 65% of insurer executives identified managing risk as a key transformative issue over the next three to five years. "Increasingly, insurance companies are adopting an enterprisewide view of managing risks—employing a framework to address them across the board," the report says.

Owen Ryan, Deloitte's New York-based global insurance leader, said it is clear that enterprise risk management "has really moved as a high priority" for the chief executive officer and board of directors of insurance companies.

"I think five years ago, if you talked to an insurance executive," he would have said, "We manage risk for a living. What can we possibly do?" said Mr. Ryan.

Then, two or three years ago, more companies began to appoint chief risk officers, and today organizations really are trying to organize their operations around the concept of enterprise risk, said Mr. Ryan.

Fifty-one percent of the insurers cited regulation as one of the top influences on profits over the next three to five years.

Ruling: Retiree benefit case may face review

Continued from page 4

are trying to win class-action status.

In affirming a lower court's ruling that she and another plaintiff have no legal standing to sue the Blues plan, the 3rd Circuit panel acknowledged that the early retiree may have relied on the promise of lifetime health benefits in planning her retirement.

The court also noted that it, like other federal appellate courts as well as the U.S. Supreme Court before it, must foil any plan administrator that has impermissibly removed participants from a benefits plan and then argues that those individuals have no legal standing to protest because they are no longer plan participants.

The appellate panel next rejected various plaintiff and defense arguments regarding who qualifies as a benefit plan participant legally entitled to sue a plan administrator.

Ultimately, the panel ruled for the Blues plan, reasoning that neither plaintiff specifically demonstrated relying on the Blues' promise of guaranteed health coverage to early retirees.

Regarding the early retiree, the

court found: "There is no basis to conclude from the allegations in the complaint that, even if she had worked longer, she would still have qualified for benefits after the 2001 amendment," the court ruled.

The court also rejected the plaintiffs' misrepresentation claims against the Blues. The court ruled that the Blues' representation that it would provide early retirees with lifetime health benefits "is not a misrepresentation if it is an accurate reflection of the plan administrator's intent when the statement was made."

"It's an extraordinarily difficult opinion to understand," Mr. Rieders said.

The court implicitly says that plan participants have no rights unless their plan administrator plotted over time to deprive them of their benefits, he said. "Clearly, that's not the law, and the court says as much" elsewhere in its opinion, he said.

Mr. Rieders said he plans to ask the full 3rd Circuit to review the case, and if rejected, seek a Supreme Court review.

The Blues' attorney did not re-

turn calls seeking comment.

Mr. Saveth said the ruling could help pressure either the Supreme Court or Congress to address who has legal standing to sue a benefits plan administrator.

"Some commentators may view the ruling as troublesome in that it hinders individuals from challenging the actions of benefit plans, something which may appear contrary to the initial philosophy and motivation for enacting ERISA," Mr. Saveth said. "But it may take a legislative change to achieve a different result under this crabbed area of the law."

Ms. Ross said she would expect Congress to wait until the Supreme Court finished "fleshing out" its definition of who is considered an ERISA plan participant or beneficiary eligible to sue a plan administrator. The Supreme Court first addressed the issue in its 1989 ruling in *Firestone Tire & Rubber Co. vs. Bruch*.

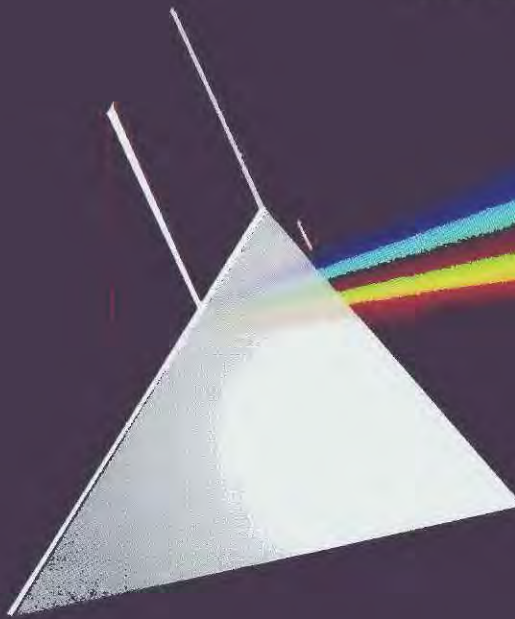
Frank W. Leunther et al. vs. Blue Cross and Blue Shield of Northeastern Pennsylvania, July 10; No. 04-4389.

Copies of the report are available at www.deloitte.com/us/GIOreports.

*Stochastic methodology
models individual
risk profiles*

*Recognition
of economic risk
diversification*

*Global platform
using local data*



*Hundreds of risk curves,
thousands of scenarios,
millions of calculations*

*Aligns capital
requirements
to ratings*

Fitch Prism >

The capital model that puts insurance industry risk in a whole new light.

In the complex world of insurance industry risk, traditional methods of measuring capital adequacy used by rating agencies are no longer enough to address the myriad of interrelated exposures companies face. To address the need to more robustly evaluate insurers' individual risk profiles, Fitch Ratings has developed *Prism*, an innovative stochastic capital model that captures a broader spectrum of risk. *Prism* will play a critical role in Fitch's future ratings analysis of insurance companies globally. *Prism* also serves as a powerful benchmark for Fitch's expanding use of insurers' internal capital models.

With *Prism*, the subtle shadings of insurance companies' risk profiles can be modeled and differentiated based on

an analysis of hundreds of risk curves, thousands of scenarios, and millions of calculations. Based on each insurer's unique financial profile, *Prism* generates an aggregate, probabilistic loss distribution that fully recognizes economic risk diversification, as well as risk concentrations. Ultimately, *Prism* empirically aligns capital requirements with ratings requirements, and enhances the analysis of an insurer's enterprise risk management.

Prism is the latest example of how Fitch provides deeper insights into credit issues across the insurance industry. For information about *Prism* and how Fitch can help you see insurance industry risk in a whole new light, visit www.fitchratings.com/prism or e-mail prism@fitchratings.com.

FitchRatings
KNOW YOUR RISK

Editorial

Law flunks ERISA test

IF EVER A JUDGE got it exactly right in a ruling, it would be U.S. District Judge J. Frederick Motz's decision last week striking down the state of Maryland's so-called "Wal-Mart law."

That law, which Maryland legislators put on the books earlier this year after overriding a gubernatorial veto, requires any employer with at least 10,000 employees in the state to spend at least 8% of payroll on health care benefits or pay the difference into a state fund that provides coverage to the low-income uninsured.

The law got its name because as written it only applied to Wal-Mart Stores Inc. The law was challenged by a retail trade group, which charged that it ran afoul of the Employee Retirement Income Security Act, which pre-empts state laws and rules that relate to employee benefit plans.

In one paragraph, Judge Motz's ruling captured why Congress mandated such pre-emption and why the Maryland law flunked the pre-emption test.

"The act," Judge Motz wrote, "violates ERISA's fundamental purpose of permitting multistate employers to maintain nationwide health and welfare plans, providing uniform benefits and permitting national

administration."

Exactly. How could a multistate employer offer a uniform health care benefits package if Maryland mandated that it spend at least a certain amount of money on health care, while a second state required yet another amount and a third state something else?

The drafters of ERISA wanted to prevent that kind of hodge-podge of state requirements, which could only discourage, not encourage, employers from offering health care plans.

The Maryland law had everything to do with a union-led move to punish Wal-Mart, whose workforce is nonunion, and nothing to do with true health care reform. We don't see how this law would, for example, make a significant dent in the number of Maryland residents lacking health insurance or reduce the cost of health care.

If that is the objective of Maryland lawmakers—and we think it should be—they would be wise to look at measures passed in Massachusetts and Vermont that will expand coverage and do not interfere with the ability of employers to offer health care plans that they believe best meet corporate and employee needs.

Reform gets well-deserved push

INSURANCE REGULATORY REFORM got a needed boost last week when a high-ranking Treasury official admitted the obvious—the current state-based regulatory system simply isn't up to the job.

That said, we're a bit disappointed that Treasury Undersecretary Randal Quarles did not take the next logical step during his appearance before the Senate Banking, Housing and Urban Affairs Committee. As we report on page 4, Mr. Quarles stopped short of endorsing an optional federal charter for insurers and producers.

But we can live with that disappointment—heaven knows that risk managers, insurers and producers have lived with far worse disappointments regarding regulatory reform over the years. What is important is that the federal government has formally joined the ever-growing chorus of voices advocating regulatory reform.

As Mr. Quarles said, the current system is rife with potential economic inefficiencies, ranging from artificially reducing supply through price controls to discouraging international investment in the domestic insurance market. The multiplicity of regulatory

systems—systems that are by no means uniform—can actually hamper regulatory effectiveness as well, leading to what Mr. Quarles called "blind spots" in understanding risks posed to both financial markets and the economy as a whole.

Mr. Quarles' comments come at an opportune time. Given both the contracting legislative calendar and the looming congressional elections, the odds of Congress enacting significant regulatory reform—even short of optional federal chartering—this year stand somewhere between extremely slim and none. But Mr. Quarles' comments, combined with House action on surplus lines and reinsurance regulatory reform, can set the stage for significant action in the next session of Congress or beyond.

We have waited a long time for real reform, and we are willing to wait a little longer for Congress to approve well-crafted and effective modernization. We are not there yet, but comments such as Mr. Quarles' could help assure that we will get there sooner than was conceivable only a few years ago.

Schillerstrom



Letters

Cartoon raises question worth considering

To the editor: The American Names Assn. takes note of *Business Insurance's* July 10 editorial cartoon by Roger Schillerstrom making fun of a small band of Lloyd's names who just sued the U.K. government for not transposing a 1973 European Union directive into U.K. law and applying it to Lloyd's. At issue is E.U. Directive 73/239, which says in part that E.U. member states must implement and enforce measures that ensure accounting accuracy and financial solvency of insurers operating in their respective countries. We think the names' case is foolhardy, but not for the reason in your parody.

The cartoon does raise a practical question that U.S. policyholders and cedents are well advised to consider: will the U.K. government acknowledge its failure to verify that Lloyd's was solvent and had an independent and true auditing regime since 1973 (or 1982, as some argue), and make good on any unpaid claims against Lloyd's direct policies and reinsurance contracts issued prior to 1993?

Following are questions and observations that U.S. policyholders/cedents might also ponder:

1. Is Equitas sufficiently funded to satisfy

all of Lloyd's pre-1993 liabilities?

2. Is "paying cents on the dollar" synonymous with "paying claims in full" in British English or under British law? The old Department of Trade and Industry, now the Financial Services Authority, and others in the U.K. establishment have for years watched Equitas deal with U.S. policyholders' and cedents' claims under a de facto proportional payment arrangement. Are U.K. government

See LETTERS / page 15

Write Us

Business Insurance welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Please send your letters to: Letters to the Editor, *Business Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; fax: 312-280-3174; e-mail: rcoccia@businessinsurance.com

Business Insurance

www.BusinessInsurance.com

Vice President/Publisher: Martin J. Ross III (New York)

Associate Publisher/Editorial Director: Paul D. Winston (Chicago)

Editor: Regis J. Coccia (Chicago)

Editor-at-Large: Jerry Geisel (Washington)

Managing Editor: Gavin Souter (Chicago)

Assistant Managing Editor - Graphics: Kathy L. Barnes (Chicago)

News Editor: Matt Scroggins (Chicago)

Senior Editors: Michael Bradford (New Orleans); Roberto Cenicerros (Los Angeles); Meg Fletcher, A.R.M. (Chicago); Judy Greenwald (San Jose); Mark A. Hofmann (Washington); Dave Lenckus (Tucson); Douglas McLeod (New York); Sally Roberts (Denver); Joanne Wojcik (Denver); Rodd Zolkos-Industry Focus (Chicago)

Bureau Chief: Sarah Veysay (London)

Associate Editors: Gloria Gonzalez (New York); Rupal Parekh (New York)

Correspondents: Carolyn Aldred (England); Elizabeth Fry (Australia)

Deputy Graphics Editor: William Murphy (Chicago)

Copy Editors: Charmain Benton (Chicago); Joe Walker (Chicago)

Assistant Copy Editor: Carrie A. Peinado (Chicago)

Directory Editor: Kevin P. Edison (Chicago)

Research Editor: Karen Brown Tucker (Chicago)

Online Editor: Kathy Downing (Chicago)

Online Producer: Amy R. Curtis (Olathe)

Editorial Cartoonist: Roger Schillerstrom (Chicago)

Advertising Director: Kenneth F. Luker Jr. (New York)

Director - Business Development: Robert L. Niesse (Chicago)

District Managers:

Ron Kolgraf (Boston); William J. McGuire (Chicago);

Robert B. Murray (New York); John L. Phillips (Chicago)

Classified Advertising Manager: Tina Vasilakis (Chicago)

Assistant to the Publisher: Pat Ghazvini (New York)

Advertising Traffic: Monique Murray (New York)

Production Manager: J. Thomas Janka (Chicago)

Circulation Manager: John Azua (New York)

Circulation Coordinator: Craig Bowman (Detroit)

Director of Communications: Ronnie I. Drachman (New York)

Promotion Manager: Michael Ambrosio (New York)

Promotion Coordinator: Barbara O'Brien (New York)

EDITORIAL: Chicago: 312-649-5200; Denver: 303-282-4260; London: 44-207-457-1400; Los Angeles: 323-370-2455; New Orleans: 985-871-1090; New York: 212-210-0700; San Jose: 408-774-1500; Tucson: 520-579-1937; Washington: 202-662-7200

ADVERTISING: Boston: 617-292-4856; Chicago: 312-649-5276; Irvine CA: 949-255-5355; New York: 212-210-0133

SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by Crain Communications Inc.

Chairman: Keith E. Crain

President: Rance Crain

Secretary: Merrilee Crain

Treasurer: Mary Kay Crain

Executive Vice President/Operations: William A. Morrow

Senior Vice President/Group Publisher: Gloria Scoby

Group Vice President/Technology, Circulation,

Manufacturing: Robert C. Adams

Vice President/Production & Manufacturing: Dave Kamis

Crain's Corporate Circulation Director: Patrick Sheposh

G.D. Crain Jr. Founder (1885-1973)

Mrs. G.D. Crain Jr. Chairman (1911-1996)

S.R. Bernstein Chairman-executive committee (1907-1993)

Published weekly at 360 N. Michigan Ave., Chicago, Ill. 60601-3806, Fax: 312-280-3174, biweb@crain.com. Offices: 711 Third Ave., New York, N.Y. 10017-5806, Fax: 212-210-0704; 7112 Minkler St., Abita Springs, La. 70420; Fax: 985-871-4006; Suite 814, National Press Building, Washington, D.C. 20045-1801, Fax: 202-638-3155; 6500 Wilshire Blvd., Suite 2300, Los Angeles, Calif. 90048-4947, Fax: 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750, Fax: 408-774-1155; 34 Southwark Bridge Road, London SE1 9EU, Fax: +44-(0)20-7457-1440; 7300 N. San Anna Drive, Tucson, Ariz. 85704, Fax: 520-579-3476; 1746 Cole Blvd., Suite 150, Golden, Colo. 80401, Fax: 303-733-9941; 12524 Acuff Court, Olathe, Kan. 66062, Fax: 312 280-3174; 77 Franklin St., Suite 809, Boston, Mass. 02110-1510; Fax: 212-210-0704; 4 Executive Circle, Suite 185, Irvine, Calif. 92614-6791. \$5 a copy and \$97 a year in the U.S., \$130 in Canada and Mexico (includes GST). All other countries, \$230 a year (includes expedited air delivery). John Azua, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, *Business Insurance*, 711 Third Avenue, New York, N.Y. 10017-5806. Microfilm copies available: University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103. Microfiche copies: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For reprints or reprint permission: Reprint Management Services, 1808 Colonial Village Lane, Lancaster, PA 17601; 800-290-5460, ext. 160. BusinessInsurance@reprintbuyer.com.

To subscribe, call 888-446-1422 or

313-446-0450 outside the U.S.

www.businessinsurance.com



I'M NOT



IN A POSITION
TO ANSWER
THAT.

Beazley underwriters don't dawdle. They don't fall back on formulas or need to take tough issues to their boss's boss's boss. Because with an average of 14 years of experience, they are themselves experts in their fields; they are underwriters who have chosen to stay underwriters because they are very good at it. Which means they can provide quick, assured solutions to hard questions. Which means you spend less time chasing down answers. And more time furthering your own business.

STRAIGHT ANSWERS.

Perspectives

Improving the chances of IT success

Risk Management for IT Projects

How to Deal with
Over 150 Issues
and Risks

By MICHAEL BRADFORD

"Risk Management for IT Projects: How to Deal with Over 150 Issues and Risks"

By Bennet P. Lientz and Lee Larssen
Published by Butterworth-Heinemann, an imprint of Elsevier Inc.
11330 Westline Industrial Drive
St. Louis, Mo. 63146;
800-545-2522; www.elsevier.com
\$49.95

The daunting chore of implementing information technology projects is especially sobering when considering that such endeavors are more apt to fail than succeed despite a half-century of improvements in technology and evolving management methods.

The authors of a new book, "Risk Management for IT Projects: How to Deal with Over 150 Issues and Risks," address that concern up front, pointing out that recent surveys show that only about 30% to 35% of IT projects result in "tangi-

Book Review

ble, measurable benefits."

So why haven't IT project managers learned lessons from the failures of the past? The authors, Bennet P. Lientz and Lee Larssen, say one reason is that technical staff and managers often wrongly view each IT effort as "unique and individual" when, in fact, the "same issues recur again and again" to thwart their efforts.

High management expectations, changing project requirements and lack of user participation are a few of the issues that routinely derail the best intentions of IT project managers, according to the authors, both of whom work as IT consultants. Tackling those and other issues before they can stall a project is the intent of the book.

Mr. Lientz and Ms. Larssen have put together a comprehensive and easy-to-navigate guide to address the issues that consistently crop up in IT projects. They relied on their

experience in IT management dating back to the 1960s and their work with more than 150 organizations in more than 25 countries to identify the issues covered in the book.

Readers who follow their advice, they claim, will realize that they have an "early warning of problems in IT work—before the budget or schedule falls apart" and are able to deliver more realistic expectations of IT projects to management.

"Risk Management for IT Projects" is made up of five parts. The first includes a discussion of the scope of the IT failure problem and the benefits of effectively managing issues that arise during project implementations.

The next three parts are intended for use as a reference when readers realize that problems are looming. The authors lay out the issues they believe are the most common threats to project success.

In an easy-to-read format, each issue is addressed in short paragraphs under the subheads: Discussion, Impact, Detection and Actions and Prevention. Risks associated with development, implementation, software packages, strategic planning, headquarters involvement and other issues are examined this way.

For example, technology users who resist change are a risk many projects face, the authors point out. The impact, they say, can be the abandonment of a project or creation of a system that nobody uses. It's easy to detect resisters who will cause problems during the process; they're the ones who balk at even the simplest changes proposed as a project is getting off the ground, according to the authors.

Action to be taken in such a case probably should not involve confrontation, the authors suggest. "In our experience, this has proven to be a bad idea," they write. "You merely drive the resistance underground."

A better approach in the project, the book advises, is to enlist younger employees who are more amenable to change. "Use the younger people to bring the resisters along," the authors write.

There are dozens of such discussions in the three sections, providing quick advice to IT managers.

The final section presents the results of a survey of more than 200 firms that were asked about IT issues. The results, though not easy to decipher in some places, show that respondents spent an average of nine to 12 months on IT projects and most used two to five people to get the work done. Most of the project leaders, the respondents said, were promoted from within their IT departments.

A Permanent Solution to TRIA.

A Business Insurance Online Executive Forum™



Join Business Insurance Editor Regis Coccia on August 29, 2006, along with our expert panel, for a webinar devoted to exploring **A Permanent Solution to TRIA**.

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

Attend this Online Executive Forum™ to learn about some of these new concepts, hear the viewpoints of these expert panelists, and ask questions during this live event.

Panelists Include:

- **Eric Brosius**, Senior VP and Manager of Reinsurance, Liberty Mutual Group Inc.
- **Aaron Davis**, Director, National Terrorism & Property Resources, Aon Risk Services
- **Al Gorski**, Manager of Risk Management, Orange County Transportation Authority
- **Greg Heidrich**, Senior VP of Policy Development & Research, Property Casualty Insurers Assoc. of America

QUESTIONS TO BE ADDRESSED:

- What role can the capital markets play in financing terrorism risk?
- Can a solution be found without some form of a government backstop for the insurance industry?
- Is there industry or political support for some of these new proposals?
- Can a new terrorism reinsurance solution be put in place before TRIA expires December 31, 2007?
- Would risk managers be more apt to buy terrorism coverage under a new program?

SAVE THE DATE:

Tuesday, August 29, 2006

TIME:

11:00 EDT / 10:00 CDT / 8:00 PDT

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

www.BusinessInsurance.com/Webinars

Michael Bradford is a senior editor at Business Insurance

SUPER REINSURANCE COVERAGE.



Business Insurance saves the day with powerful coverage of the reinsurance market in three special upcoming issues! The first, publishing on September 4, and devoted to International Markets, will reveal the strength of our reach to our nearly 120,000* regular readers. And with the added force of our bonus distribution to the world's largest gathering of reinsurance executives at the Monte Carlo Rendez-Vous, your message will be protected within the most compelling editorial environment.

Make your marketing efforts soar – advertise in *BI's* reinsurance issues. Contact Ken Luker, Advertising Director, at 212-210-0133 or e-mail kluker@BusinessInsurance.com.

*Includes pass-along readership.

Reinsurance: International Markets

Issue Date: September 4 • Ad Close: August 23

Ranking: *Leading Reinsurers Worldwide*
 Bonus Distribution: *Monte Carlo Rendez-Vous*

Watch for these upcoming
 Reinsurance Special Reports from *Business Insurance*:

September 25
 Reinsurance: Rendez-Vous Report
 Ad Close: September 13

November 6
 Reinsurance: Trends & Issues
 Ad Close: October 25

Business Insurance www.BusinessInsurance.com

New York: 212-210-0133 | Chicago: 312-649-5275 | Boston: 617-292-4856 | Los Angeles: 323-370-2405

COMINGS & GOINGS - INDUSTRY



Mr. Hollederer



Mr. Palmisano



Mr. Orlando



Mr. Eden



Ms. Futhey

Brokers:

James E. Moylan Jr. has been named chief financial officer for Atlanta-based Swett & Crawford Group. Previously, he was executive vp and CFO of PRG-Shultz International.

New York-based Willis Group Holdings Ltd. has made two senior-level appointments.

• **Kevin J. Brady**, formerly senior vp of Gallagher Captive Services, has been named executive vp/regional partner of Willis Group Captives practice.

• **Mary W. Wray**, a former captive director and vp for Gallagher, has been named managing director and senior vp.

Integro (Canada) Ltd. has named **Wayne Snow** as principal in the Toronto office. He will lead Integro's Canadian construction practice. Most recently, he was senior vp, risk and

insurance, for AMEC Americas.

Also at Integro, **Chuck Blazina** has joined the San Francisco office as principal in the property practice. Previously, he was a vp at Hilb Rogal & Hobbs Co.

Buffalo, N.Y.-based managing general agent/wholesaler Russell Bond & Co. Inc. has made two senior-level promotions.

• **Gary A. Hollederer** has been named executive vp. Previously, he was vp/general manager.

• **Mark M. Palmisano**, formerly vp of administration and finance, has been named senior vp.

Manhasset, N.Y.-based NIF Group Inc. has made three senior-level appointments.

• **John A. Buckley** has been named president of NIF Services of New York Inc. Previously, he was senior vp for the New York office.

• **Daniel M. Mogelnicki** has been named president of NIF Underwriting

Facilities Inc. Previously, he was senior vp for the Manhasset branch office.

• **Michael P. Orlando** has been appointed senior vp and chief financial officer. Before his promotion, he was information technology manager.

Insurers:

Worcester, Mass.-based Hanover Insurance Group Inc. has named **Doug Eden** as regional president for the company's Midwest region. Mr. Eden, who most recently was senior vp of property and casualty distribution management for CNA Financial Corp., will be based in Chicago.

Praetorian Financial Group Inc. has named **Milan M. Radonich** chief financial officer. Before joining the New York-based specialty insurer, he was CFO of Benfield Inc.

New York-based American International Group Inc. has appointed **Anthony J. Galioto** to senior executive-east in Atlanta, succeeding David M. Hupp, who was named president and chief executive officer of AIG Aviation Inc. Before his promotion, Mr. Galioto was president of the worldwide accident and health division.

Branchville, N.J.-based Selective Insurance Co. of America has named **Scott Hewitt** senior vp, commercial lines strategic business units. Previously, he was a vp and region manager.

W.R. Berkley Corp. has named **C. Fred Madsen** as senior vp-reinsurance operations. Previously he was an executive vp at Benfield Inc.

Reinsurance:

Benfield Inc. has appointed **Angela H. A'Zary** as senior vp of its property specialty team in New York. Before joining Benfield, she was a managing director at Guy Carpenter & Co. Inc.

Other providers:

Chicago-based Aon Consulting has named **Michelle Futhey** as director of its central/west region in St. Louis, which includes Illinois, Michigan, Ohio and all states west of the Mississippi River. Previously, she was an account manager, sales

director and office leader.

James Hooban has been named executive vp of business development at Parsippany, N.J.-based GAB Robins North America Inc. Previously, he was managing director for European markets for ACE Ltd.

Harry Reinhart has joined the Pittsburgh office of Buck Consultants as principal and office manager. Previously, he was client management practice leader with Mercer Human Resource Consulting.

Also at Buck, **Laird Post** has joined the San Francisco office as principal and office manager. Most recently, he was Mercer's principal, senior client developer and co-leader of the Total Rewards practice for the United States.

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

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

Museums: Insurers refuse to write coverage due to lack of safeguarding measures

Continued from page 3

agreed Nick Reynolds, Chicago-based vp of underwriting in the fine art and specie division at XL Insurance America Inc. "It's no longer sufficient for a museum to say they have one."

Most insurers are refusing to

Disaster plan tips

Museums without disaster plans will have a hard time finding coverage, according to insurers. Underwriters want to know how well-prepared museums are to ride out and recover from storms, and say disaster plans should outline how the facilities will:

- Move collections to safe locations further inland before a storm reaches land
- Secure their buildings after a storm
- Provide backup electrical power
- Grant access to first responders such as rescue personnel
- Account for art or other pieces that are on loan or in exhibitions away from the site
- Display art so it is out of reach of floodwaters
- Communicate disaster preparedness to employees

write property coverage for museums that lack disaster plans, Ms. Peak said.

"If you are unable to demonstrate that you have a plan, most insurers will probably stay away," said Mr. Reynolds.

AXA Art Insurance Corp., a New York-based unit of AXA Group in Paris, is one insurer that won't provide coverage to a museum, gallery or private collection that does not have a disaster plan in place.

In the months since Katrina, AXA is making sure Gulf Coast policyholders are doing as much as they can to protect their collections, said Christiane Fischer, AXA Art's chief executive officer. "We will go in and say, 'You are in a risk area. We're no longer happy with shutters and wind-resistant glass; you need a disaster plan.'"

"We were a little more casual" about requiring disaster plans before Katrina showed how necessary they are, Ms. Fischer said. But now policyholders on the coast or in a flood zone are told that "if you don't have a disaster plan, we won't write your coverage," she said.

For the museum in New Orleans, that meant putting together a plan that would allow AXA to continue writing the \$400 million in coverage to protect a collection of 40,000 objects that includes French and American art, photography, glass, American period furniture as well as African and Japanese artwork. Also at risk is the five-acre Sydney & Wanda Besthoff Sculpture Garden at the museum, which was heavily damaged from flooding and

downed trees during Hurricane Katrina.

The New Orleans Museum went to work with PlanReady Inc., a Morgan Hill, Calif., company that provides emergency management services, to put together a plan that the museum hopes will help it avoid some of the mishaps it encountered when Katrina struck.

John E. Bullard, director of the museum, said in a statement last month announcing the implementation of the disaster plan that the facility's blueprints and site information were "impossible to retrieve" in the Katrina's aftermath, which left more than 30 employees and their family members and friends stranded at the building.

The inability to access the site information that would have aided police and recovery workers was responsible for "hindering our response efforts, costing us crucial time and further jeopardizing the collection and human lives," Mr. Bullard said in the statement.

Under the system developed by PlanReady, the museum's blueprints, floor plan, evacuation routes, utility cutoff locations, inventory and other information are stored on flash drives. The museum can give out the drives ahead of an approaching storm to first responders or others who might need access to the building. PlanReady also keeps a copy of the information stored on its computer in California and on a backup system in Texas.

"They needed the blueprints when Katrina hit and (the plans) were in the basement, which flood-

ed," said Noreen Bergin, chief operating officer and chief financial officer at PlanReady. The blueprints were needed to determine what size generator the facility required to keep air-conditioning and lights running until power was restored, she said.

Because the blueprints were inaccessible, "that delayed them about a week" in determining the generator needs, Ms. Bergin said.

To the east, and closer to the area struck by the eye of Hurricane Katrina, buildings under construction at the new site of the Ohr O'Keefe Museum of Art in Biloxi, Miss., were heavily damaged. The museum's collection of rare pottery and ceramics was safely housed and undamaged in a library in the city where the museum has made its home for 14 years.

The museum had a disaster plan in place and, while it proved effective, it will be tweaked to account for some unforeseen circumstances, said Marjie Gowdy, the facility's executive director.

The plan calls for steps to be taken when a Category 2 or 3 storm enters the Gulf, she said, but doesn't adequately address what needs to be done in the weeks after a storm the size of Katrina devastates an area. Ms. Gowdy said she hopes to find a source of grant money to help pay for assistance in developing a new disaster plan that will fully address steps to be taken during the recovery following a hurricane.

Mr. Reynolds of XL said insurers are particularly interested in how museums will cope with the after-

math. The two biggest concerns after a storm are "physical security and power," he said. "There is a period of tremendous danger when the power goes out and you lose environmental controls. What is important for art is to have stable temperature and humidity; it is very sensitive to changes in those."

The Ohr O'Keefe Museum, meanwhile, is trying to collect a property insurance claim from Lexington Insurance Co. that it hopes will fund the \$18 million in repairs and building at the Biloxi site, said Ms. Gowdy. The National Flood Insurance Program has paid the museum around \$4 million for losses related to Katrina, she said.

Lexington has balked at paying the claim while it determines whether damages from flooding are covered, said Ms. Gowdy.

Some museums can expect their property insurance costs to rise, sources say.

The size of increases depends on where the facility is located, the security it has in place, the strength of its disaster plan and other factors, said Mr. Reynolds.

Ms. Peak of Henderson Phillips said she has seen some museums get price hikes of around 25%. Some may not get increases that large but could be asked to increase windstorm deductibles, she said.

AXA Art said any increases it implements likely will be small. "We take the position that if you are a good risk for us, we will insure you," said Ms. Fischer. "If you're not, no amount of money can help you."

Attract more attention.

Attract
more
business.

MARKET
SOURCEBOOK
2007

Business Insurance

Business Insurance's Market SourceBook is a business development magnet that will pull corporate decision-makers in your direction.

This indispensable resource is the most comprehensive directory available on services and providers in the commercial insurance industry. No one else offers anything like it. So when your customers and prospects are ready to purchase the products and services they need, *BI's Market SourceBook* will draw them in, all year long.

And with a wide range of special opportunities, advertising in *BI's Market SourceBook* should be at the center of your marketing strategy.

Let *Business Insurance* point you toward some compelling ways to take advantage of this unique opportunity to execute an effective, year-long marketing strategy for 2007 – by advertising in *BI's Market SourceBook 2007*.

Contact Bob Niese at 312-649-5276 or e-mail bniese@BusinessInsurance.com.

Publishing Date: December 2006 • Ad Close: November 6

NEW YORK: 212-210-0133
CHICAGO: 312-649-5276

IRVINE: 949-255-5355
BOSTON: 617-292-4856

Business Insurance www.BusinessInsurance.com

BI RANKING - REVISED

100 largest brokers of U.S. business

Ranked by 2005 brokerage revenues generated by U.S.-based clients*

2005 rank	2004 rank	Company	2005 revenue	% change
1	1	Marsh & McLennan Cos. Inc.	\$5,200,000,000	-6.6%
2	2	Aon Corp.	\$2,674,020,000	-8.8%
3	3	Arthur J. Gallagher & Co.	\$1,202,034,000	4.0%
4	4	Willis Group Holdings Ltd.	\$1,053,120,000	1.6%
5	5	Wells Fargo & Co. ²	\$959,359,000	1.7%
6	7	Brown & Brown Inc.	\$775,542,519	21.5%
7	6	BB&T Insurance Services Inc.	\$757,429,400	11.4%
8	8	Hilb Rogal & Hobbs Co.	\$646,167,607	7.4%
9	10	USI Holdings Corp.	\$504,345,000	25.5%
10	9 ³	Wachovia Insurance Services Inc.	\$425,055,701	80.4%
11	11	Lockton Cos. Inc.	\$380,481,668 ⁴	15.5%
12	12	Hub International Ltd.	\$349,184,062	50.9%
13	14	Alliant Resources Group Inc.	\$205,916,877	13.4%
14	13	Jardine Lloyd Thompson Group P.L.C.	\$193,996,387 ⁵	-5.8%
15	15	ABD Insurance & Financial Services	\$164,964,640	23.7%
16	16	CBIZ Benefits & Insurance Services Inc.	\$133,980,000	3.7%
17	20	The Leavitt Group	\$113,578,605	25.3%
18	17	Keenan & Associates	\$112,247,245	7.1%
19	18	Frank Crystal & Co. Inc.	\$105,371,000	6.3%
20	19	Meadowbrook Insurance Group Inc.	\$94,700,000	-1.0%
21	27	Hylant Group	\$88,922,121	19.4%
22	32	Brooke Franchise Corp.	\$88,453,000	34.2%
23	22	Commerce Insurance Services Inc.	\$88,068,000	3.0%
24	23	John L. Wortham & Son L.P.	\$84,832,000	3.3%
25	24	Bollinger Inc.	\$83,500,000	3.9%
26	31	Regions Insurance Group Inc.	\$79,263,000	4.7%
27	26	Banc of America Corporate Insurance Agency ⁶	\$78,483,574	5.2%
28	25	The NIA Group L.L.C.	\$77,400,000	3.3%
29	33	Holmes Murphy & Associates Inc.	\$75,226,798	15.2%
30	30	J. Smith Lanier & Co.	\$73,181,788	7.3%
31	38	The Hays Group Inc. dba Hays Cos.	\$71,900,000	20.8%
32	37	Allied North America	\$70,152,390	17.3%
33	39	Compass Insurance	\$67,416,282	14.0%
34	40	Guaranty Insurance Services	\$67,173,222	13.9%
35	34	Mesirow Financial	\$66,787,528 ⁷	5.0%
36	New	Sky Insurance Inc.	\$62,308,235	8.0%
37	42	The IMA Financial Group Inc.	\$59,522,991	13.8%
38	41	BancorpSouth Insurance Services Inc.	\$58,776,162	2.2%
39	47	Neace Lukens Holding Co.	\$57,846,135	18.4%
40	43	Tanenbaum-Harber Co. Inc.	\$56,114,230	3.7%
41	49	Insurance Office of America Inc.	\$55,890,793	20.1%
42	36	Synaxis Group Inc.	\$54,344,223	-9.4%
43	45	Heffernan Group	\$53,756,890	6.8%
44	51	The Rutherford Cos.	\$53,106,125 ⁸	24.4%
45	44	TD Banknorth Insurance Agency Inc.	\$52,146,000	1.3%
46	50	Associated Financial Group	\$50,165,365	17.1%
47	48	Frenkel & Co. Inc.	\$47,890,396	2.8%
48	New	Wausau Signature Agency	\$47,210,174	9.0%
49	56	Woodruff-Sawyer & Co.	\$45,520,200	16.9%
50	52	Webster Insurance Inc.	\$43,784,198	3.7%

2005 rank	2004 rank	Company	2005 revenue	% change
51	58	The James B. Oswald Co., dba Oswald Cos.	\$43,176,900	11.6%
52	53	Marshall & Sterling Enterprises Inc.	\$41,949,772	5.0%
53	54	Van Gilder Insurance Corp.	\$41,564,312	4.5%
54	55	The Graham Co.	\$41,513,085	6.0%
55	66	Western States Insurance	\$41,495,869	24.9%
56	57	Barney & Barney L.L.C.	\$41,356,000 ⁹	6.3%
57	60	Cottingham & Butler Inc.	\$41,159,000	10.1%
58	68	The Mahoney Group	\$40,981,319	24.3%
59	59	The Horton Group Inc.	\$40,103,438	5.9%
60	61	William Gallagher Associates Insurance Brokers Inc.	\$39,515,023	8.6%
61	65	Capacity Group of Cos.	\$38,647,560	13.4%
62	67	Trion Group Inc., dba Trion	\$38,115,000	13.9%
63	70	McQueary Henry Bowles Troy L.L.P.	\$35,105,950	10.7%
64	72	Riggs, Counselman, Michaels & Downes Inc.	\$34,658,409	11.5%
65	64	Hibernia Insurance Agency L.L.C.	\$33,929,200	-3.6%
66	New	Beecher Carlson Holdings Inc.	\$33,210,576	343.7%
67	74	Eastern Insurance Group L.L.C.	\$33,016,535	10.1%
68	80	DeWitt Stern Group Inc.	\$32,598,720	21.1%
69	69	Andreini & Co.	\$32,437,000	-0.6%
70	75	Bratrud Middleton Insurance Brokers Inc.	\$31,779,000	8.5%
71	73	Fringe Benefits Management Co.	\$31,764,694	2.5%
72	78	Higginbotham & Associates Inc.	\$30,813,810	12.7%
73	76	The Loomis Co.	\$30,596,227	7.1%
74	77	Lawley Service Inc.	\$30,164,098	11.3%
75	93	North American Insurance Agency Inc. dba North American Group	\$29,667,803	29.6%
76	79	Bowen, Miclette & Britt Inc.	\$29,646,607	8.4%
77	71	Roger Bouchard Insurance Inc.	\$29,535,637	-6.0%
78	90	Dawson Insurance Inc.	\$28,519,702	21.6%
79	82	Payne Financial Group Inc.	\$28,460,646	5.8%
80	New	Frost Insurance Inc.	\$28,060,802	-10.5%
81	87	Scott Insurance	\$27,270,000	11.3%
82	81	Starkweather & Shepley Insurance Brokerage Inc.	\$26,852,000	2.0%
83	86	Lovitt & Touche Inc.	\$26,807,021	9.3%
84	83	R.C. Knox & Co. Inc.	\$26,693,432	9.5%
85	89	Parker, Smith & Feek Inc.	\$26,562,240	12.9%
86	92	Assurance Agency Ltd.	\$26,335,980	14.6%
87	91	Seitlin	\$25,669,752	8.1%
88	98	Fred A. Moreton & Co.	\$25,180,000	29.7%
89	85	The Daniel & Henry Co.	\$24,228,608	-3.5%
90	94	James G. Parker Insurance Group	\$23,478,020 ¹⁰	12.7%
91	100	RJF Agencies Inc.	\$23,156,000	14.9%
92	96	Robertson Ryan & Associates Inc.	\$22,567,440	11.9%
93	99	Cobbs, Allen & Hall Inc.	\$21,796,104	14.7%
94	New	J. Rolfe Davis Insurance	\$20,730,236	9.2%
95	New	TrueNorth Cos.	\$20,481,080	78.0%
96	95	Bolton & Co. Insurance Brokers	\$20,457,325	1.3%
97	New	Universal Insurance Services Inc.	\$18,424,122	6.5%
98	New	Cook, Hall & Hyde Inc.	\$18,205,000 ¹¹	4.2%
99	New	Aviation Insurance Services	\$16,217,721 ⁸	19.0%
100	New	Pan American Underwriters Inc.	\$14,762,000	-7.0%

* Companies that derive less than 20% of revenues from commercial retail brokerage are not ranked. 1 BI estimate. 2 Includes Acordia Inc. and Wells Fargo Inc. 3 Ranking based on pro forma numbers including Palmer & Cay Inc., which was purchased May 2005. 4 Fiscal year ending 4/30. 5 Converted at the applicable rate. 6 Formerly Fleet Insurance Services. 7 Fiscal year ending 3/31. 8 Fiscal year ending 6/30. 9 Fiscal year ending 1/31. 10 Fiscal year ending 5/31. 11 Fiscal year ending 2/28.

Letters

Continued from page 8

and judiciary pronouncements about the "supremacy of policyholders' interests" statements of principle or platitudes?

3. Do the names, 10 years after the approval of Lloyd's reconstruction and renewal (and after 10 years of estate planning, bankruptcies and deaths) really have enough non-exempt, collectible assets to satisfy all claims not paid by Equitas for cover incepted at Lloyd's in 1992 and prior years? In other words, where will policyholders and cedents turn if Equitas officially goes to proportional coverage?

4. At 12 minutes to midnight GMT on the eve of Equitas' authorization by U.S. and U.K. officials in early September 1996, Lloyd's Chairman David Rowland agreed that the ongoing Lloyd's market would indemnify Equitas (pay all unsatisfied claims) in the event it ever ran short of funds. This was an absolute condition required by the superintendent of the New York State Insurance Department prior to granting his approval of R&R and permitting the transfer of billions from Lloyd's American Trust Fund into the Equitas American Trust Fund.

5. Less than two years after the acceptance of R&R and the inception of Equitas, the NYSID—under a new superintendent—made the ongoing Lloyd's market's indemnification of Equitas disappear. Although we have spoken with numerous witnesses to the agreement, when senior NYSID officials are asked about it, they respond with evasive answers and pretend it never existed (and, in our experience, have done everything possible to avoid testifying under oath on this subject).

6. In the mid-1990s, after a mix

of decisions by lower courts, most courts of appeal in the United States ultimately sent names' fraud cases to England for adjudication. In a related case, *Allen vs. Lloyd's*, the 4th U.S. Circuit Court of Appeals reversed a district court order that U.S. names and policyholders were entitled to more complete and unqualified disclosures before Lloyd's 1996 reorganization could go forward.

Appellate court records are replete with assurances by Lloyd's, the U.K. government and former California Insurance Commissioner Chuck Quackenbush that it would be beneficial to insureds

and reinsureds. But denying names access to U.S. law and full disclosure set a dangerous precedent for U.S. claimants. The momentum of the "save Lloyd's at any cost" PR and lobbying campaign carried to affect U.S. coverage cases as well.

7. In the aftermath of R&R, Equitas argued it did not conduct business in the United States, had not assumed names' liabilities as in typical Lloyd's reinsurance-to-close transactions and therefore did not have to defend and indemnify claims against Lloyd's pre-1993 policies. Although some U.S. courts ruled that Equitas stands in the shoes of its reinsured names, many

found against insureds/reinsureds by holding that Equitas operates outside U.S. jurisdiction and law. Those courts ruled that only when a coverage case against Lloyd's underwriters at interest concludes—and if money remains—does Equitas have to pay claims.

The paradox is that all Lloyd's 1992 and prior syndicates reinsured by Equitas transferred their underwriting names' deposits, premium reserves and authority to adjust claims to Equitas before closing their doors. Who, if not Equitas, has been directing and paying attorneys to represent these old syndicates and their underwriters in

coverage disputes in U.S. jurisdiction?

Lloyd's names, direct policyholders and ceding insurers have more in common than they could have ever imagined 10 years ago—mainly that they are equal targets of Lloyd's duplicity. When it comes time for the British government to pay for its culpability in Lloyd's auditing and solvency failures, however, those funds should go to satisfy unpaid claims of policyholders and cedents.

Jack Shettle Sr.

Chairman
American Names Assn.
Rancho Santa Fe, Calif.



RISK MANAGEMENT
COLLECTIBLES
EMPLOYEE BENEFITS

Women
TO WATCH

influence
REINSURANCE
contributions
achievements
CONSULTING
LAW



CALL FOR NOMINATIONS
[www.BusinessInsurance.com/
WomenToWatch](http://www.BusinessInsurance.com/WomenToWatch)

The help you need
is always at your
fingertips...



Get breaking
industry news
as it happens ...
posted in real time
throughout the day.

BusinessInsurance.com/DailyNews

BusinessInsurance.com



Between the Lines

Compiled by Joanne Wojcik

Riding high, but not dry

Only Colorado, which has the lowest obesity rate in the country, could get away with calling a bicycle race "The Triple Bypass," which some might say could trigger the need for one.

The 122-mile cardiovascular challenge is considered one of the toughest one-day bicycle tours in North America because riders scale three steep mountain passes between Evergreen and Avon, Colo., ranging from 10,560 feet to 11,990 feet in elevation.

But this year's pulmonary function test for exceptionally fit cyclists was especially grueling because of unseasonably chilly, wet weather



On July 8, rain dampened Colorado's Triple Bypass ride, which scales three steep mountain passes.

that gripped the normally arid state during the July 8 weekend. As a result, some soaked riders dropped out after enduring just a single or double bypass.

"This year's event will definitely be remembered as the worst weather year in our 18-year history," event organizers said in an appreciative Web site posting. "Team Evergreen thanks everyone who registered and even attempted the ride. Whether you rode a single, double or triple bypass, we appreciate your support."

Approximately 1,500 soggy cyclists completed the race, which benefited Rebuilding Together Metro Denver, a nonprofit that helps communities rebuild houses of low-income residents.

Don't leave work without it

You're packing for vacation, daydreaming about soaking up the sun on some faraway beach, when you get a call from the office alerting you to a crisis that only you can handle. So you put off that sorely needed respite from work for what seems like the umpteenth time.

Well, now there's a cure for "vacation interruptus," which affects 19% of U.S. adults, according to a recent poll by Harris Interactive for the online travel agency Expedia.com.

Richmond, Va.-based Access America, part of the Allianz Insurance Group, says busy executives won't want to leave home without Biz-Pack. The \$19 travel insurance rider reimburses travel expenses when a trip is canceled or interrupted for one or more of the following reasons: being required to work; a business or company going through a merger; or a business is made unsuitable due to fire, flood, natural disaster or burglary.

AIA says 'No on E'

It's almost enough to make the stony faces on Meun: Rushmore crack up: A group of South Dakotans wants to put judges on trial.

If approved by voters, the Judicial Accountability Initiative Law, otherwise known as Amendment E, would give a 13-member special grand jury the power to strip judges of their common law immunity from lawsuits.

It's "the American Way," asserts J.A.I.L. 4 Judges, a group that has collected the more than 40,000 signatures to put the measure on the November ballot statewide.

And the American Insurance Assn. couldn't disagree more. In fact, if Amendment E passes, the association will be among the first to race to the courtroom—though not to sue any judges, said a spokesman for the industry group, which is a member of the "No on E" coalition.

"While not being an attorney or having studied the South Dakota Constitution closely enough, I would think (a suit will be filed) on constitutional grounds if it is passed," said AIA Public Affairs Director Jeffrey Junkas in Chicago.

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

Leading U.S. retail brokers

Ranked by 2005 retail brokerage revenues generated from U.S.-based clients.

Company	2005 Revenues	% change	Company	2005 Revenues	% change
Marsh & McLennan Cos. Inc.	\$2,100,000,000	-25.1%	Wachovia Insurance Services Inc.	\$296,802,149	84.4%
Aon Corp.	\$1,517,600,000	3.8%	Hub International Ltd.	\$219,156,115	26.4%
Wells Fargo & Co.	\$763,175,000	1.0%	ABD Insurance & Financial Services	\$160,807,265	23.1%
Arthur J. Gallagher & Co.	\$757,837,000	5.8%	Alliant Resources Group Inc.	\$144,378,000	1.6%
Willis Group Holdings Ltd.	\$745,500,000	5.7%	CBIZ Benefits & Insurance Services Inc.	\$110,880,000	0.3%
Hilb Rogal & Hobbs Co.	\$514,218,009	5.2%	Frank Crystal & Co. Inc.	\$95,887,610	5.1%
BB&T Insurance Services Inc.	\$452,635,200	6.7%	Hylant Group	\$83,258,854	22.2%
Brown & Brown Inc.	\$433,699,870	7.8%	John L. Wortham & Son L.P.	\$80,140,790	3.8%
USI Holdings Corp.	\$419,843,000	24.7%	Commerce Insurance Services Inc.	\$73,540,000	6.2%
Lockton Cos. Inc.	\$376,361,500	15.5%	The Leavitt Group	\$70,911,510	20.8%

1 B/estimate
Source: B/survey

Last chance to decide industry's best

What companies are the best in the industry? Who's tops in terms of service, value, reputation and innovation? If you read *Business Insurance*, we want to know what you think.



With our second annual Readers Choice Awards, *Business Insurance* will let our readers again choose the top industry companies in nine different categories relating to risk management and employee benefits. The winners will be announced and profiled in the Aug. 21 issue.

The categories are:

- Best employee benefit consulting firm

- Best managed health care organization.
- Best property/casualty reinsurer.
- Best reinsurance intermediary.
- Best surplus lines insurer.
- Best insurance wholesaler.
- Best risk management consulting firm.
- Best employee assistance program provider.
- Best third-party claims administrator.

The categories of retail insurance brokerage firms and commercial lines property/casualty insurance companies are not included this year as they will be the subject of an in-depth survey to be conducted by a professional research firm later this year.

The 2005 Readers Choice winners were identified through confidential balloting by subscribers.

While *Business Insurance* provided alphabetical lists of the 10 largest companies in each category for convenience, voters were able to write in candidates if their top choice was not included. Companies receiving the highest vote totals were declared the winners in each category, and profiles appeared in the Oct. 10, 2005, issue.

Voting for the 2006 Readers Choice Awards will again be confidential but must be completed by the end of **Friday, July 28**.

To see a list of the 2005 winners and cast your vote this year, please visit www.BusinessInsurance.com/ReaderAwards, where registered subscribers also have access to a wealth of daily news and resources from the leading weekly magazine covering risk management, insurance and employee benefits.

Business Resources

To place your ad, contact **Tina Vasilakis** at (312) 649-5340 / fax: (312) 649-7937 / E-mail: tvasilakis@BusinessInsurance.com
Business Insurance, Business Resources, 360 N. Michigan Ave., Chicago, IL 60601-3806.

EDUCATION & TRAINING

CPCU® AIC, ARM, IIA, CLU/ChFC, and CIC candidates

Executive Summaries so good, you'll pass the first time, every time or your money back!
Call 1-888-BURNHAM Now!
www.BurnhamSystem.com



Some things just work better in **color**.

Like your BUSINESS RESOURCES ad in *Business Insurance*. Contact Tina Vasilakis at 312-649-5340.

Business Resources is the Place to Reach Key Decision-Makers!

MAKE A STATEMENT IN THESE UPCOMING ISSUES:

AUGUST 14

**Benefits Management Section:
Consumer-Driven Health Plans**
Ad Closing: August 8

AUGUST 21

Readers Choice Awards™
Ad Closing: August 15

Call (312) 649-5340 to place your ad.

Business Insurance
www.BusinessInsurance.com

Russia may relax barriers to insurance market

Move seeks to ensure success of WTO bid

By MICHAEL BRADFORD

MOSCOW—U.S. insurers would gain greater access to Russia's insurance market if the countries come to terms on a deal that would loosen restrictions in exchange for allowing Russia to join the World Trade Organization.

Russia's Finance Minister Alexei Kudrin said the country is willing to relax restrictions on U.S. and other foreign insurers that want to set up operations in Russia. He made his remarks earlier this month after negotiations with the United States regarding Russia's bid to join the WTO.

Russian officials said the changes would mean non-Russian insurers could more easily establish branches, write coverage for compulsory lines and, in effect, not face a cap on foreign capital in the Russian insurance market.

The changes are part of Russia's effort to convince the United States that it should be allowed



Russian Finance Minister Alexei Kudrin says the country is willing to relax restrictions on foreign insurers that want to operate in Russia.

to join the WTO. As the only nation left to sign off on allowing Russia to join the organization, the United States is pressing for deals that would open insurance and banking markets.

A sticking point in the negotiations remains over Russia's cap that limits the amount of foreign capital in the insurance market, according to David Snyder, vp and assistant general counsel

with the American Insurance Assn. in Washington.

Russian officials have said they want a cap of 50% on foreign capital in the insurance marketplace but have no intention of enforcing it, but Mr. Snyder said it would be unwise for the United States to agree to such a cap.

"To agree to that would set a terrible precedent" for future negotiations with other countries that would also demand caps, said Mr. Snyder. "Once you agree to it, it will come around and bite you repeatedly," he said.

And if the cap were to be enforced in Russia, it would pose problems for foreign insurers, Mr. Snyder argued. "You can't plan an enterprise and then wake up one morning and start to disinvest" in order to comply with capital restrictions, he said.

Boris Korchemkin, chief executive officer at Aon Rus in Moscow, a unit of Aon Corp., said U.S. insurers should not worry about the cap if it is implemented. "I don't think the cap should be a concern to American insurers. It's not anywhere near that," he said of foreign capital in the

See **RUSSIA** / next page

Former Cologne Re exec banned over finite deals

Prohibitions in U.K., Australia

By RUPAL PAREKH

SYDNEY, Australia—A former executive at Cologne Reinsurance (Dublin) Ltd. has been banned by regulators in Australia and the United Kingdom over his involvement in a series of finite reinsurance deals, the regulatory agencies said last week.

The Australian Prudential Regulation Authority has disqualified John Byrne, a former senior executive at Cologne Re—a unit of Stamford, Conn.-based General Re Corp.—from being or acting as a director or senior manager of a general insurer, nonoperating holding company or agent of a foreign general insurer.

Meanwhile, the London-based Financial Services Authority has prohibited Mr. Byrne for five years from performing any function that requires FSA approval.

According to the agencies, Mr. Byrne admitted to arranging and structuring sham reinsurance contracts on behalf of various subsidiaries of Gen Re between 1998 and 2001. Mr. Byrne was aware that the contracts lacked sufficient risk transfer to be accounted for as reinsurance, and that client insurers likely

would manipulate the transactions to misrepresent their true financial condition, the agencies said.

"APRA's ongoing investigation into financial reinsurance products developed and marketed by parts of the Gen Re Group has identified three transactions where Mr. Byrne knowingly contributed to the development of products whose design made them capable of being misused by a counterparty for an improper purpose," said Ross Jones, APRA's deputy chairman, in a statement.

Mr. Byrne has agreed to assist regulators with continuing investigations into the role of other employees in fraudulent reinsurance deals, and APRA has agreed to take no further action against Mr. Byrne as part of its investigations, APRA said.

"The FSA has said that financial reinsurance should only be used for legitimate purposes and should be accompanied by full disclosure. We have taken action against other individuals who have misused financial reinsurance and we will continue to do so where we believe it has been misused," said Margaret Cole, the FSA's director of enforcement, in a statement.

This is the first time an enforcement matter has been jointly settled by the two agencies.



U.K. employers face vicarious liability for workplace bullies

By JONATHAN GARDNER

LONDON—U.K. employers should ensure that they have procedures in place to stop workplace harassment in light of a decision by the country's highest court that allows a worker to proceed with his claim that his employer is liable for bullying behavior by a supervisor, experts say.

The decision handed down July 12 by the House of Lords says that, in principle, employers are "vicariously liable" for harassing behavior by their employees, even though that behavior is not condoned by the employer.

Legal experts said the decision emphasizes the importance of putting in place policies forbidding workplace harassment and ensuring that all employees receive training to comply with the policy.

"It emphasizes that employers should do as much as (they) can to eliminate harassment," said Pamela Keys, a lawyer specializing in employment law with the firm McGrigors, in Glasgow, Scotland.

Policy needed

Establishing an anti-harassment policy, ensuring that all employees go through an orientation program and understand the policy, and documenting those activities would likely help employers when defending against similar allegations, said Paul Sanchez, global director of employee research and effectiveness for Mercer Human Resources Consulting in London.

"It certainly is a better defense

than no action," he said.

The case was brought by William Majrowski, a clinical audit coordinator at Guy's and St. Thomas' National Health Service Trust, who sued his employer in 2003 under the 1997 Protection from Harassment Act, claiming his supervisor, Sandra Freeman, had harassed and bullied him because he is homosexual.

A trial court refused to hear the case, saying the principle of vicarious liability did not apply under the harassment law because it was not explicitly included in the statutory language.

That decision was reversed by the Court of Appeal and the House of Lords affirmed the appeals court's decision.

In arguing that it was not liable under the 1997 harassment law, the trust, which operates two London hospitals, argued that the law was intended to combat stalking and was not aimed at the workplace, that it unfairly punishes blameless employers, and that it will increase the number of lawsuits.

The House of Lords disagreed. "Vicarious liability arises only if the new wrong is committed by an employee in the course of his employment," wrote Lord Donald James Nicholls in handing down the decision. "If an employee's acts of harassment meet this test, I am at a loss to see why these particular features of this newly created wrong should be thought to place this wrong in a special category in which an employer is exempt from

See **HARASSMENT** / next page

Updates

Heritage Underwriting set for August IPO

Lloyd's of London managing agency Heritage Underwriting Agency P.L.C. plans to list on London's Alternative Investment Market exchange in August. London-based Heritage, which operates syndicates 1200 and 3245 at Lloyd's, aims to launch its initial public offering by Aug. 1. Richard Pexton, chief executive of Heritage, said the additional capital would be used to support underwriting of the company's syndicates and to grow their combined capacity from £230 million (\$418.7 million) to about £265 million (\$482.4 million).

Aon boosts presence in Czech Republic

Aon Corp. unit Aon Czech Republic Ltd. in Prague has acquired nonlife brokerage Stach Group. The combined company, called Aon Stach and headquartered in Prague, will have about 50 brokers serving clients from 19 offices in the two countries. Terms of the sale were not disclosed. Stach Group was founded in 1991 by Frantisek Stach, who will stay on as chief executive officer of Aon Stach's Czech operations, while Michal Bucko will head the brokerage's Slovak operations based in Bratislava.

Willis opens Macau office

Willis Group Holdings is opening an office in Macau to cater to the region's growing leisure and entertainment industry. Sandra Ho, formerly chief business officer at Macau insurer Luen Fung Hang Insurance Co. Ltd., has been named branch director of the new Willis office. "By opening an office in Macau, we are being receptive to our clients' needs in light of the fact that the city is becoming an economic hub," Roger Wilkinson, managing director of Willis Asia, said in the statement.

U.K. seeks to improve mesothelioma claims

U.K. Secretary of State for Work and Pensions John Hutton last week unveiled changes designed to improve the system for compensating sufferers of mesothelioma, an asbestos-related cancer. Among the changes is the introduction of a standard claim letter intended to ensure that mesothelioma claims receive priority with claims handlers. In addition, the secretary said that the Department of Work and Pensions will work with the Revenue and Customs departments to speed the tracing of employer records.

Russia: Locals fear competition from United States

Continued from previous page

market now, and it would take a very long time for foreign participation to grow enough to near the 50% limit.

U.S. insurers seeking a presence in Russia usually do so by opening a branch of a European subsidiary, Mr. Snyder explained. While it is possible to set up an office in Russia, U.S. insurers face a number of restrictions that their European Union subsidiaries do not. As part of the WTO talks, the Russians have pledged to make it easier for U.S. insurers to open branches.

Mr. Snyder said Russian officials also have said they will let foreign insurers write the more than a dozen compulsory lines of insurance. "Our biggest concern was that we not be excluded from motor vehicle and workers compensation," which are among the compulsory lines, he said.

Some AIA members are interested in locating in Russia, which has an

increasingly educated population that is interested in protecting its increasing wealth, if the current restrictions are relaxed, Mr. Snyder said.

"The market is growing just like the Russian economy," Mr. Korchemkin pointed out. The demand for some commercial property/casualty coverages, such as directors and officers liability, is particularly strong, he said. "So there is certainly room for new players."

Mr. Snyder said he is aware of local insurers' fears that relaxing the restrictions on foreign participation would harm them. Some have complained in the Russian press that allowing foreign insurers to easily enter the market would stunt local companies' growth. More foreign players could also hurt Russia's reinsurance market as the new competitors reinsure their writings outside of Russia, local insurers have said.

However, not all local insurers are complaining, Mr. Snyder said.

The AIA hosted a group of Russian automobile insurers and "they are not concerned" about the arrival of foreign competitors, he said.

On the contrary, the insurers said they would welcome new capital that could strengthen the marketplace and cause "all boats to rise," Mr. Snyder said.

As for the fear that Russian reinsurers would be hurt because such coverage would more likely be purchased outside the country, Mr. Snyder said it would be more harmful if too much reinsurance is written inside Russia.

"It's a good idea to globalize reinsurance risk," Mr. Snyder said, explaining that if a catastrophe struck Russia, its reinsurance market could be hard-hit if insurers relied too heavily on local reinsurers.

Reinsurers should not feel threatened, said Mr. Korchemkin, because local reinsurance capacity is "very limited" and many of the large risks already are reinsured outside Russia.

Harassment: U.K. trial ordered

Continued from previous page

vicarious liability.

"It is true that this new wrong usually comprises conduct of an intensely personal character between two individuals. But this feature may also be present with other wrongs which attract vicarious liability, such as assault," he wrote.

The decision only determined that the case should proceed to trial, and did not determine whether the trust was liable nor what any award should be.

The "ruling is about the point of law, rather than the specific details of this case which have yet to be considered in court," said a spokesman for the hospital trust.

Far-ranging implications

This case may set a precedent on how the principle of vicarious liability is applied under U.K. law. While vicarious liability is assumed under such common law cases as

negligence, "what had never been decided is whether vicarious liability applies to acts of Parliament," said Nick Hanning, a legal executive with Reynolds Williams, the Poole, England-based firm that represented Mr. Majrowski.

In addition, the ruling has implications for time limits on employment-related lawsuits, said McGrigors' Ms. Keys. Under anti-discrimination legislation, plaintiffs have three months from the time of the last incident of discrimination to file suit against an employer. But many such cases can be turned into lawsuits under the harassment law, which gives plaintiffs up to six years to file suit, she said.

"It may be slightly easier to seek damages under the Protection from Harassment Act," she said.

Majrowski vs. Guy's and St. Thomas' NHS Trust (2006) UKHL 34 (12 July 2006).

Professional MarketPlace

To place your ad, contact **Tina Vasilakis** at (312) 649-5340 / fax: (312) 649-7937 / E-mail: tvasilakis@BusinessInsurance.com
Business Insurance, Classified Department, 360 N. Michigan Ave., Chicago, IL 60601-3806. Call for details on blind box and internet advertising

EDUCATION

Advanced Environmental Risk Management Seminar

Executive Education, Sept 26-27
Univ. of Wisconsin - Madison
www.erraonline.org/uw.html
1-877-735-0800

HELP WANTED

Government Entities Mutual, Inc.
President and Chief Executive Officer
Successor Position
Opening Announcement see:
<http://www.gemre.com>.

HELP WANTED

Metro NYC-Tri State Underwriting/Marketing Executive
Financially strong insurance group seeks underwriting/marketing professional to expand and improve its current operation in the Metro NYC/Tri-State Area. Ten years experience, producer following, IT knowledge required. College degree and professional designation big pluses.

Respond in confidence to:
Business Insurance,
Box 3249, 360 N. Michigan Avenue,
Chicago, IL 60601 or email
bibox3249@BusinessInsurance.com.



Some things just work better in color.

Like your PROFESSIONAL MARKETPLACE ad in *Business Insurance*. Contact Tina Vasilakis at 312-649-5340.

LEGAL NOTICE

In the High Court of Justice
Chancery Division, Companies Court
No. 6204 of 2003
BRADSTOCK LIMITED
(In Liquidation)

NOTICE IS HEREBY GIVEN, pursuant to rules 4.182 and 11.2 of the Insolvency Rules 1986, that the liquidators of the above company intend to make a first distribution to the creditors of that company within four months of 8 September 2006. Creditors are required to submit full details of their claims to the liquidators at 141/142 Finchchurch Street, London EC3M 6BL United Kingdom, on or before 8 September 2006 which is the last day for proving claims. Creditors who do not submit their claims by that date may be excluded from the dividend. The full details of claims, referred to above, must include the creditors name and address, the amount of the claim and particulars of how and when the debt was incurred by the company. Dated this 19 day of July 2006
G H Hughes, Joint Liquidator

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
IN RE PETITION OF JOHN C. GIBBONS,
AS LIQUIDATOR OF NEW CAP
REINSURANCE CORPORATION LIMITED,
DEBTOR IN FOREIGN PROCEEDINGS
CASE NO. 99-B-42752 (SMB)

NOTICE IS HEREBY GIVEN THAT ON JULY 14, 2006, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON MAY 7, 1999. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED TO BE HELD ON JANUARY 11, 2007 AT 10:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE STUART M. BERNSTEIN, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE STUART M. BERNSTEIN AND SERVED ON COUNSEL FOR THE PETITIONER LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE PETITIONER.

CHADBOURNE & PARKE LLP
ATTORNEYS FOR THE PETITIONER
30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10112
(212) 408-5100
ATTN: HOWARD SEIFE, ESQ.
FRANCISCO VAZQUEZ, ESQ.

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re:

GORDIAN RUNOFF (UK) LIMITED,
Formerly GIO (UK) Limited,

Debtor in a Foreign Proceeding.

LEGAL NOTICE

In a Case Under
Chapter 15 of the
Bankruptcy Code

Case No.06-11563(rdd)

NOTICE OF FILING, AUGUST 28, 2006 HEARING ON, AND
AUGUST 22, 2006 DEADLINE TO RESPOND TO
PETITION UNDER CHAPTER 15 OF U.S. BANKRUPTCY CODE

PLEASE TAKE NOTICE, that on July 11, 2006, a Petition pursuant to Chapter 15 of the United States Bankruptcy Code was filed on behalf of **Gordian RunOff(UK) Limited**, formerly known as **GIO(UK) Limited**, (the "Debtor") with the United States Bankruptcy Court for the Southern District of New York (the "Court") seeking an Order: (i) granting recognition as a foreign main proceeding to the Debtor's scheme of arrangement (the "Scheme") sanctioned by the High Court of Justice of England and Wales pursuant to Section 425 of the Companies Act 1985 of Great Britain; and (ii) permanent injunctive and related relief in aid of the Scheme.

PLEASE TAKE FURTHER NOTICE, that a **Hearing will be held on Monday August 28, 2006 at 10 o'clock a.m.** Eastern Daylight Time before the Honorable Robert D. Drain in Courtroom 610 of the United States Bankruptcy Court, One Bowling Green, New York, New York 10004-1408 (the "Hearing") to consider the Chapter 15 Petition.

PLEASE TAKE FURTHER NOTICE, that any party in interest wishing to submit an objection or other response to the relief requested by the Petition must do so in writing setting forth the bases therefore and must: (i) **file such response or objection** either: (a) with the Court electronically by registered users of the Court's electronic case filing system in accordance with General Order M-182, a copy of which may be viewed on the Court's website, www.nysb.uscourts.gov; or (b) by all other parties in interest on a 3.5 inch disc, preferably in Portable Document Format (PDF), Word Perfect or any other Windows-based word processing format, submitted to the Clerk of Court, Room 534, One Bowling Green, New York, New York 10004-1408; and (ii) **deliver a hard copy** of such response or objection to the Court's Chambers at the address set forth in the paragraph above; and (iii) **serve such response or objection** upon counsel for the Petitioner, **Edwards Angell Palmer & Dodge LLP**, Attention: Selinda A. Melnik, Esq., 919 North Market Street, Suite 1500, Wilmington, Delaware 19801, **so as to be received by them all no later than 4 o'clock p.m. Eastern Daylight Time on Tuesday August 22, 2006.**

PLEASE TAKE FURTHER NOTICE, that all those opposed to the relief requested by the Petition must appear at the Hearing at the time and place set forth above.

PLEASE TAKE FURTHER NOTICE, that the Hearing may be adjourned from time to time without further notice other than an announcement in open court at the Hearing of the adjourned date or dates or any further adjourned hearing.

PLEASE TAKE FURTHER NOTICE, that if no response or objection is timely filed and served as provided above, the Court may grant the recognition and relief requested by the Petition without further notice.

PLEASE TAKE FURTHER NOTICE, that copies of all documents filed with the Court in support of the Chapter 15 Petition may be obtained: (i) by those with a PACER account from the docket of the case accessible through the Court's Electronic Case Filing system via the Court's website, www.nysb.uscourts.gov; (ii) by PDF download from the Scheme website, www.gordianuk.co.uk; or (iii) by email upon written request made to the Petitioner's United States counsel: **Edwards Angell Palmer & Dodge LLP**, 919 North Market Street, Suite 1500, Wilmington, Delaware 19801, Fax: +1 (302) 777-7263, E-mail: smelnik@eapdlaw.com, Attn: Selinda A. Melnik, Esq.



Find out first.

When important industry news breaks, the **Business Insurance Daily News** e-mail alert delivers it first.

Thousands of key executives like you have already signed up for this free service – and they have a definite advantage over their colleagues and their competition. **BI Daily News** keeps them ahead of the curve with headlines and highlights of the day's hot news in the commercial insurance, risk management and employee benefits marketplace.

So be the first to be in the know.

Register today for **BI Daily News**.

BusinessInsurance.com/DailyNews

Business Insurance

www.BusinessInsurance.com

THE BENEFITS OF BETTER COVERAGE.

Charter: Treasury's analysis excludes recommendations on federal regulation

Continued from page 4

during the inaugural July 11 hearing on the bill, there appeared to be a "general sentiment" that "it's time for the federal government to act."

Mr. Quarles' comments were welcomed by supporters of the optional federal charter approach.

Leigh Ann Pusey, senior vp-government affairs for the Washington-based American Insurance Assn., called Mr. Quarles' testimony "very encouraging." Noting that the Senate Banking Committee held two hearings on the National Insurance Act in one week, Ms. Pusey said "no one should doubt that people are ready" for serious discussion of the issue.

"I think backers of the optional federal charter have got a jolt of electricity," said Joel Wood, senior vp-government affairs for the Council of Insurance Agents & Brokers in Washington.

"It's about as strong as I could anticipate the Treasury to be," he said. "It was thoughtful, and helps set the stage for a pretty meaningful debate on this issue next year."

Another group supporting the optional federal charter plan had hoped that the Treasury Department would have gone farther in its comments.

"We think Treasury provided a good analysis of the problem, but their testimony is a restatement of the obvious—the system is broke,"

"We think Treasury provided a good analysis of the problem, but their testimony is a restatement of the obvious—the system is broke."

Terry Fleming

Risk & Insurance Management Society Inc.

said Terry Fleming, a member of the board of directors of the New York-based Risk & Insurance Management Society Inc. with responsibility

for external affairs.

"RIMS hoped that there would have been some suggestions or recommendations to address the problem," he said. "We support the idea of an optional federal charter that was introduced this year, and it's apparent that the states are incapable of agreeing on how to fix the problem and so federal legislation is required," said Mr. Fleming, who is director-division of risk management for Montgomery County in Rockville, Md.

The National Assn. of Insurance Commissioners, however, disagreed with Treasury's analysis.

"We found his testimony interesting, though I don't agree with his characterizations of what is nec-

essarily happening," said NAIC President Alessandro A. Iuppa. "Insurance regulation is no different than securities or banking regulation—it's always being modernized, and we would take in some cases general issue with his characterization of the way states" are responding, said Mr. Iuppa, who also is Maine superintendent of insurance.

"I suspect it's too early to tell, but I think the proponents of federal chartering for insurance companies probably took some comfort in the testimony. But I don't think it fully reflects the reality in the regulatory marketplace for insurance," Mr. Iuppa said.

Chevron: Disability management program generates savings

Continued from page 4

vides information on Chevron FMLA leaves.

Chevron contributes additional information on payroll, absence eligibility, leave histories and the company's organizational structure.

The data then can be examined in a number of ways.

The organizational structure information, for example, allows

Chevron sees results

Disability management program reduced short-term disability-related leaves by **15% from 2003 through 2005.**

\$9 million in cost savings stemmed from implementing disability management efforts during the three years.

Mr. Huggins to dissect and benchmark disability leaves by company business units.

Chevron's goal is to have all workers with absences stretching beyond five days participating in the company's disability management program. Absences of fewer than five days are considered incidental and often are attributed to the common cold and flu, Mr. Huggins said.

By combining the STD claims data provided by UnumProvident and Chevron's internal payroll system information, the company can identify employees whose non-occupational absences have extended more than five days, but who are not participating in Chevron's disability management program, Mr. Schaneman said.

Such information helps standardize the company's treatment of absences, ensuring fair and equal treatment for all employees. It also helps Chevron track and certify absences covered under the FMLA and related state laws, the speakers said. It, therefore, helps the company comply with legal requirements under those laws.

Properly addressing STD claims also is important for Chevron because, under the company's bene-

fits structure, employees in California can be out of work for up to a year without facing an income reduction, Mr. Huggins said.

Reports generated with the information collected in Chevron's data warehouse system also help Mr. Huggins decide how best to shape his disability management program, Mr. Schaneman explained.

In addition, reports distributed via the Internet help field managers in making day-to-day staffing and operational decisions. Based on who is going to be absent and for how long, for instance, field managers may decide to bring in temporary workers, have regular workers put in overtime or have managers fill in, Mr. Schaneman said.

Building Chevron's analytical approach began with a broad review of the company's existing data, called an initial discovery analysis, that helped establish a baseline for future reporting, Mr. Schaneman said. It also helped develop a broad picture of what the company was already doing well and where it needed improvement.

Among other information, in-depth annual reports provide details on the disability management program's return on investment, how well disabilities are managed and whether productivity has improved, Mr. Schaneman said.

A recently completed analysis found the disability management efforts had produced nearly \$9 million in cost savings from 2003 through 2005.

The analysis also showed the disability management program reduced short-term disability-related leaves by 15% during the three years, speakers said. The average length of STD also fell from 35 days in 2003 to 31 days in 2005.

The nearly \$9 million in savings stem from a \$4.1 million drop in short-term disability benefit payments, \$1 million saved via job-accommodation efforts and a \$1.5 million ripple-effect reduction in long-term disability claims costs.

It also included \$2.1 million in indirect savings stemming from increased productivity, the speakers said.

Compliance issues lead companies to outsource FMLA administration

By ROBERTO CENICEROS

SAN DIEGO—Outsourcing administration of Family and Medical Leave Act absences can relieve employers of what is often proving to be a burdensome requirement to ensure uniform compliance with the law, three benefit managers told the Disability Management Employer Coalition.

Outsourcing ensures consistent application of the FMLA for business units spread across several states, integrates reporting of benefits such as short-term disability payments and frees up human resources personnel, they said at DMEC's 11th annual International Absence and Disability Management Conference in San Diego last week.

Nokia Corp., the mobile telephone company, began outsourcing its FMLA administration about a year ago to help coordinate compliance with the federal law and that of disparate state laws, such as California's Family Rights Act, said Linda Fonteneaux, the company's benefits manager for North America in Irving, Texas.

Nokia also outsourced FMLA administration to meet employee needs, rather than to address traditional business concerns such as improving return on investment, Ms. Fonteneaux said.

Additionally, Nokia wanted to integrate FMLA administration with its self-insured, short-term disability program and workers compensation.

After consolidating all available data on those existing programs, Nokia created a database that allowed employees to report short-term disability, workers comp or FMLA-related incidents online. Nokia also sponsored a system in which workers can call counselors for help reporting complex issues, such as a need for leave to address family matters.

In addition, e-mail communications with employees are stored in case complications should arise or should managers in Nokia's decen-

tralized offices need to check on an employee's status.

To bring employees into the program, Nokia relied on a "soft-sell" approach that fits Nokia's "quiet company" culture, Ms. Fonteneaux said. The soft sell also does not encourage more FMLA use than necessary, she said.

Nokia sent letters to employees' homes that explained the company's new program, including where to report short-term disability or FMLA absences, and how employees would remain connected to Nokia throughout their leave.

"We sent those (letters) because we not only want the employees to know, but a lot of times their family members are going to drive some of the decisions about FMLA issues because it's so broad in its scope," Ms. Fonteneaux said.

Another company that has outsourced its FMLA program is SIRVA Inc., a Westmont, Ill.-based relocation company with employees across several states. SIRVA is parent of Allied Van Lines and North American Van Lines.

SIRVA line managers receive a computer-generated templated e-mail from the company's human resource department each time an FMLA or short-term disability absence is reported, said Nicole Blanchard, SIRVA's benefits manager.

Reports are generated every Friday morning for SIRVA's HR department by the company's outsource vendor, Boston-based Liberty Mutual Group Inc. The reports provide details about each absent employee and includes which supervisors need to be contacted.

In addition, the e-mail lists steps managers must take, such as applying an employee's paid time off days, what to do once the employee returns to work or what to do if they leave the company.

Before transitioning on Jan. 1, 2005, to its outsourced FMLA program, tracking down the appropriate supervisor was just one of the many administration challenges that SIRVA human resource personnel encountered each time an

FMLA or short-term disability claim arose, Ms. Blanchard said.

The third example of FMLA outsourcing came from Los Angeles-based Farmers Insurance Group, which outsourced to reduce administration time and inconsistent procedures at its offices across the country in addressing absences and handling FMLA compliance, said Employee Benefits Manager Allyson Vaughn.

The in-house administration of FMLA takes a great deal of time, and "paper pushing" robs benefits and human resources departments of time that can be better used to help company business unit managers meet their needs, Ms. Vaughn said.

A poorly administered FMLA program will contribute to poor morale and turnover of key employees in addition to adding to an employer's cost for overseeing FMLA compliance, said Dan Lyons, vp of national accounts for Liberty Mutual's group market business unit.

600 attend DMEC meeting in San Diego

The 11th annual International Absence and Disability Management Conference sponsored by the Disability Management Employer Coalition, held July 16-19 in San Diego, drew about 600 attendees.

Discussion topics at the event included proper administration of the Family and Medical Leave Act, legal issues in the workplace, enhancing health and productivity and managing absenteeism through the use of metrics.

The DMEC's 2007 conference will be held July 15-18 in Boston. For more information, visit www.dmec.org.

Some risk managers don't see portals as everyday tools

Although the three largest brokers maintain that their portals offer great value to clients, risk managers don't necessarily agree.

"For up and coming companies that don't already have systems in place (to gather risk management data), it could be really valuable for them. But we already have other ways of doing this. There's no compelling value proposition" for us, said the risk manager of a Fortune 250 company that is a client of Willis Group Holdings Ltd. "We've never really been interested in client portals, but other risk managers probably do think they provide value."

The three global brokers are "all charging to the same finish line. It's a copycat business. But I applaud them for the investment they're making in technology," the risk manager said. Technology "that we're interested in aligns closer with our operations, such as managing supply chain risk," the risk manager said.

Another risk manager said some brokers are using portals as a matter of differentiation. "But I haven't heard anybody who says, 'That's exactly what I need,'" said Ron Cooley, director of risk management at W.W. Grainger Inc. in Lake Forest, Ill. "My general experi-

"My general experience is I haven't seen one yet that made things easier" to do my job.

Ron Cooley
W.W. Grainger Inc.

ence is I haven't seen one yet that made things easier" to do my job, he said.

"Schedules of insurance pro-

grams are things most of us keep at our fingertips, at our desks," so there is no need to go online to find them, he said. "My concern with any portal or hosted site is who owns that data at the end of the day? What if the relationship ends?" Mr. Cooley asked.

"Anything we can do to ease ongoing administration of programs electronically would be useful," such as electronic policy issuance and automating insurance certificates, he said. "Part of the problem is that the insurance industry itself is lagging at the technological level."

Ronald A. Gandolfi, director of

risk management at Corn Products International Inc. in Westchester, Ill., is a Marsh Inc. client who hasn't yet seen MarshConnect but said he believes the portal features would be helpful. "Would it have value? Yes, of course. It would help me have eyes and ears on the rest of Corn Products" operations around the world, said Mr. Gandolfi.

The policy history feature "is a nice thing to have instead of digging through the warehouse" to find old coverage information, he said. "Would I use it? Sure. Maybe not everyday, though."

—By Regis Coccia

Portals: Marsh, Aon and Willis add features as well as depth to client offerings

Continued from page 3
can't display data," Mr. Storms said. "All that changed when Joe Varnas joined....We've integrated our technology from what were 10 or 12 separate and distinct technology companies around the world," Mr. Storms said.

For example, risk management information system CS STARS "was owned 100% by Marsh but operated nearly autonomously. The advent of integration at CS STARS and the arrival of Joe Varnas put us into a position" where the company could finally pull together its various platforms, Mr. Storms said.

"We had to do it for our clients—several of our largest, most sophisticated global clients told us it was simply not acceptable not to use technology" in serving their needs, he said. "Clients are forced to understand and manage risks that weren't even being considered a few years ago," Mr. Storms said.

"The underlying challenge of the global broker is to pull together data," said Mr. Petrie. "The more time you spend chasing paper, the less time you have to be an adviser."

Kathleen M. Burns, chief executive officer of Aon Risk Services Americas' eSolutions in Chicago, agrees. AonLine enables clients to communicate with their business partners and Aon anywhere, anytime, she said.

"Our clients like the collaborative format and a single place to access data in the middle of the night," Ms. Burns said. "Our clients keep saying they like the fully Web-based products, they can access policy data....and have all the data they need to run their business and make decisions."

Willis Online also is "Web-based and can be accessed anywhere in the world" and is designed to give clients "a single point of entry to Willis," said Anthony Russo, the brokerage's Nashville, Tenn.-based global chief information officer. "Clients and prospective clients see (Willis Online) as quite valuable," he said.

"We do not lead with a technology strategy. It's important, but it's more important that (technology) fits into our business strategy," Mr. Russo said. "It isn't the technology in itself that's going to make the

company successful. It's serving the clients' needs."

Where they're alike

As Aon, Marsh and Willis compete to serve large, multinational clients, their portals offer similar features. Common features of AonLine, MarshConnect and Willis Online include:

- Information resources, with content generated internally as well as externally. Marsh, Aon and Willis all provide various informational materials, from white papers and market reports to statistical data licensed from Axco Insurance Information Services Ltd., a London-based provider of statistical data on insurance and markets for more than 160 countries. In the third quarter of this year, Aon plans to add news summaries and other industry-specific information.

Willis already offers similar resources, including links to external content providers.

- Self-service applications for certificates of insurance. Because the ability to provide proof of coverage is important for many clients and their business partners, the three brokers enable users to request or extend access to these forms. Aon offers an automated process for certificates, and Marsh expects to add this function by the end of this year.

- Access to claims and policy data. AonLine and MarshConnect provide information on insurance policies and coverage limits as well as simplified tracking of claims handled by each broker. Willis offers policy management capabilities through its Client Service Platform, used by its client advocates, and is considering providing access through Willis Online, Mr. Russo said.

Where claims volume and analysis needs are greater, risk management information systems—CS STARS from Marsh and RiskConsole from Aon—offer more in-depth data and tools.

- Document management functions. Users of all three portals can share documents and communicate on projects, send e-mail and issue reminders.

"Over time, clients have asked to see the (submission) process as it's

Common features

Online portals of Aon, Marsh and Willis have some common features, including:

- Information resources, with content generated internally as well as externally
- Self-service applications for certificates of insurance
- Access to claims and/or policy data
- Document management functions
- Customizable page views

occurring," and features of MarshConnect let Marsh show that, Mr. Varnas said. One benefit is that clients can see "the markets we approached and how we're getting paid," which aids transparency, Mr. Petrie added.

- Customizable page views. All three portals allow users to select preferences, such as choosing foreign languages and currencies.

Where they differ

In other areas, however, the portals vary by type and detail of information.

MarshConnect, for example, allows clients to view customizable lists of insurers, based on information aggregated by Marsh's security committee from rating agencies and compared with Marsh's professional placement standards, Mr. Petrie said.

Willis Online also offers security committee data on insurers. "Part of our emphasis is to expose our clients to how we do business," said Michael Shelby, Willis' chief development officer in Nashville, Tenn.

AonLine does not currently include Aon security committee information but does offer links to insurer data and reports from rating agency A.M. Best Co. Inc., said Roni J. Anderson, vp and AonLine Americas product and services manager in Chicago. Aon, which pays for

clients to receive detailed reports from Best on individual insurers, is considering adding day-to-day market security information as an enhancement, Ms. Anderson said.

A "Test Your Limits" feature lets MarshConnect users compare coverage limits with those of industry peers. "This answers one of the more common questions from clients. One way to answer that is to ask, 'What is the collective industry doing now?'" Mr. Petrie said.

One of the features Marsh touts as a centerpiece of its portal is a section on placements, with lists of policies archived by type of coverage, policy number, insured entity and more.

"This screen gets the most positive feedback from our clients because they know how hard it is to collect this data around the world," Mr. Petrie said. Some large clients spend significant amounts of money to track this data themselves, and MarshConnect allows them to reduce or eliminate that deployment of capital, Messrs. Petrie and Varnas said.

"One of the key tenets of our ongoing IT strategy is to turn off as many systems as possible," said Mr. Varnas.

AonLine also makes policy information available through Aon's Global Account Management System, or GAMS, which is used both by clients as well as Aon's account

servicing teams around the world, said Ms. Anderson. "It's a powerful tool and widely used. For some people, GAMS is the most important element for them," she said.

Ms. Burns said AonLine provides three major benefits for Aon clients: collaboration, delivery of intelligence and efficiency tools. Access to policy information through GAMS is significant because "there is no global policy standard. Local countries have local policy data systems," each capturing data differently, Ms. Burns said. "GAMS has created for Aon a global policy standard."

Willis is in the process of linking separate but similar third-party policy management systems for its North American and U.K. users of Willis Online, Mr. Russo said.

In February, AonLine enhanced its project management feature, called My Place, which enables clients to set up secure meetings or "rooms" where users can post documents and images for purposes of online discussions and workflow, Ms. Anderson said. "This makes for a much more rich user experience," she said.

Aon's portal previously was split into two divisions—AonLine Americas and AonLine International—and the broker expects to migrate all AonLine users to a more advanced technology platform called Global AonLine in the fourth quarter of 2006, Ms. Anderson said.

Another enhancement that Aon expects to make available by the end of this year is a single sign-on for Aon RiskConsole, meaning that RMIS clients can access all the Aon RiskConsole functions and navigate through the portal by logging in just once. Previously, separate sign-ons were required.

Willis Online also offers a single sign-on for the various features of the portal, Mr. Russo said. Recent upgrades include the expansion of foreign language choices, and the next planned release will include a database on energy industry losses, Mr. Russo said. Willis also is "building an application to support the construction practice" and serve clients in that business, Mr. Shelby said.

The next version of MarshConnect will be available in 2007, but "we'll add features as we have them available, not wait," Mr. Petrie said.

ERISA: 'Wal-Mart law' struck down

Continued from page 1

on ERISA pre-emption, he did not find that the statute was unconstitutional.

"The decision sends a clear signal that employer health plans are governed by federal law, not a patchwork of state and local laws," Sandy Kennedy, president of the RILA, said in a statement.

Impact elsewhere

Eugene Scalia, a partner with Gibson, Dunn & Crutcher L.L.P. in Washington who represented the RILA, said that the Maryland decision could hurt the chances of similar legislation being enacted in other states.

"The Maryland case is a clear signal that, just as the Maryland law was, in fact, illegal and pre-empted, so also the other similar laws that are pending in other legislatures are not sustainable," he said.

Laura Tobler, a health policy analyst with the National Conference of State Legislatures in Denver, agreed. "The Maryland court sends a very clear signal to legislators that they need to pay attention to what ERISA pre-empts if they want greater participation from employers," she said.

The dampening effect began even before last week's decision, she noted. While at one time at least 30 bills were pending around the country, only a few remain active, she said.

Lawmakers in other states are "going to back down very quickly," predicted Steve Bokot, executive vp of the National Chamber Litigation Center in Washington, which filed an amicus brief on behalf of the U.S. Chamber of Commerce supporting the RILA's position.

"The decision is definitely going to slow down the movement at the state level to mandate coverage," agreed Tom Billet, senior benefits consultant at Watson Wyatt Worldwide in Stamford, Conn.

However, several other benefits experts and ERISA attorneys don't think the ruling will stymie the "fair share" movement, but instead will prompt state lawmakers to be more creative about how they draft legislation addressing the uninsured problem.

"I'm not sure it will in any way impede the legislation moving forward. However, I think for the drafters of the legislation, to the extent they were not already focused on the pre-emption issue, that they will be giving heightened scrutiny to that issue," said Martha Steinman, a partner in the executive compensation, employee benefits and ERISA practice at LeBoeuf, Lamb, Greene & MacRae L.L.P. in New York.

"These laws have a tendency to have a life of their own, and they come back. This issue of health care costs, the effects of health care spending on state budgets, is not going away. And I think that over time the likelihood of the bills being reintroduced in somewhat of a different format is probably pretty high," said Ted Nussbaum, director of North American health care consulting at Watson Wyatt in Stamford.

Paul Kelly, senior vp of government affairs at the RILA, said that while he hopes lawmakers in other states "would not want to pursue something that looks like a wasted effort, what you may see is the legislation being morphed into a different form to avoid an ERISA challenge. Maybe more like a strict tax."

"More state legislatures will start being more creative and perhaps come up with things that are not the simple blunt instruments of employer mandates," said Helen Darling, president of the National Business Group on Health, an employer group based in Washington.

For example, she suggested that states might consider "something more like the Massachusetts bill that places responsibility

on numerous parties, including individuals."

Ms. Steinman agrees.

"The way (Massachusetts lawmakers) set theirs up may make it more analogous to the facts in the Supreme Court *Travelers* case, which dealt with surcharges in New York State," she said, referring to *New York State Conference of Blue Cross & Blue Shield Plans vs. Travelers Insurance Co.*

"That statute was upheld, it was not pre-empted. So to the extent that you can design your statute in a way that it's going to look more like the facts in the Supreme Court *Travelers* decision, I think that's going to give you a leg up in court," Ms. Steinman said. In that 1995 decision, the U.S. Supreme Court upheld a New York law imposing surcharges on hospital bills paid by commercial insurers and health maintenance organizations.

Eyes on Massachusetts

Still, experts are divided as to whether even the Massachusetts measure, which imposes an annual per employee assessment on employers that do not provide a "fair and reasonable" health insurance premium contribution, would withstand an ERISA challenge.

"To the extent that the Massachusetts law also requires an employer to do something, I think the logic of this decision would apply in Massachusetts as well," said Tom Gies, an attorney at Crowell & Moring L.L.P. in Washington who specializes in ERISA cases.

"In Massachusetts, the law is much broader and it requires individuals to have health insurance, but it also requires that employers pay a tax or pay into a fund if they don't provide health care to their employees. So it's similar in the sense that an employer has to pay something. To the extent that is an ERISA violation needs to also be tested in the courts," observed Watson Wyatt's Mr. Nussbaum.

Though he is convinced that the Massachusetts law would pass an ERISA challenge, Timothy Murphy, secretary of the Massachusetts Office of Health and Human Services, acknowledged that pre-emption litigation may be forthcoming in light of the Maryland decision.

"It is a new law and new ground covered, and it would be clearly subject to a challenge, and we'll just have to wait and see how the courts view it," he said.

Mr. Murphy explained that he thinks the Massachusetts statute would be upheld because it was basically an extension of a 20-year-old surcharge the state placed on hospital bills to cover the cost of uncompensated care.

Meanwhile, the Vermont law is less likely to withstand an ERISA challenge, because it charges a per-head tax on employers that don't provide health care coverage, according to J.D. Piro, an attorney in the Norwalk, Conn., office of Hewitt Associates Inc.

"You can argue that it's a per-head tax, but you still have the reports to file, the data to collect to establish you're not subject to the tax—the type of administration that the judge found ERISA pre-empts," he said.

So far, no ERISA litigation has been filed in Massachusetts challenging the new law, and the RILA, which brought suit in Maryland, said it does not intend to file a similar suit in Massachusetts.

"We look at each bill that's passed and make a decision. At this point there are no immediate plans for legal action, but it always remains a possibility and we never foreclose options," said Mr. Kelly.

John Sweeney, president of the Washington-based AFL-CIO, also vowed to continue the organization's support of the Maryland law as well as similar bills that are pending elsewhere.

Congress and the Risk Retention Act

1981 Congress passes the Product Liability Risk Retention Act to allow risk retention groups, which are group captives, to write product liability coverage for member policyholders in any state after meeting the licensing requirements of one state. The law also authorizes risk purchasing groups and limits state regulation of the groups.

1986 Congress, responding to big price hikes and capacity crunch in the traditional market, passes the Liability Risk Retention Act, an expansion of the 1981 law, to allow RRGs to write all types of commercial liability coverage, except workers compensation.

1987 The U.S. Department of Commerce recommends Congress amend the LRRRA to make clear that only one state can regulate insurers writing coverage for risk purchasing groups. No action is taken.

2002 National Risk Retention Assn. asks Congress to expand the LRRRA to allow RRGs to cover property risks. No action is taken.

2005 The Government Accountability Office suggests that Congress may want to rewrite the LRRRA to limit RRGs' exemption from state insurance laws to groups domiciled to those states that adopt a set of uniform RRG regulatory standards. No congressional action is taken.

2006 The American Risk Retention Coalition joins the call on Congress to expand the LRRRA to allow RRGs to cover property risks.

RRGs: Property 'crisis' spurs LRRRA drive

Continued from page 1

to Rep. Richard Baker, R-La., chairman of the House Capital Markets, Insurance and Government Sponsored Enterprises subcommittee.

This isn't the first time that business groups have pressed Congress to expand the Liability Risk Retention Act. In 2002, another association representing RRGs—the National Risk Retention Assn.—urged such an expansion, but no congressional action was taken.

But ARRC representatives believe the current congressional climate, due to changes in the property insurance market, is more favorably disposed to expand the LRRRA.

"There is a real crisis now, which was not the case before," said ARRC Counsel Lawrence Mirel, the former insurance commissioner for the District of Columbia and now an attorney with the Washington-based law firm Wiley, Rein & Fielding L.L.P.

"This is a simple, straightforward step Congress can take to ease the problem," Mr. Mirel said.

ARRC members say property insurance rates have been soaring, with businesses being forced to retain far more risk. Larry Smith, vp-risk management services in Columbia, Md., for Medstar Health Inc., which operates seven hospitals in Maryland and the District of Columbia, has seen property insurance premiums roughly triple since 2001.

"The property insurance market is a much different place than it was five years ago," Mr. Smith said. Medstar, which organized a risk retention group about two years ago for physicians who have medical staff privileges at Medstar hospitals, would consider setting up an RRG for the hospitals if the federal law was expanded to allow RRGs to cover property risks, he said.

Other Washington observers agree that an expansion proposal will receive serious consideration by federal legislators, though probably not until the next congressional session.

"This is probably more of a next rather than a this year issue," said Joel Wood, senior vp-government affairs with the Council of Insurance Agents & Brokers in Washington.

An expansion of the act, though, could face opposition from some insurance groups. A spokesman for the Washington-based American Insurance Assn. says the organization is opposed to such an expansion, adding that federal legislators should focus on insurance regulatory reform.

Additionally, the AIA spokesman ques-

tioned if allowing RRGs to fund property risks would be of significant help in aiding buyers with their property insurance needs.

RRGs "lack the capacity to respond to catastrophic events," the AIA spokesman said.

Another insurer group—the Property Casualty Insurers Assn. of America—now is studying the issue. "We will take a hard look," said Greg Heidrich, senior vp-policy development with the PCI in Des Plaines, Ill. The PCI, Mr. Heidrich notes, supported the last expansion of the LRRRA in 1986, under which RRGs were allowed to fund all casualty risks, except workers compensation. Previously, RRGs only could be used to fund product liability risks.

That 1986 expansion "was an appropriate response to market conditions," and the PCI will examine if conditions in the property market justify such an expansion, Mr. Heidrich said.

Some insurance regulators say they are not opposed to an expansion, as long as the broader Liability Risk Retention Act is reformed.

"I have no objection to an expansion. It makes sense (for businesses) to band together," said Nebraska Insurance Director Tim Wagner.

But if Congress does make such a change, it should adopt a recommendation made last year by the Government Accountability Office that the special pre-emption RRGs enjoy from state insurance laws apply to groups domiciled in states that have accepted accreditation standards the National Assn. of Insurance Commissioners is working to develop, Mr. Wagner said.

Currently 234 RRGs are operating, with most RRGs licensed in states with captive laws, such as Vermont.

ADVERTISER

INDEX

Issue of July 24

ADVERTISER	PAGE #
Aon Corporation	2
Beazley Group Inc.	11
Burnham Systems	16
Business Insurance	9, 10, 13, 15, 19
Carvil	23
Fitch Ratings	7
Marsh Inc.	24
Wausau Insurance Companies	5

Disability: Calif. settlement sets new standard

Continued from page 3

consumers' needs with a variety of disability insurance policies at competitive prices," ACLI Regional Vp John Mangan said in a statement.

Other plaintiffs in the lawsuit were the Washington-based America's Health Insurance Plans; the

California chapter of the Falls Church, Va.-based National Assn. of Insurance & Financial Advisors; and the Sacramento-based California Chamber of Commerce.

In a statement, Mr. Garamendi said: "Last year I developed tougher standards for disability policies

sold in California. I vowed to require all disability insurers to observe those standards. Today's announcement fulfills that promise and provides significantly more protection for consumers from arbitrary and harmful practices within the industry."

Surplus lines: House panel OKs regulation changes

Continued from page 1

amended bill's multifaceted definition of a "qualified risk manager"—whom an exempt commercial purchaser would have to employ in order to access surplus lines directly without having to submit bids to the admitted market first—was adequate to protect buyers against fraud.

The "definition of a qualified risk manager needs to be strengthened" to ensure that the risk manager has the "necessary experience and skill" to operate in the surplus lines market, Rep. Kanjorski said. He was particularly concerned that a risk manager with only a bachelor's degree in risk management and no further experience would be considered a qualified risk manager under the act.

RIMS believes that the current definition of qualified risk manager is sufficient, said Terry Fleming, a member of RIMS board of directors with responsibility for external affairs. He noted that the definition was the same as that included in legislation that extended the Terrorism Risk Insurance Act last year.

"We worked with the committee last year when they were working on TRIA, and we helped the committee identify the definition of a qualified risk manager that's cur-

The "definition of a qualified risk manager needs to be strengthened" to ensure the "necessary experience and skill."

Rep. Paul Kanjorski
D-Pa.

rently in the TRIA extension. We think that definition is adequate," said Mr. Fleming, who is also director-division of risk management for Montgomery County in Rockville, Md.

The surplus lines reform bill currently defines a qualified risk manager as an employee of, or third-

party consultant retained by, the commercial policyholder. That person "provides skilled services in loss prevention, loss reduction, or a risk and insurance coverage analysis and purchase of insurance" and "possesses at least one" of six credentials.

These include a bachelor's or higher degree in risk management issued by an accredited college or institution; a Chartered Property Casualty Underwriter designation; an Associate in Risk Management designation; a Certified Risk Manager designation; a RIMS Fellow designation; or at least five years' experience in one or more of four areas of commercial insurance: risk financing, claims administration, loss prevention and risk and insurance coverage analysis.

The reinsurance portion of the bill would make a reinsurer's state of domicile the sole regulator of that reinsurance company's solvency, provided that the state is accredited by the National Assn. of Insurance Commissioners. That would eliminate the extraterritorial application of state laws.

Late News

Continued from page 1

an average increase of 9.3% during the second three months of this year compared with the same period in 2005. The CIAB's latest commercial property/casualty insurance market index survey, released last week, showed that large and midsized accounts were somewhat more likely to experience decreases than were smaller accounts.

N.Y. workers comp rate hike denied

The New York Department of Insurance has denied a proposal by the New York Compensation Insurance Rating Board to raise workers comp premium rates by 7.5%. In a written opinion, Insurance Superintendent Howard Mills said the department's analysis of the board's application showed that an increase in premium rates was not warranted and that the workers comp insurance market in New York remains "quite profitable." Rates for workers comp insurance in New York will remain flat in 2006. Mr. Mills also criticized the state's workers comp insurers for failing to expand their anti-fraud efforts despite being given better tools.

Electronic filing rule for pensions delayed

Under a final Labor Department rule, employers will be required to electronically file their annual pension and other employee benefit plan reports with the government beginning with the 2008 plan year. The department originally proposed electronic filing of Form 5500 reports starting next year. But the department—responding to comments that more time would be needed to make the necessary adjustments, especially by small employers—agreed to delay the electronic filing requirement until the 2008 plan year.

Judge gives AIG, Starr equal document access

American International Group Inc. and the Starr companies—C.V. Starr & Co. Inc. and Starr International Co. Inc.—were granted equal access to one another's documents under a federal court ruling last week. The order, issued by Judge Alvin K. Hellerstein in U.S. District Court in Manhattan, requires that any document requested by one of the parties be made available for review. The ruling builds upon the judge's April order to preserve the integrity

of documents impounded by the U.S. Securities and Exchange Commission in response to reports that certain documents were being moved from company offices.

Wisconsin commissioner fines UnitedHealth

UnitedHealth Group Inc. will pay a \$600,000 fine and correct market conduct and customer service issues in Wisconsin to settle allegations that it failed to pay for certain covered benefits, among other things. The office of Wisconsin Commissioner of Insurance Jorge Gomez investigated allegations that during and prior to 2004, Wisconsin units of the managed care company did not adequately respond to consumer complaints and grievances; failed to notify insureds of, or process requests for, independent review of denied claims; and did not correctly pay for certain benefits. The settlement requires the company to implement a corrective action plan and a compliance program that will be overseen by the insurance department.

Ohio returning funds to comp claimants

The Ohio Bureau of Workers' Compensation said that it will return \$52 million collected from about 7,900 workers who were injured between 1993 and 2001, in settling a class-action suit by the workers. The workers initially received money from third parties and the BWC. The BWC then subrogated to collect money from the workers under statutes enacted in 1993 and 1995. But five years ago, the Ohio Supreme Court found the statutes were flawed because they allowed BWC and self-insured employers to potentially receive more reimbursement than they had paid in claims, the BWC said in a statement.

Briefly noted

Mark Warshawsky, the U.S. Treasury's Department's assistant secretary for economic policy and one of the Bush administration's top experts on pension funding legislation, is resigning his position and will join Watson Wyatt Worldwide next month as director of retirement research....R. Scott Donovan has been named Odyssey Re Holdings Corp.'s executive vp and chief financial officer. Mr. Donovan, who is president and chief operating officer of TIG Insurance Group, replaces Robert Giammarco, who has resigned effective Aug. 15 to pursue other interests, the company said in a statement.

BI Stock Index [7/17 - 7/21]

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

Percentage change of BI Stock Index vs. key indicators

BI Stock Index	
2854.26	2.10
Dow Jones	
10868.38	1.20
S&P 500	
1240.29	0.33

Largest gains

Meadowbrook Insurance	11.19%
EMC Insurance Group	9.99%
UnitedHealth Group	5.15%
Fairfax Financial Holdings	5.00%
MetLife Inc.	4.76%

Largest losses

Argonaut Group	-6.73%
PMA Capital Corp.	-4.83%
American Safety	-4.21%
Odyssey Re Holdings	-3.81%
Aspen Insurance Holdings	-3.39%

Weekly change by market segment

Brokers	0.98%
Insurers/Reinsurers	1.38%
Managed Care Organizations	1.51%

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



Leadership in Specialty

Carvill
REINSURANCE INTERMEDIARY

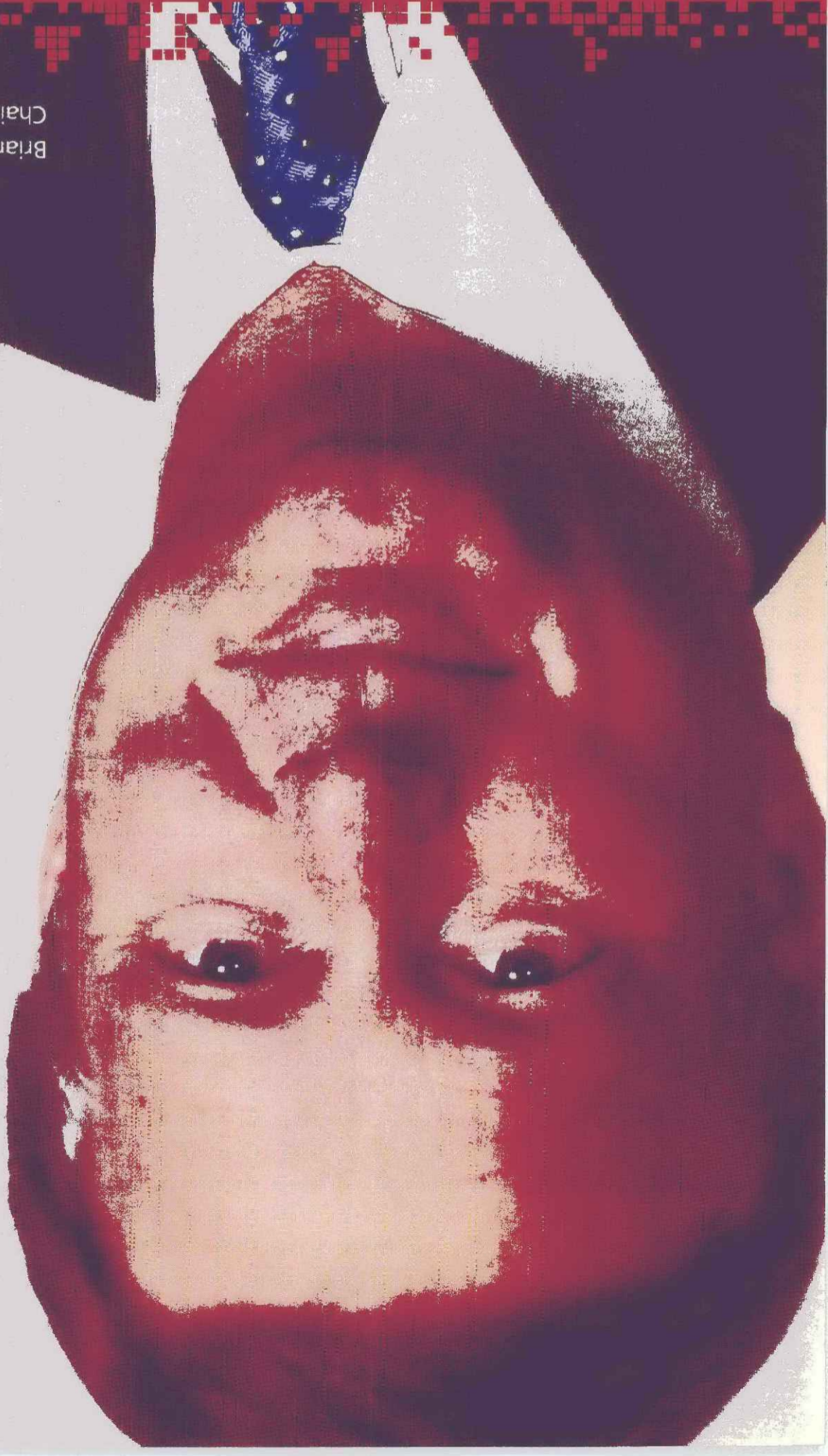
Atlanta Bermuda Chicago London Norwalk 1-800-CARVILL www.carvill.com

Independence • Integrity • Service

At BusinessInsurance.com

New Online Poll: Should the Risk Retention Act be amended to allow RRGs to write property risks?

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



*Managing risk in today's
environment requires
sophisticated solutions
and strategies.
We're leading the way
when it comes to
helping clients mitigate
the challenges of
a globalized economy.*

*That's why
I'm proud to be
with Marsh.*

Brian Storms
Chairman and CEO, Marsh

From terrorism to climate change, pandemics to regulatory compliance, risks permeate every organization at nearly every level. That's why Marsh has taken the lead when it comes to educating clients on ways to mitigate global risks. Whether it's long-term planning or leadership and risk management strategies, we're committed to delivering the innovative solutions required to respond to current and emerging risks. As the world of risk grows in scope and complexity, Marsh will be there. Marsh is—and will continue to be—the world's #1 risk specialist.

MARSH

The world's #1 risk specialist