

Business Insurance

July 3, 2006

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Late News

Aon selling some underwriting units

Aon Corp. has agreed to sell its Aon Warranty Group underwriting unit to Toronto-based investment firm Onex Corp. for \$800 million Canadian (\$710 million). The deal includes the sale of Virginia Surety Co. and London General Insurance Co. Ltd. but does not include Aon's property/casualty underwriting business, an Aon spokesman said. Aon announced plans to divest its warranty, credit and property/casualty underwriting business last November. The deal calls for a "significant investment" by AWG's senior management team.

Underwriting gain grows for U.S. P/C insurers

The U.S. property/casualty industry's net underwriting gain for the first quarter of 2006 was \$8.4 billion, up 20.8% over the year-earlier period, due in large part to lower weather-related catastrophe losses, according to estimates released last week. Insurers' aggregate combined ratio for the quarter was 91.2%, a slight improvement from 92.2%

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USI hit with verdict in copyright breach

Jury finds copied materials helped broker win business

By **SALLY ROBERTS**

PHILADELPHIA—USI Holdings Corp. said it will challenge a Philadelphia jury's decision last week to award The Graham Co. \$18.9 million in a copyright infringement suit against a USI subsidiary and a former Graham employee.

The Philadelphia-based broker last year sued USI MidAtlantic Inc. and Thomas P. Haughey, who was terminated from Graham and joined one of USI's predecessor firms in 1991. The suit was filed in U.S. District Court in Philadelphia.

Graham argued that Mr. Haughey and USIM "knowingly," "willfully" and without authorization

copied Graham's copyrighted, proprietary insurance service and coverage information to solicit and obtain insurance business for USIM. In doing so, USIM generated millions of dollars of revenues through use of that information, Graham alleged.

Graham uses the proprietary insurance documents in proposals for its current and prospective commercial lines clients.

"We've invested thousands of man-hours and millions of dollars to create succinct insurance language and specifications," Bill Graham, chief executive officer of the brokerage, said in a statement. "In

See **USI** / page 26

Retirement plan design offers dual advantages

Hybrid would ease funding problems

By **JERRY GEISEL**

A new retirement plan design may reduce the problems associated with offering defined benefit plans or exclusively offering defined contribution plans.

The design, developed by the human resources services unit of PricewaterhouseCoopers L.L.P., comprises both a defined benefit and a defined contribution plan.

In the defined benefit portion of the design, which PwC calls Pension Preservation Plus, an account—for recordkeeping purposes—is established for each employee. Employees receive credits, such

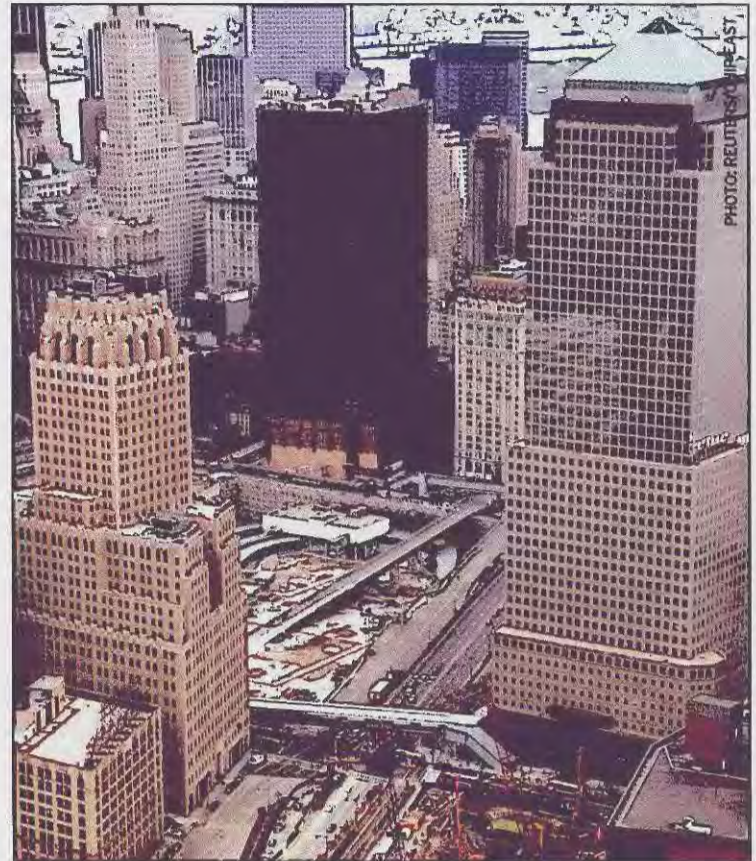
as a fixed dollar amount, an amount equal to a percentage of salary or an allocation that would vary by age or length of service.

When vested employees leave or retire, they receive 100% of the credits, which they can take as a lump sum or monthly annuity.

In the defined contribution plan component, an employer would contribute cash to each employee's account. The amount would be determined by multiplying an employee's defined benefit plan account balance by an interest rate based on an outside index, such as long-term U.S. Treasury bonds.

However, the actual contribution would be decided annually by an employer and could vary from year to year based on a company's finan-

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WTC policyholders seek insurer pledge for rebuilding effort

By **MICHAEL BRADFORD**

NEW YORK—Policyholders are planning to use insurance proceeds to help fund rebuilding on the World Trade Center site, and they want a guarantee from insurers that plans for the construction will not interfere with claims payments related to the 2001 terrorist attacks.

The Port Authority of New York and New Jersey, Silverstein Properties Inc. and WTC Retail L.L.C. are among the plaintiffs that filed suit on June 26 in New York Supreme Court seeking a declaration that the "conceptual framework" to redevelop the site will not affect their "rights to recover fully all amounts currently due and to be paid in the future by the property insurers of the office and retail portions of the World Trade Center destroyed on September 11, 2001."

The framework is an agreement reached by the Port Authority, Silverstein and WTC Retail to coordinate redevelopment of the WTC site.

Attorneys for the Port Authority have requested that the case be assigned to Justice Herman S. Cahn of the court's commercial division as part of a pending action, *World Trade Center Properties L.L.C. et al. vs. Allianz Insurance Co. et al.*

Financing of the redevelopment outlined in the framework, which was completed in April, depends largely on proceeds from property and business interruption claims from \$3.55 billion of insurance purchased by Silverstein Properties and related entities to cover the World Trade Center, according to the complaint.

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AIG names exec to lead new marine and energy unit.

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Canadian employee wins fight over disability pay.

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SPOTLIGHT

MIDYEAR MARKET REPORT

Catastrophe rates rocket after 2005 storm losses, but general liability, D&O, workers compensation and marine risks all enjoy a stable renewal season.

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Bryan Squibb is the managing director
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Inside

House panel tackles securities litigation

A House bill designed to curb securities litigation attacked in committee. **Page 4**

Cost management improves bottom line

Benefit plan design is key to reducing the costs of health care. **Page 4**

Buffett raises bar for charitable giving

Warren Buffett gives billions, but others in insurance industry have done their part, too. **Page 6**

Clear communication needed in policies

An editorial says clear policy language could help avoid contentious claims disputes. **Page 8**

Online poll [6/26-6/30]

Repealing the limited exemption from federal antitrust law provided under the McCarran-Ferguson Act would:



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Reporting on corporate risk and employee benefit management news

Business Insurance (ISSN 0007-6864) Vol. 40, No. 27, 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.

AIG to finalize divorce from Starr

Insurer forms energy/marine unit, ends MGA pact

By ROBERTO CENICEROS

NEW YORK—American International Group Inc. has set up a unit, AIG Global Marine & Energy, to take over business previously underwritten by managing general agencies owned by former its former C.V. Starr & Co. Inc. affiliate.

AIG also issued a notice of termination Thursday, advising that it is canceling its arrangement with American International Marine Agency, an underwriting unit of C.V. Starr. The termination is effective Dec. 31, as AIG was required by contract to give C.V.



Starr six months' notice.

Hours later, AIMA also announced it was terminating its 29-year-old relationship with AIG, effective Jan. 1, 2007.

Until the agency agreement with AIMA expires, any policy renewals, new business or issues concerning in-force policies may be handled by AIG or by AIMA, according to a copy obtained by

Business Insurance of a letter that brokers received from AIG.

In all instances, AIG client claims will continue to be handled by the insurer's AI Marine Adjusters Inc. unit, according to the letter. AIG noted in the letter that AIG Global Marine, part of AIG Global Marine & Energy, provides cargo, marine liability, and hull/machinery coverage.

Ralph W. Mucerino, an AIG vp who has overseen the AIG Global Energy division since 2002 (see related story), has been named president of the new combined marine and energy division, and Richard J. Decker has joined AIG as president of AIG Global Marine. Mr. Decker previously was a senior vp of ocean marine business at ACE Ltd.

New York-based C.V. Starr, which owns four MGAs writing energy, marine, aviation and specialty risks, for many years produced business for AIG. New

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Energy business remains focus for AIG

American International Group Inc. has long served the needs of energy industry clients and will offer new services through a recently created division, AIG Global Marine & Energy (see related story). Despite severing its ties during this year with the Starr Technical Risks Agency Inc., a unit of C.V. Starr & Co. controlled by the insurer's former chairman and chief executive officer, AIG remains committed to energy business. Ralph W. Mucerino, the president of AIG Global Energy since 2002 and who last week became president of AIG Global Marine & Energy, told Business Insurance Editor Regis Coccia recently how the insurer is handling energy risks.



Ralph W. Mucerino

Q: What is AIG Global Energy's approach to serving the energy industry?

A: Energy has been a core business for AIG for many years. While there aren't statistics maintained by the sector...brokers have told us that we're the market

leader.

We decided to start pulling our businesses together in the energy sector. The initial focus was on the property side of it, the oil rig side of it. What we've done since then is we've brought in primary casualty, excess casualty, in addition to the property segment.

AIG is doing an awful lot of targeted marketing and segmented marketing today. Clients have multiple needs. There are major accounts out there in the energy

sector where we write a dozen lines of business or more. Those customers and brokers clearly see the relationship, the benefit of working with AIG. What we've done with Global Energy is put a clear focus on it, a marketing strategy called AIG Global Energy Spectrum. We have products we control, and we have people in our division whose sole job is to work with the rest of AIG to act as ombudsmen for the energy sector to bring all the power of AIG to bear on the needs of their clients.

If you were to look at us a year ago, we were doing some of that. But I think now, with the mechanisms and people in place, we are ready to kick this strategy in and capitalize on the strength of AIG.

Q: What lines of coverage do energy clients commonly seek?

A: My division offers coverage for primary and excess casualty and onshore and offshore property. By virtue of working with the

AIG network, we have a strategy for each client. We will look at a client in a very detailed manner, based on our relationship with that client, the publicly available information on that client and by talking to the broker and risk manager and determining what their needs are. Is the market out there satisfying their needs? Are there things we could do better? That becomes part of a sophisticated multilevel strategy for meeting the needs of the client.

I can't emphasize enough meeting the needs of the client. All too often, insurance companies go out there and come up with the latest and greatest product that maybe they've never spoken to a client about and try to sell it and hammer it home. What we're trying to do is actually determine what the client and the broker want and try to manage those desires with our capabilities.

When you look at AIG, it's not just nonlife products. It's life and

See MUCERINO/ page 25

Ruling raises hurdle for claim denials

Supreme Court of Canada upholds damages for distressed claimant

By GLORIA GONZALEZ

OTTAWA—The Supreme Court of Canada last week upheld a lower court ruling that found that aggravated damages can be awarded in the absence of bad faith merely on a finding that an insurance company wrongfully denied a claim.

The court's ruling in *Sun Life Assurance Co. vs. Fidler* held that the lower courts were correct in awarding aggravated damages for mental distress arising from a breach of contract.

In this case, Connie Fidler's long-term disability benefits were terminated because her insurer, Toronto-based Sun Life, decided that she was

capable of returning to work in some capacity despite suffering from chronic fatigue syndrome and fibromyalgia. The trial judge found that Ms. Fidler "genuinely suffered significant additional distress and discomfort arising out of the loss of disability coverage," a finding upheld on appeal.

The Supreme Court, though, overturned a decision by the British Columbia Court of Appeal to award Ms. Fidler punitive damages. The trial judge concluded that Sun Life did not act in bad faith, which would have allowed punitive damages to be awarded. The Court of Appeal overruled the trial judge's decision, but the Supreme Court reinstated it,

saying that the trial judge's conclusion was the product of a thorough review of the relevant evidence.

The *Fidler* decision is significant because insurers will face the possibility of paying damages for the foreseeable loss of "peace of mind" whenever they deny claims, even if they do so in good faith, said Craig Brown, a professor of the Faculty of Law at the University of Western Ontario and the co-author of a recent report called "The Impact of Recent Legal Developments on Liability Insurance."

"This will surely give insurers greater pause than they now exercise when thinking of denying claims," he said in an e-mail.

Sun Life is studying the court's decision, as likely will other disability insurers, and will continue to review its practices, a spokesman said in an e-mailed statement.

A rigorous process to validate claims, though, is in the best interests of all policyholders, as it helps to manage costs for employers providing benefits to employees, according to the statement.

"Like many disability claims, this case was complicated and highly subjective," the spokesman said in its statement. "The Court agreed with the trial judge's finding of no improper purpose on the part of Sun Life and dismissed the claim for punitive damages."

Securities reforms

Under H.R. 5491, a court could force a plaintiff's attorney to pay some of the defendant's legal expenses if the court finds that:

- the position of the plaintiff was "not substantially justified"
- imposing fees and expense on the attorney would be just
- the cost of such expenses to the defendant is "substantially burdensome and unjust"

PHOTO: SCOTT J. FERRELL



A bill Rep. Richard Baker, R-La., has introduced targets securities litigation.

House tort reform bill aims at securities suits

Measure would curb alleged abuses

By MARK A. HOFMANN

WASHINGTON—The House of Representatives has begun considering legislation designed to curb alleged attorney abuses in private securities litigation.

The controversial nature of this issue was evident last week when a House subcommittee held its first hearing on H.R. 5491, the Securities Litigation Attorney Accountability and Transparency Act. The bill was introduced late last month by Rep. Richard Baker, R-La., chairman of the House Financial Services Committee's Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises.

The measure would allow courts to require plaintiffs attorneys to pay defendants' fees and expenses if "the position of the plaintiff was not substantially justified" and require that potential conflicts of interest between plaintiffs and their attorneys be disclosed.

Rep. Baker said his bill might need to be expanded but nonetheless "represents a modest first step" toward greater accountability.

But the panel's Democratic members, led by Rep. Barney Frank, D-Mass., disputed whether the hearing itself was justified, noting that its subject had initially been "Pro-

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Court reinstates higher damages

Insurer appeal leads to increased punitives

By ROBERTO CENICEROS

SACRAMENTO, Calif.—A California school district can collect \$13 million in punitive damages it won six years ago in a bad faith case against a liability insurer based on a recent appeals court decision.

Had the insurer in *Fresno Unified School District vs. Coregis Insurance Co. et al.* not appealed the 6-year-old trial court decision against it, Chicago-based Coregis would have paid \$5 million in punitive damages. A trial judge had reduced the \$13 million jury award by \$8 million and the school district agreed to the reduction, court records show.

But the insurers' appeal opened the door for the school district to file a cross complaint seeking reinstatement of the original \$13 million.

The Third Appellate District Court in Sacramento on June 14 allowed the bad faith award against

Coregis to stand, and said it had no alternative but to reinstate the jury's original \$13 million award.

"Had Coregis challenged the amount of the award, we could have reviewed and determined as a matter of law whether the award is excessive," Justice Vance W. Raye wrote for the court. "But for whatever reasons, Coregis limited its punitive damages challenge to the insufficiency of evidence on bad faith and fraud, malice, or oppression and to erroneous rulings by the trial court regarding the admission of evidence, instructions, and the verdict form."

Now the insurer must pay the \$13 million plus 10% interest per year, said Stephen D. Lucas, a partner with Lucas & Haverkamp in San Diego. The law firm represented the school district.

The California Supreme Court is

See **SCHOOL** / page 25

Health cost management improves lives, bottom line

By REGIS COCCIA

CHICAGO—Controlling employee behavior through health care benefit plan design is a key to reducing costs, and tying benefits to business objectives is crucial to getting management support for plan changes, benefit experts say.

"Whatever plan design you have will drive a set of behaviors, good or bad," David Hom, vp of human resources strategic initiatives at Stamford, Conn.-based Pitney-Bowes Inc., said during a recent workshop in Chicago sponsored by the Midwest Business Group on Health.

The document management services company has found a competitive advantage in containing the costs of its health care benefits, he said. Pitney-Bowes' compound annual growth rate "for gross health care costs per employee is 8%, vs. 12%" for the compa-

Chronic ailments

Pitney-Bowes Inc. found its workforce had greater risk of four common chronic illnesses

- **Asthma**—more frequent in inner-city employees
- **Diabetes**—more likely in ethnically diverse and hourly workers
- **Cardiovascular disease**
- **Depression**—linked to the other conditions

ny's competitors, Mr. Hom said. He credited this result to having a chief executive officer who is acutely interested in health care, and other senior managers who have followed suit.

"Our CFO came on board four or five years ago and translated expenses into pennies per share. He's really gotten (an understanding of

health care benefits) over the last few years," Mr. Hom said. "You have to tie it back to your business."

Pitney-Bowes has three "levers" to meet its goal of healthy, engaged and productive employees, he said: a healthy corporation, created through culture, values, benefit plans and management practices; a healthy work environment, including onsite medical facilities and fitness centers, ergonomic workspaces, healthy food options in cafeterias and non-smoking work sites; and personal responsibility, focusing on wellness, disease prevention and disease management.

In the early 1990s, the company analyzed its workforce and realized the importance of preventative care and early treatment in chronic illness, Mr. Hom said. Pit-

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Benefit manager receives honor

Accepts BMOY award, credits teamwork for success

By JOANNE WOJCIK

REDWOOD CITY, Calif.—In characteristic egalitarian style, Paul Hackleman, benefits manager for San Mateo County, Calif., shared credit for receiving the 2006 Benefit Manager of the Year award from *Business Insurance* with his staff, county officials and management, the vendors with which the county does business, his professional colleagues and mentors and his family.

"Every person in this room owns a piece of this award and recognition," he said during an acceptance speech at an awards luncheon held last week at the Hotel Sofitel in Redwood City, Calif. "Every person in this room has a stake in the success of our efforts. That's precisely what makes this award so joyous for me."

Mr. Hackleman said receiving the recognition provided a rare opportunity for him to reflect on the many accomplishments the San Mateo County Benefits Department has been able to achieve during his tenure as benefits manager.

Among them: introducing a wide variety of wellness and work/life benefits years before they become popular among most employers; creating a labor/management partnership to help contain health care costs; engaging the county in research on disease prevention with Stanford University; helping other public entities adopt similar strategies; and publishing books on various aspects of public employee benefits (*BI*, June 26).

"During this past month, I have had a chance to enjoy many, many wonderful memories of my associations with all of you," he said.

Mr. Hackleman also gave special recognition to several people who he said were instrumental in helping him achieve this success. They include: Bill Hembree, director of the Health Research Institute at the International Foundation of Employee Benefits; Cathy Zacher, director of educational programs at the IFEPPB; Bill Haskell, director for Stanford's Center for Research in Disease Prevention; County Manager John Maltbie; Mary Welch, county director of employee and public services; Pam Gibson, county health & fitness coordinator; and Linda Gregory from the Assn. of Federal, State, County and Municipal Employees.



Paul Hackleman was presented with the 2006 Benefit Manager of the Year award.

Mr. Hackleman also acknowledged that much of the success of the employee benefits program relied on having the backing of the county officials.

"Those who know me know that I brag about San Mateo County regularly. It is the best managed public-sector organization in California," he said. "They have consistently demonstrated two values that mean so much to me. They are strategic and their thinking is long-term," two attributes that are "so essential for many of the programs that are featured in this award because some successes require patience and perseverance and time."

The entire San Mateo County board attended the luncheon to show the importance they place on the work that Mr. Hackleman does for county employees, Board President Jerry Hill said.

"Paul is the linchpin that makes it all happen in our organization," said Mr. Maltbie.

PHOTO: MICHAEL MARCOTTE



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REGIS COCCIA

Editor Regis Coccia

Charities benefiting from industry givers

Many insurance industry executives have been known for their philanthropy, and Berkshire Hathaway Inc. Chairman Warren Buffett's decision to donate the bulk of his wealth raises the bar for charitable giving.

Mr. Buffett last week announced that over the rest of his life he will give about 85% of his holdings in Berkshire Hathaway to five foundations, with the largest gift—10 million Berkshire Class B shares, worth nearly \$31 billion at the moment—going to the Bill & Melinda Gates Foundation. Mr. Buffett will distribute 5% of his donations a year over 20 years, and if he dies before then, the remainder will be payable at once.

Money can solve a lot of problems, and today's world has many. As a result, there's no shortage of opportunities for helping worthy causes that can improve lives. Mr. Buffett historically may have made modest donations, but he sure has set an example for lifetime philanthropy.

Some observers fret that the Gates Foundation's concentration of assets in a single stock is risky, but I would argue that's not necessarily so. A basic tenet of investing is not to put all one's eggs in a single basket. Berkshire Hathaway, Mr. Buffett's holding company, has been called "an investment vehicle" that owns a diverse set of businesses, the majority involved in insurance and reinsurance.

The "Oracle of Omaha," a financial wizard by any measure, has had a remarkable track record as an investor, and he has steadfastly kept the bulk of his wealth in Berkshire shares. Just as other Berkshire investors have received stunning long-term capital appreciation, one could reasonably expect that Mr. Buffett's knack for picking undervalued investments will continue.

In a way, it's fitting that Mr. Buffett chose to donate so generously to the Gates Foundation, which is doing impressive work around the world to reduce poverty and improve health. From supporting vaccination programs to microlending, the Gates Foundation is changing millions of lives for the better. Mr. Buffett's "investment" in these efforts will doubtless gener-

ate enormous returns for generations to come.

Others give, too

While Mr. Buffett at the moment is one of the world's wealthiest insurance executives, other insurance industry leaders also are known for philanthropy. Among them:

Cornelius Vander Starr. After amassing a fortune from the company that became American International Group Inc., Mr. Starr created the Starr Foundation in 1955. He willed his entire estate to the foundation on his death in 1968, and with \$3.5 billion in assets today, it is one of the largest private foundations. The Starr Foundation supports education, medicine, health care, human needs and environmental causes.

Eli Broad. As founder of two successful Fortune 500 companies, one of which—financial services company SunAmerica Inc.—was acquired by AIG, Mr. Broad has donated more than \$1 billion to help fund education, arts and medical research programs.

W. Clement Stone. The founder of Combined Insurance Co. of America, now part of Aon Corp., was not only an optimist who penned books on positive mental attitude but also lived to 100. In his lifetime, Mr. Stone gave away more than \$275 million to various charities.

Peter B. Lewis. The chairman of auto insurance innovator Progressive Corp., Mr. Lewis has given away more than \$200 million to education, arts and social services causes.

Sanford I. Weill. The former chairman of Citigroup Inc. has pledged or donated more than \$100 million since 2001 to causes ranging from education to medicine to the performing arts.

These are just a few examples. Many more individuals in the insurance business have made significant contributions to charity, not to mention the corporate foundations created by many insurance industry companies.

Fortunately for those of us with more modest assets, even small amounts in the right places can make a difference. I hope the example of insurance industry philanthropists inspires others.

Editor Regis Coccia's commentary appears periodically. He can be reached at rcoccia@businessinsurance.com.



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INSURING PROGRESSSM

Editorial

Clear communication needed

INSURERS' ABILITY to pay claims and their willingness to do so promptly are two quite different things, but for any policyholder they are essentially intertwined.

Two stories in this issue illustrate problems in delayed payment of insurance claims and underscore the need for clear policy language. We think there is room for improvement on both fronts.

In a high-profile case, reported on page 1, policyholders seeking to rebuild the World Trade Center site allege that a group of insurers has delayed paying claims and further delays would jeopardize the redevelopment of the complex destroyed in the Sept. 11, 2001, terrorist attacks.

At issue in the WTC case is whether the policyholders—led by Silverstein Properties Inc., the Port Authority of New York & New Jersey and WTC Retail L.L.C.—can recover the full amount of coverage to rebuild the site. The policyholders are seeking assurances from insurers that the redevelopment plans will not harm their recovery efforts. Several insurers have said the policyholders may not be entitled to full recovery of replacement costs under the terms of the policies, while other insurers have expressed commitment to helping fund the rebuilding efforts. To be sure, a considerable amount of claims from 9/11 have been paid by the

many insurers that wrote WTC-related risks, but the largest payout from property insurers remains in dispute.

In another case on a smaller scale, reported on page 4, a California school district may finally collect from its insurer six years after a court ruling in a bad-faith suit over denial of claims under the district's comprehensive general liability coverage. While an appeals court had reduced the original punitive damages award of \$13 million to \$5 million, in a bizarre twist, a further appeal by the insurer opened the door for the court to reinstate the higher award. One wonders whether simply paying the initial claim might have saved the insurer millions of dollars and, of course, enabled the school district to go about its business of educating young minds.

It would be unfair to suggest that all insurers resist paying claims, but coverage disputes remain frequent. We think a big reason for these disagreements is a lack of clear policy language from the underwriters as well as policyholders' unwillingness to fully understand the contracts they enter. Ambiguity offers insurers room to deny claims, and it reduces the relationship between insurer and insured from business partners to a tug of war over which side meant what. Better communication by both sides is needed.

Combine antitrust repeal, reform

HASTE NOT ONLY makes waste, it can lead to a host of unforeseen—and unintended—consequences as well.

We hope lawmakers bear that in mind if they proceed with efforts to repeal the McCarran-Ferguson Act's limited exemption from federal antitrust law for state-regulated insurers.

As we reported last week, the Senate Judiciary Committee held a hearing on the matter late last month, with Judiciary Committee Chairman Arlen Specter, R-Pa. The chairman asked pointed questions of the witnesses on both sides of the issue, and did not indicate whether he would take the matter any further.

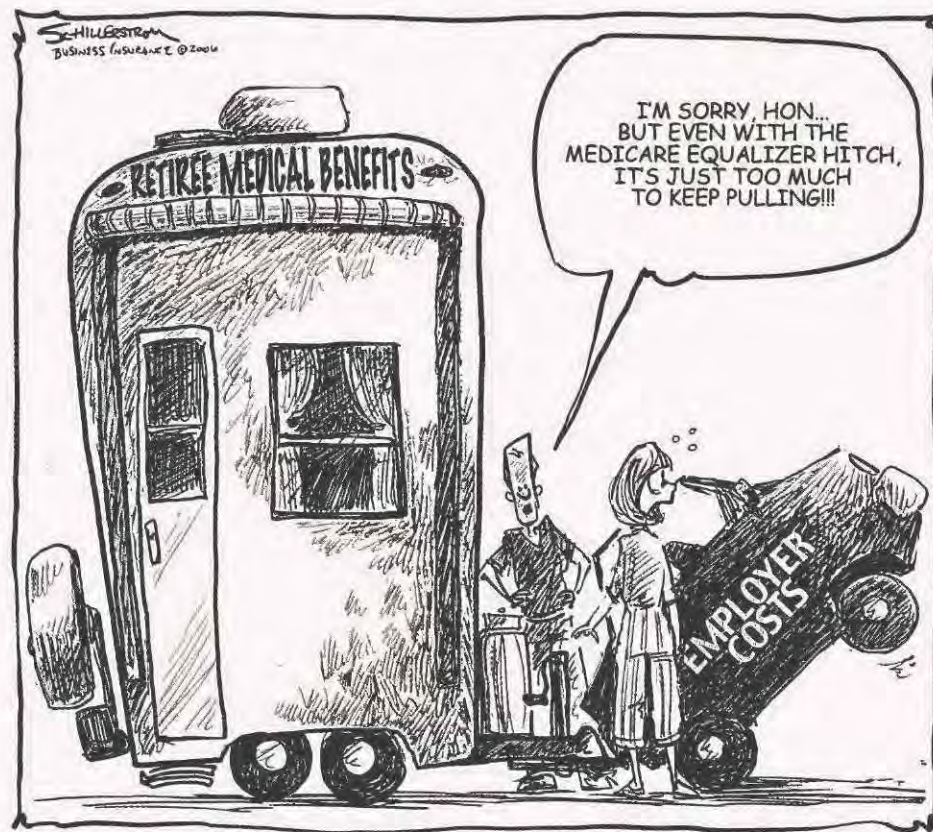
We hope that he doesn't, unless repeal becomes part of a broader insurance regulatory reform package including giving national insurers—and producers—the right to seek an optional federal charter. If insurers could choose to be federally regulated, they would—and should—be subject to federal antitrust law as well.

But to simply strike the antitrust exemp-

tion from the McCarran-Ferguson and thus make insurers subject to two layers of antitrust regulation—the myriad state laws as well as federal law—appears likely to do nothing other than create more costs for insurers while doing nothing for buyers. In fact, such duplication could only increase buyers' costs without providing any additional tangible benefit. Adding costs without benefits would be just the opposite of what proponents of repealing the antitrust exemption say they seek to achieve—which is more competition and lower prices for buyers.

If Congress wants to tackle comprehensive insurance regulatory reform, we're all for it provided that lawmakers take the time to do it right. And doing it right means avoiding the temptation to proceed with a partial repeal of McCarran-Ferguson without doing so as a part of broader reform that would make the property/casualty industry more competitive by allowing insurers that are willing to accept repeal of the limited exemption from federal antitrust law to avail themselves of a federal charter.

Schillerstrom



Letters

Reform will not occur until the buyer is king

To the editor: The demise of the Quality Insurance Congress mentioned in Sally Roberts' June 5 column and a letter by Henry Good in the June 26 issue paints over a very serious flaw in the risk management profession: the seller is king.

The automobile buyer for Hertz does not kowtow to the automobile producers, yet risk managers will fawn over their "markets" the way a mother hen fawns over her chicks. When New York State Assemblyman Pete Grannis held hearings on the kickbacks (contingency commissions), the fawning, including from the Risk & Insurance Management

Society Inc., was nauseating.

I asked RIMS whether they were authorized by their senior management to approve kickbacks—I did not get any response because, of course, no senior management would approve such a scheme. There will be no Quality Insurance Congress until the buyer is king. I was around at the birth of QIC and am sorry to report that it was stillborn.

The report in the June 26 Between the Lines column by Joanne Wojcik about the low level of respect the public gives to insurance might be taken to indicate that "the public" knows something that risk managers and RIMS do not.

Eugene R. Anderson
Anderson, Kill & Olick P.C.
New York

Write Us

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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.

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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; 7121 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.

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By Don Riggin

Devising a consistent risk management plan

out how much that should be. Maximum risk tolerance defines your firm's topmost threshold—the breakpoint between survival and bankruptcy.

Lesson two: Understand that the cost of insurance has nothing to do with your company's tolerance for risk. While insurance will always be an indispensable tool for limiting exposure to catastrophic risk, it is only a tool, and does not constitute a risk management strategy unto itself. As with any tool, you should use insurance where you need it as opposed to simply when you need it. The state of

the insurance markets should have no impact on your decision to retain or transfer a particular risk.

A consistent, long-term risk management strategy is one that remains on course regardless of the market cycles. It doesn't take notice of whether primary-layer insurance is cheap, expensive or somewhere in between, because it doesn't matter. One of the reasons the self-inflicted insurance cycle exists at all is that you and your insurance-buying brethren rarely fail to dance to its tune.

Lesson three: Learn how risk management can help tame your compa-

ny's earnings volatility and influence its financial management. Ask your chief financial officer or financial manager these questions: Which is more important to you, buying cheap insurance when it's available and retaining risk when insurance is too expensive? Or is stabilizing the costs of risk over time more important, thus controlling its impact on earnings volatility?

Above all, work with your financial manager to help integrate risk analysis into their decision-making processes. Your company's capital structure also should include its cost of

risk, including a capital charge for retained risk. Few risk managers understand the importance of this. Risk management may never become a profit center, but your contribution to the firm's financial success can render irrelevant that old paradigm: Did we save any money on insurance this year?

Don Riggin is practice leader, alternative risk solutions, at Albert Risk Management Consultants Inc., an independent risk management consultancy in Needham, Mass.

While this may seem radical, stop and think: Does the insurance industry dictate your risk management strategy? If not, congratulations; you are among a minority of risk managers who understand the purpose of risk management and its impact on the company's financial well-being. You may be engaged in some form of long-term enterprise risk management initiative and understand how your company's cost of risk affects its financial management and earnings volatility.

However, if this question does apply to you, the annual costs of risk transfer and the vagaries of the insurance and reinsurance markets loom large. The insurance industry has taught you to accept price and capacity uncertainty as facts of life. And at the end of the day, your job performance rating depends in large part on this question: Did we save money on this year's renewals? The answer has as much to do with forces beyond your control as it does with your loss prevention and claims management efforts.

Moreover, the insidious nature of the question is a zero-sum proposition—you either did or did not save the company money. Yes, extenuating circumstances usually have much to do with the answer. Unfortunately however, because management bases your performance evaluation on the answer to a question requiring only one of two possible answers, there's not much room for explanations. The worst part is senior management must ask the question each and every year as the majority of your costs probably comprise insurance premiums.

The risk management process includes risk identification, evaluation, measurement, treatment options and monitoring over time. Most risk management experts suggest that insurance should be the last treatment option, after retention, avoidance and noninsurance transfer. In reality, however, insurance usually plays a far greater role than any other risk mitigation technique. If you buy more insurance when it's cheap and plentiful and less when markets are hard, insurance is clearly your favored risk management tool. You might counter that your opportunistic insurance purchases constitute smart tactical moves designed to time the market. The problem with market timing is that it undermines your long-term risk management strategy. When you let the insurance markets dictate your risk strategy, you can only implement that strategy a year at a time depending on the whims of the markets.

Here are some suggestions.

Lesson one: Break the insurance habit and develop a consistent, long-term risk management strategy. This means doing the analytical work to measure your firm's risk tolerances—optimal and maximum. Optimal means that amount of risk that allows your firm to reap the greatest rewards. A company must take risks to grow and it is your job to help figure



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Spotlight

MIDYEAR MARKET REPORT

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Reinsurance market grows even tougher for property

By JUDY GREENWALD

Midyear reinsurance renewals are dramatically bifurcated, with property catastrophe coverage expensive or difficult to obtain, and rates in other lines relatively flat, say reinsurance officials and intermediaries.

Officials say while this duality was true to an extent during the Jan. 1 renewals, the situation has been exacerbated considerably since then because of factors that include new catastrophe models and the disappearance of retrocessional capacity.

Officials cite problems completing catastrophe reinsurance programs in particular for Florida and the U.S. Gulf Coast, as well as Northeast and national accounts.

REINSURANCE RENEWALS

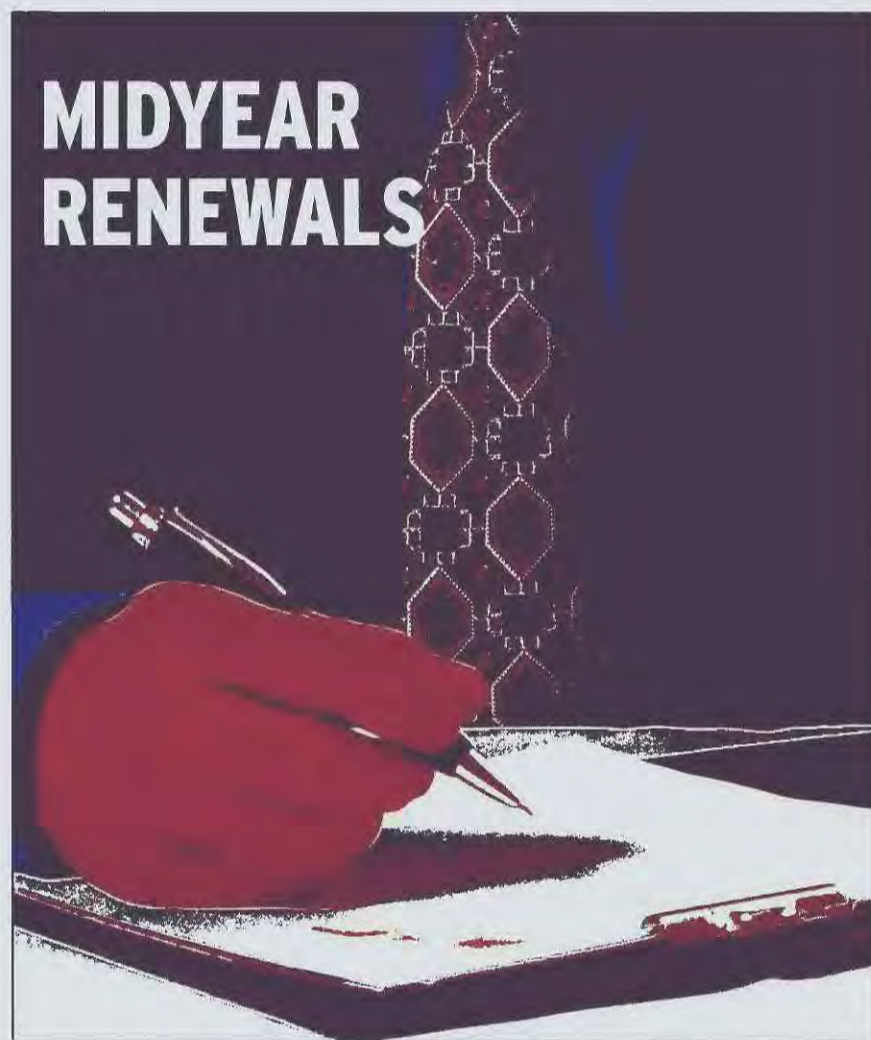
"We're continuing to see a duality in the market," said Richard DiClemente, president of New York-based reinsurance broker THB Intermediaries Inc. While the casualty sector remains competitive, there are "tremendous peaks and lack of capacity in the coastal exposures," he said. "In many ways, this is the most difficult market I've seen in the last 25 years."

During previous hard markets, most recently in the 2001-2004 period, "there was always ample capacity if the price was right. Today, especially in coastal areas, there's a distinct lack of capacity regardless of price," Mr. DiClemente said.

"In many cases—specifically, of course, in Florida and the Gulf region and some parts of the Southeast—regardless of price, there just isn't enough capacity going around," he said. As a result, limits in larger programs have been "curtailed dramatically," he said, with \$300 million to \$500 million limit programs reduced to \$50 million to \$150 million when the coverage includes wind exposures.

"Catastrophe is the leading subject for everybody these days...because of the losses we have had and the additional concentrations (of risk) the people are concerned about, and this midyear was probably the most difficult renewal period we've had in at least a decade,

See REINSURANCE / next page



Property/casualty cost depends on zone

Coastal, quake-prone areas hit hardest

By MARK A. HOFMANN

Dr. Jekyll and Mr. Hyde are alive and well and calling themselves the U.S. commercial property insurance market.

That's the clear message from risk managers and brokers who are trying to negotiate the current midyear renewal season. Catastrophe-exposed Florida and Gulf Coast properties continue to feel the backlash of two violent hurricane seasons as prices rise and capacity shrinks. But commercial property accounts in other parts of the country can still wrest rate reductions from underwriters willing to write anywhere but the hurricane zone and the California earthquake belt.

"This market really resembles a drunk-

en sailor," said Alexandra Glickman, area vice chairman for Arthur J. Gallagher Risk Management Services in Glendale, Calif. "It's swinging wildly, and it doesn't care who it hurts. It is hav-

P/C INSURANCE

ing significant impact on acquisition deals, particularly in Tier 1 wind, and California earthquake is being punished because of the fact that catastrophe reinsurance is all part of the same pool," she said.

Ms. Glickman said that Tier 1 wind exposures include all of Florida and

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Cat-exposed energy rates experience hefty increases

By PETA MILLER

Rates for catastrophe-exposed energy risks are increasing in multiples of 100 at midyear renewals, but rates for other energy coverages are seeing only moderate increases or, in some cases, rate cuts.

After the devastating storm losses last year, the 2006 renewals are seeing a sharp contrast between offshore and onshore risks in hurricane-exposed areas and those that lie outside traditional storm regions.

In addition to rate hikes, policyholders are facing restructured programs that offer far more restrictive coverage for wind exposures, brokers and underwriters say.

ENERGY RENEWALS

Insured and uninsured energy losses from last year's hurricanes totaled \$15 billion, which dwarfed the \$3 billion in premium income for the sector in 2005, according to Willis Group P.L.C.'s Energy Market Review, which was published in May.

"The effect of the hurricanes was clearly devastating," says John Lloyd, chairman and chief executive of London-based broker Lloyd & Partners Ltd.

The losses were so significant that underwriters have reacted by conducting a "fundamental reappraisal of how this business is written in 2006," he said.

Offshore wind-exposed risks are experiencing rate hikes of between 300% and 400%, Mr. Lloyd said.

"But many smaller clients that have exposure in the Gulf of Mexico have had to spend up to 10 times their expiring premium; it would be fair to say that the smaller the client is, the more disadvantaged they have been," he said.

According to Julian Taylor, board director and head of the energy business unit at Miller Insurance Services Ltd. in London, underwriters are not "differentiating adequately in the way they rate (clients). They look at the product as a commodity and want to charge a fixed price," so smaller clients must spend a larger

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Reinsurance: Market fluctuations affect capacity

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if not longer," said John N. Gilbert, chairman of reinsurance intermediary Holborn Corp. in New York.

In particular, national accounts "are having a great problem in getting their midyear programs completed. There are holes in these programs, and there's a major question as to whether they're going to fill those holes," Mr. Gilbert said.

William H. Eyre Jr., managing director and chief executive officer of Philadelphia-based Towers Perrin Reinsurance, agreed. "Many of the national programs are not getting completed entirely and it's a combination of prices considered to be too

big by the cedants and reinsurers concerned about their aggregates, and this is pertaining particularly to property and to marine and energy business in cat-exposed areas. There's also been an increased demand for Northeast coverage due to changes" in catastrophe modeling, he said.

Observers say the situation has changed considerably since Jan. 1.

"Obviously, there was a lot of turmoil in the market that we saw starting in Jan. 1, and then kind of building through the year," said David Duffy, managing director, property specialty practice for reinsurance intermediary Guy Carpenter & Co. in

New York.

Mr. Gilbert observed that for Jan. 1 renewals, "Rates were up, but capacity was there, and it was not a terribly difficult renewal period—nowhere near as bad as had been predicted—but then things changed, and they changed dramatically. Starting last February, early March, the market tightened," driven by factors that include reinsurers' concern about their own retrocessional capacity, more stringent rating-agency requirements, updated catastrophe models and fear of climatic change.

"It was chaos there for a period of time," Mr. Gilbert said.

Nor has the use of reinsurance sidecars materially alleviated the situation, say observers. Sidecars are special-purpose vehicles—often capitalized by hedge funds—that provide capacity to existing reinsurers by assuming risk, typically through multiyear quota-share reinsurance contracts. The sidecar assumes a percentage of premiums in return for assuming the risk, which is generally property catastrophe reinsurance.

Sidecars' impact on the reinsurance market has been "relatively modest," said Guy Carpenter's Mr. Duffy. "I would say at the end of the day, the additional capacity coming into the market from the sidecars was helpful, but I don't think it meaningfully changes the amount of capacity available on any one pro-

gram, or changes the overall price needed to clear capacity in the market."

The sidecars as well as new reinsurers that came into existence with the Jan. 1 renewals have "brought potential additional capacity to the marketplace, but it really has not had a leveling effect on rates," Mr. Gilbert said. "The investors are placing considerable demands upon the new reinsurers and their partners in these sidecar deals to produce proper returns."

"The reality is, investors still want to make sure" they get a return on their investment and there is a question whether sidecars are the right way to use their money, particularly if there is more than one catastrophic event this season, Mr. DiClemente said.

Meanwhile the retrocessional market has largely disappeared, say observers. "There isn't a retro market anymore. That's part of the problem," said Mr. DiClemente. "The retro market has been pretty much exhausted."

"It has pretty much dried out," except for a few securitized and industry loss warranty transactions, said Mr. Eyre.

"It's going to be interesting to see what goes on from here, because if there is a capacity shortage now in the cat-related area, what is the market reaction going to be at year end?" asked Steven Bolland, president of reinsurance intermediary Gill & Roeser Inc. in New York.

"We all basically heard that perhaps too much new capital had come into the market or too many new companies. Remember the year-end stories. A couple of new reinsurers didn't hit their premium projections," Mr. Bolland said. "Now, suddenly, there's a capacity problem. So does this mean that suddenly there's the potential for more money to come in" or does it reflect the way capital is leveraged in the catastrophe business? he asked.

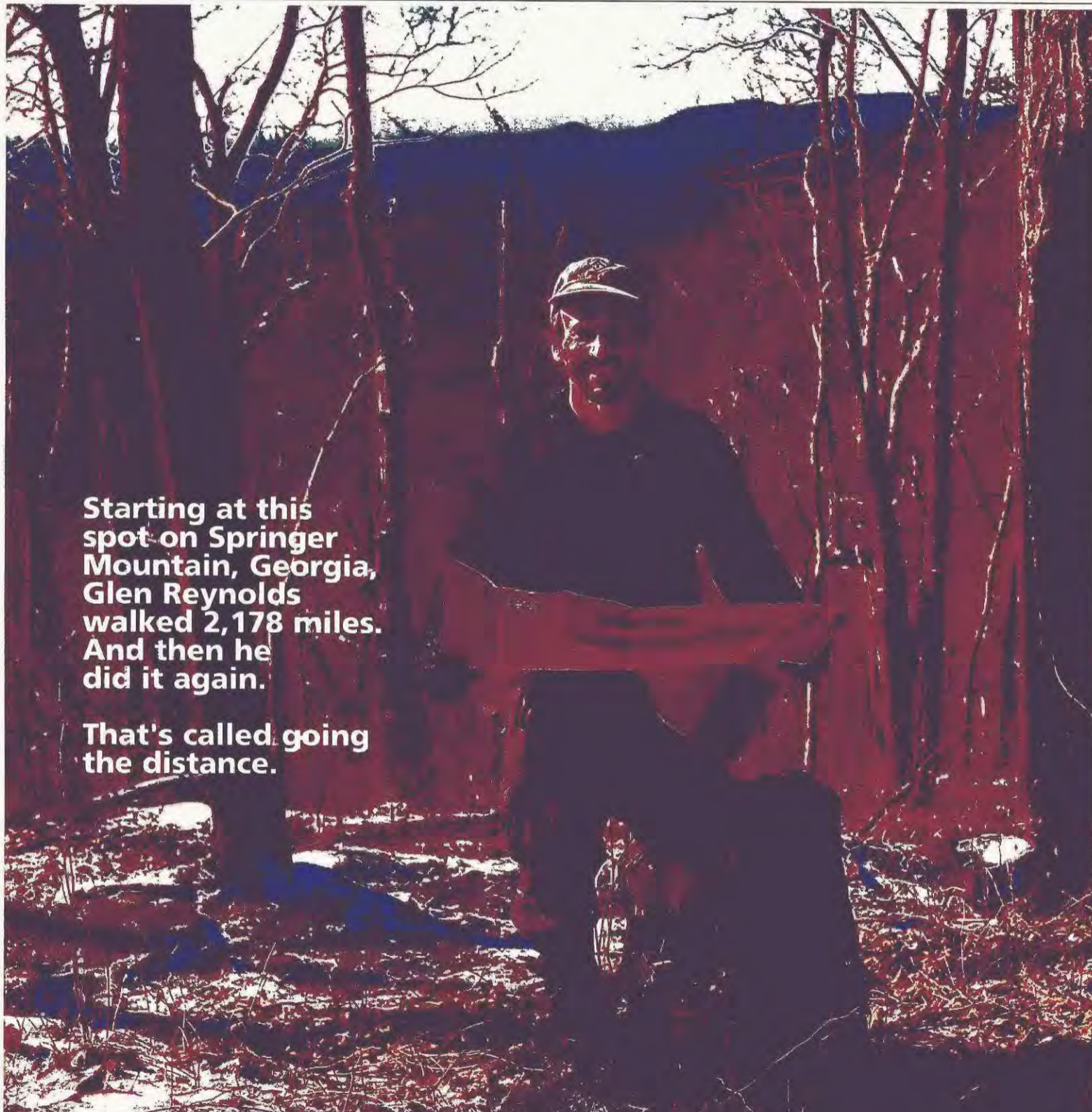
The rest of the market is stable, say observers. Aside from the property cat area, "it was a very stable renewal season for casualty business, and even property business that didn't have a catastrophe component to it," Mr. Bolland said.

For noncatastrophe-related property and casualty business, "there's quite a bit of capacity and the rating has been pretty level" depending upon the experience of the underlying program, said Mr. Gilbert.

In particular, "there's a bit more capacity in the casualty area," said Mr. Gilbert. "Because reinsurers have been trying to diversify away from their property cat aggregates, some reinsurers have been going into the casualty working and clash areas, along with workers compensation protection. There's been a scramble to diversify, and these covers offer diversification for reinsurers."

Casualty clash coverage responds when a cedant faces multiple retentions for a loss, or it faces exposure to a large, single loss from multiple policyholders.

Mr. Gilbert noted that, because of the nature of the losses, reinsurers can write workers comp catastrophe insurance "and not expose themselves to a doubling up or an increase in their aggregate exposures."



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P/C: Buyers face challenges placing complex risks in mismatched market

Continued from page 11

much of the Gulf Coast.

"This market is absolutely a split personality," said Ms. Glickman. "Every part of the country that is not Tier 1 wind, New York terrorism or California quake is going along" without knowing there's any crisis in the property market.

"If you're not on the coast and you're outside traditional cat-exposed areas, the market is simply falling over itself to write those risks," said Suzanne Douglass, managing director-North American property practice for Willis North America in New York. "If you're a Midwest account, even if you might have some tornado exposure, there is a significant appetite for those risks."

"This market really resembles a drunken sailor. It's swinging wildly, and it doesn't care who it hurts."

**Alexandra Glickman
Arthur J. Gallagher
Risk Management Services**

"If you were a buyer in Indiana, it would be a very pleasant experience compared to a buyer in Miami, with all the normal caveats," said Gary Thompson, senior vp in the middle market division of the Hartford Financial Services Group Inc. in Hartford, Conn.

Hartford was one of eight national insurers asked to comment on the midyear property renewal situation. Only one other—Factory Mutual Insurance Co.—responded in time for inclusion in the story, and three declined outright.

"We are increasing wind deductibles," as well as following stricter underwriting guidelines, said Mr. Thompson. He said deductible guidelines are "very fact-based, in other words, verifiable" concerning construction factors and other loss control issues.

"To some extent, we see the reaction being concentrated on (some) specific soft industries," Ms. Douglass said. "I would list among those retail, hospitality, health care institutions, non-industrial risks—because of the nature of the risk, these folks follow the population. As the population grows in coastal areas or quake prone areas, they're following that customer base."

"For complex risk placements, it is really a tale of two different markets," said Aaron Davis, director of Aon Corp.'s national property practice in New York. "That split is really based on whether the client has a portfolio of risks that would include critical catastrophe exposures."

Three major forces are driving this market—rating agency pressures, increased reinsurance costs and questions about the validity of catastrophe models, Mr. Davis said.

Bradley R. Wood, senior vp-risk management for Bethesda, Md.-

based Marriott International, shared that assessment. "The financial rating agencies and the new cat models are really driving underwriters to rethink their overall aggregation exposures," he said.

"Painful" would be the best description of the cat property insurance market," said Mr. Wood, who renewed the major part of Marriott's property program on April 1 and its time-share property program on June 1.

"Every week seemed to bring a tighter market," Mr. Wood said. "Unlike the months following 9/11, in which prices skyrocketed for terrorism insurance, post-Katrina has

adversely impacted virtually every line of catastrophic coverage. One would have expected challenges with wind but earthquake and terrorism coverage deal: risk managers a double blow of higher prices as capacity shrank, he said.

Scott Clark, risk and benefits officer for the Miami-Dade County Public Schools in Miami, said he felt a similar blow when he renewed the district's property program on May 1. "If you look at Lloyd's as one player," the complicated program involves 17 insurers, he said. The system has a total insured value of about \$6.8 billion but is concentrated in one county

The expiring program had "\$700 million worth of coverage, and last year my reported values were right at \$6 billion," he said. "My windstorm deductible was 3% of values per location with a \$1 million minimum deductible."

But this year's renewal "was only able to secure \$200 million for windstorm and my deductible went from 3% of value per location to 4%" with a minimum deductible of \$25 million per loss. Last year's program cost about \$24.5 million vs. this year's \$30 million, Mr. Clark said. Within the \$200 million program, the board must participate as a quota-share reinsurer in the

amount of \$8.75 million on the primary \$50 million cover, and slightly more than \$5.41 million on the \$50 million in excess of \$50 million. "We couldn't find enough capacity to close in those holes," he said.

John Phelps, director-risk management for Blue Cross & Blue Shield of Florida in Jacksonville, also reported a less-than-friendly market for property coverage that renewed June 1.

"We found two things that are not surprising: Windstorm deductibles are off the scale and a

Continued on next page



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AP/BLOOMBERG NEWS / LANDOV

Policyholders in areas that were hit by hurricanes in 2005, such as Gulfport, Miss., above, have seen substantial increases in property insurance rates.

Continued from previous page
tremendous increase in the windstorm retentions that have been foisted upon us," said Mr. Phelps. "Where we found a problem was the excess: I could place it all except for windstorm. We found pricing on windstorm at the excess layers (was) extraordinary—exponential underwriting must have been applied to this."

He said the Blues had to take a "50% franchise deductible" coinsurance above the primary layer.

Some excess layers were two to three times expiring prices with the largest increases in buffer or middle excess layers, Aon's Mr. Davis said.

Since Jan. 1, Gallagher's Ms. Glickman said Tier 1 wind exposure capacity "has been sliced to \$100

million to \$150 million if you're fortunate."

She called pricing "obscene," but said it could get worse. "If we end up with the type of hurricane season that's predicted, then catastrophic insurance as we know it will have been changed for the foreseeable" future, Ms. Glickman said. "Wind could easily become aggregated like California earthquake."

Outside catastrophe-exposed areas, the pricing trend "is generally up," but modest 5% to 10% rate increases have been the norm, said Randy Schreitmueller, vp at Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global.

The year started out "fairly competitive," said Mr. Schreitmueller,

but changes became evident in the second quarter. "If you look at what happened in natural catastrophe exposures, a lot of insurers basically blew their aggregate limits—we weren't among them. We didn't have to restate our results, so we were not one of those insurers who is having to fix things."

Policyholders without catastrophe exposures don't have to fix much, either.

Terry Fleming, director-division of risk management for Montgomery County, Md., in Rockville, was still negotiating the county's July 1 property renewal but had heard of noncatastrophe exposed accounts facing small increases or even decreases. "We're in that range of minus 5 to plus 10. I'm hopeful we're going to come out with a flat renewal—and in this day and age, that would be great," he said.

"We found two things that are not surprising: Windstorm deductibles are off the scale and a tremendous increase in the windstorm retentions that have been foisted upon us."

John Phelps

Blue Cross & Blue Shield of Florida

The situation is even more buyer-friendly in the Midwest, said Rich Yarborough, a vp in the Cleveland office of Toledo, Ohio-based brokerage Hylant Group Inc.

"I have several large accounts with Midwest exposures," said Mr. Yarborough. "For the first half of the year and for some renewals that we're negotiating for July 1," property accounts have renewed at a flat or even reduced rates, he said. "There's just a lot of competitive pressure for underwriters to balance their books with some noncat exposed" accounts, he said.

Mr. Yarborough cited two accounts' experience as examples. One, an account with 80% of its exposure in the Midwest, 10% in Florida and 10% California had to pay 50% more for California quake coverage as well as take an increased deductible for the Florida windstorm exposure. Despite those increases, the account saw an overall 30% reduction in its property costs.

On an Ohio-based account that was up for bid on a July 1 renewal, "from what we understand we have to beat a 15% rate reduction if we're going to win the account," he said. "And there's a good possibility we've got some markets willing to do that."

Nevertheless, "a lot of buyers are under stress," said FM Global's Mr. Schreitmueller. "If there's a silver lining, I think buyers are much more receptive to risk improvement than they were previously."

But looking ahead, buyers remain wary.

"If we have another season similar to '04 or '05, I have serious concerns about our ability to place windstorm at all," said the Blues' Mr. Phelps.



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GL market showing ample capacity, declining rates

By GLORIA GONZALEZ

General liability insurance buyers are finding a market that is in good shape, with generally flat to declining rates and ample capacity, as the casualty market proves to be largely insulated from the impact of last year's hurricanes on the property market.

Several key factors, though, need to be monitored for their potential market impact, including the current hurricane season and unresolved issues related to terrorism coverage.

Generally speaking, accounts are

renewing flat to about 10% lower for both primary and excess liability coverage, market sources say.

At Liberty International Underwriters, for example, primary rates have declined about 2% to 5% on average, while reductions on excess rates are, at the most, around 10%, underwriters say. "In the past six months, I would say nothing has changed dramatically," said Scott Bayer, senior vp, general liability division of LIU in New York.

The only accounts that are seeing increases are those with adverse loss experience, observers say.

"We've gone back to claims expe-

rience being the driver for rating general liability policies," said Michael Liebowitz, director, risk management, for Bridgeport Hospital & Healthcare Services Inc. in

GENERAL LIABILITY

Bridgeport, Conn., and president of the Risk & Insurance Management Society Inc.

While underwriters have gotten premiums to the point where they can allow slight reductions, policyholders are still paying inflated prices for general liability coverage,

Mr. Liebowitz said, adding he hopes pricing will continue to decline.

General liability renewals have been "fairly innocuous" because buyers are "overwhelmed with what's happening on the property side," said Paul Smith, regional marketing officer for Willis Group Holdings Ltd. in New York.

After last year's hurricanes, there was discussion among insurers of a broad-based rate increase that would go beyond just property lines, said Anthony DeFelice, managing director of Aon Corp.'s complex national casualty division in New York. He said he was skepti-

cal about that possibility because after 1992's Hurricane Andrew, which led to significant losses for property insurers and reinsurers, the property and casualty markets operated on separate trajectories.

"From a casualty perspective, we didn't see any fallout from any bad experience that companies have seen from the hurricanes," Mr. DeFelice said.

In some cases, underwriters have cited the hurricane losses when asking for rate increases, but this occurred on a very limited basis, said Joe DeChiaro, managing director, national casualty practice of Marsh Inc. in New York.

The general liability market should not be completely insulated from the impact of the hurricanes, because the same capacity that pays out property claims would be deployed in the casualty market as well, Mr. Bayer said. However, he said he has seen a separation between the two markets.

"I've seen no impact whatsoever on the GL market from the effects of the hurricanes," Mr. Bayer said. "We were all guessing last year that there would be an impact, but we have yet to see it."

Capacity abundant

The general liability market has been insulated in part because it is highly competitive, sources say. There is abundant capacity in the market from such established players as Hamilton, Bermuda-based ACE Ltd.; Hamilton-based Arch Insurance Group; New York-based American International Group Inc.; Warren, N.J.-based Chubb Corp.; Liberty International Underwriters; St. Paul, Minn.-based St. Paul Travelers Cos. Inc.; and Hamilton-based XL Capital Ltd.

In addition, there is some new capacity from New York-based managing general agency C.V. Starr & Co., a former AIG affiliate that now is writing capacity backed by Liberty Corner, N.J.-based Everest National Insurance Co.

"Capacity is fine," said Reed Wykes, director of risk management for Houston-based Parker Drilling Co., which provides tools and services to offshore and onshore drilling facilities. "For us, capacity has been more than ample."

Chicago-based Zurich North America, while still providing capacity, is re-evaluating its book of business and moving away from certain difficult classes such as hazardous chemicals, but this action is against the general trend of the market, Mr. DeFelice said. A Zurich spokesman declined to comment.

"I think capacity has been stable; not increasing, but stable," Mr. DeFelice said.

Certain players are attempting to build a niche in the casualty market. Arch, for example, about 14 months ago created its national account casualty division to focus on solutions for workers comp, general and product liability and automobile exposures on a primary admitted basis. The division currently has



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Energy: Huge rate increases for catastrophe risks

Continued from page 11

percentage of their asset value for coverage.

Rates for windstorm-exposed offshore physical damage coverage are four or five times higher than they were a year ago, said Andrew Wright, marine energy underwriter at Lloyd's of London syndicate 2001, based by Amlin Underwriting Ltd. in London.

And for those buyers that suffered losses over the past year, in-

surers are sometimes applying an additional penalty premium of around 10% of losses.

And business interruption and loss of production income rates have increased by up to 10 times expiring rates, said Mr. Wright.

Onshore risks in hurricane regions are also seeing rate hikes.

Rate increases on catastrophe-exposed business, including windstorm and earthquake, are between 50% and 100%, Mr. Lloyd said.

"In a worst case scenario, the increase can be 200% for catastrophe exposed risks from last renewal, but it can be a modest increase of 25% to 50%," says David Way, executive director of the energy division at Alexander Forbes Risk Services Ltd. in London.

Onshore and offshore risks outside of catastrophe-exposed regions are seeing more moderate increases or, in some cases, decreases.

Onshore risks that are not catastrophe-exposed can renew with a 7.5% to 10% rate reduction, Mr. Way said.

"If you happen to be one of the refining companies that have exposures on the Gulf of Mexico coast, you have exactly the same problem as the offshore market, but business inland can renew with a reduction," said Mr. Lloyd.

And offshore risks outside the Gulf also are seeing easier renewals, he said.

"When renewals started at the beginning of the year, most risks outside catastrophe areas could expect to pay a 25% rate increase," said Mr. Lloyd.

"But underwriters have not succeeded in achieving this across the board," he said.

The liability market for energy risks also is seeing only moderate rate increases.

OIL considers options after huge Gulf claims

HAMILTON, Bermuda—Energy industry mutual Oil Insurance Ltd. plans to review how it will cover Gulf of Mexico windstorm risks in light of the huge losses it faced from the 2005 hurricanes.

The Hamilton, Bermuda-based insurer paid out two \$1 billion aggregate limits losses as a result of hurricanes Katrina and Rita and made supplemental premium calls on its members that totaled \$1.7 billion to offset the losses.

In addition, OIL, which was downgraded last year to A- from A+ by Standard & Poor's Corp., halved its aggregate limit to \$500 billion effective June 1 "until such time as the company's capital position can again support an increased limit," according to an OIL statement.

Further changes will be considered at an extraordinary general meeting in September, said George Hutchings, senior vp and chief operating officer at OIL.

"The September extraordinary general meeting is to discuss possible modifications to the way OIL looks at Gulf of Mexico risk

and windstorm exposure," Mr. Hutchings said.

"We have not finalized what the options will be but the concept is to see if there is a better way of sharing this Gulf of Mexico risk versus the old way of doing it, but there's no definitive methodology," he adds. The changes at OIL have caused changes in other areas of the energy insurance market, underwriters said.

Previously, excess insurers would offer coverage that would drop down if OIL's aggregate limit was exhausted.

"Now there is a divide in the market and some underwriters will continue to support OIL members—and are prepared to drop down—and others have written the insurance as if it were all primary, ignoring the benefit of OIL," says Tim Burrows, chief underwriting officer at Wellington Underwriting Agencies Ltd. in London.

"Those underwriters that are dropping down are charging the same rates as for someone who is not a member of OIL," he added.

—By Peta Miller



Onshore energy risks that are located in hurricane-exposed areas are seeing significant rate increases at midyear renewals.

Marine risks enjoy increased capacity

By PETA MILLER

Plentiful capacity is keeping a lid on worldwide rate increases for marine risks during the midyear renewal, brokers and underwriters say.

Although accounts with poor loss records are seeing double-digit rate hikes, most marine hull and cargo risks are being renewed with only slight increases, they say.

The limited increases come despite expectations that the marine market would see sharply higher rates due to the impact that losses from the chain of hurricanes last year had on the worldwide insurance market.

"If you look back to the last two months of last year, people expected a much tougher market in 2006 than has proved the case so far," said Xavier Villers, a director at Miller Insurance Services Ltd., a London-based brokerage.

Although insurers have seen increased reinsurance costs, "they still operate in a marketplace and have to compete and there is sufficient competition to have a dampening effect on prices," Mr. Villers said.

Hull and machinery renewals are relatively flat, said Simon Beale, marine divisional underwriter at Lloyd's of London syndicate 2001 managed by Amlin Underwriting Ltd.

Some underwriters are increasing their capacity for noncatastrophe exposures such as marine

hull risks, he said.

Even so, accounts with poor loss records are seeing 20% to 50% increases, Mr. Beale said.

Hull and machinery renewals range from flat to 5% increases, said Philip Graham, hull and liability underwriter at London-based Chaucer Syndicates Ltd.

"The London market is showing rate rises on the hull side, but they are nominal at best unless adverse claims dictate otherwise," he said.

In the hull and machinery market, there is "over-capacity" worldwide despite a boom in the shipping industry, according to Mr. Graham.

Mr. Villers said also that hull and machinery renewals were generally flat to 5% higher with some large fleets renewing with reductions.

"The 2003 to 2005 years were periods when marine rates went up, so in the medium term they are historically at a high, which is why all the doom and gloom didn't quite materialize," Mr. Villers said.

On the cargo side, hurricane losses at warehouses struck by power outages and flooding were spread across global markets, said Simon Le Mare, cargo and specie underwriter at Chaucer.

The average rate increases are about 5% unless cargo shipment volume has substantially increased, in which case buyers can expect a 5% reduction, he said.

Liability: Buyers face few problems at renewals

Continued from page 16

17 clients, including hospitals, hotels and a golf course management company.

The company developed the division after seeing the success of a similar one focusing on construction risks, said Stephen Cotnoir, senior vp, national accounts division in Atlanta. "It's the evolution of the casualty product, starting with one and broadening it out," he said.

Certain industries, such as construction and transportation, have less capacity available than do others. The pharmaceutical industry, meanwhile, has essentially abandoned the insurance market because of the rates that were being quoted and the lack of limits available to meet their needs, Mr. DeFelice said. "They will tell you that they didn't abandon the market—the market abandoned them," he said.

In general, buyers are more willing to explore the possibility of taking on more risk, although retention and deductible levels have remained fairly consistent, brokers say. If retention levels were adequately established, there is no pressure on them, unless the policyholder has bad loss experience, Willis' Mr. Smith said.

"If your appetite hasn't changed, the market is not going to force you into a higher or lower retention," Mr. Wykes said.

Terms and conditions also have been relatively stable, but Mr. DeFelice expressed some concern about restrictions in umbrella forms. Several exclusions, such as media and

Internet-type business exclusions, on primary policies have crept up into umbrella policies, which diminishes what brokers considered to be a good feature of the policies, he said.

"The very essence of umbrella forms is being undermined by allowing the exclusions in primary forms to creep into umbrella forms," Mr. DeFelice said.

Despite a relatively stable general liability market, some buyers are exploring alternative risk transfer options for their overall programs. AIG has seen greater interest in captive feasibility studies as buyers consider whether to establish captives to handle risks in other markets such as property and directors and officers liability, said Louis Iglesias, president of AIG Global Risk Management Inc., an AIG unit in New York.

"I think usually it's because of the marketplace, but I don't think we're in a cycle where the marketplace is pushing this," he said. "Clients are becoming more sophisticated and are considering more sophisticated risk management techniques. I think the client base is just trying to consider as many alternatives as possible."

"Captives may be the right way to go," said Mr. Liebowitz, who has his primary general liability exposure in a captive while purchasing excess general liability coverage.

While there is a growing exploration of captives, there is not a lot of movement in the direction of finite risk transfers because of all the scrutiny attached to them, Mr. De-

Felice said. "They're either not available or people are shying away from them because of the stigma on them," he said.

Looking ahead

Whether the general liability insurance market remains stable depends on several factors, including the possible sunset of the Terrorism Risk Insurance Extension Act of 2005 and its impact on next year's renewals, observers say.

"There's always the risk of losing TRIA that could impact the general liability market," Mr. Liebowitz said. "Coming up in January '07, that would become an issue again."

If there is a bad hurricane season or adverse treaty renewals, the general liability market could change very quickly, Mr. Smith observed.

If this year is without a bad hurricane season and is profitable for underwriters, then the market could start to soften again, Parker Drilling's Mr. Wykes said. If underwriters have to pay property losses, though, they are going to have to cover those losses in other lines of business, he said. "I still think a lot is going to be tied to the hurricane season," Mr. Wykes said.

Marsh is also monitoring the market for any impact from a pandemic/avian flu exposure, Mr. DeChiaro said. "That's obviously a risk present in the world today, but it hasn't really affected things on the coverage side yet. But it's something to look out for."

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Energy: Rates hikes, coverage changes applied

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"The energy liability market was not significantly impaired by hurricane losses, but in common with the rest of the book, prices have increased on average by between 5% and 10%," said Tim Burrows, chief underwriting officer for Wellington Underwriting Agencies Ltd. in London.

In addition to rate changes, energy insurers are also insisting on structural changes to programs for offshore risks at mid-year renewals.

"Everybody has a wind aggregate put on the policy, which depends on the exposure, the business, and the premium spend the client is willing to put into the market," says Lloyd & Partners' Mr. Lloyd.

The aggregate limit applies to the policy period for any named-windstorm losses and is a fixed amount that includes physical damage, control of well, business interruption and/or loss of production income, he said.

"If you've got a company with \$1 billion assets in the Gulf of Mexico, it will probably only have a \$100 million to \$150 million windstorm aggregate, i.e. only 10% to 15% on an aggregate to exposure ratio," said Amlin's Mr. Wright.

For small to midsize policyholders with property worth between \$50 million and \$200 million, the windstorm aggregate is between \$15 million and \$75 million, and reinstatements are not available, he

said.

In addition, wind-specific retentions are also being applied, said Wellington's Mr. Burrows.

The largest retentions are in excess of \$250 million to \$300 million, he said.

Business interruption and loss of production income policies also are being restructured, said Mr. Wright.

Prior to last year's storms, the coverage was priced to reflect the spot price of oil at the beginning of a policy period, but claims were based on the spot price at the time of the claim. After the hurricanes the spot price of oil shot up.

Now policies specify a set amount per barrel—usually between \$25 and \$25 per barrel—which compares with the current spot price of about \$70 a barrel.

"The market is only providing cover on a restricted basis and as a result, most clients are no longer buying it or buying it only because there is some type of project finance in place," said Julian Taylor, board director and head of the energy business unit at Miller Insurance Services Ltd.

Business interruption and loss of production income retentions have roughly doubled and now stand at about 90 to 120 days and 45 to 60 days respectively, Mr. Burrows said.

Onshore, catastrophe aggregate limits and catastrophe deductibles are also being applied to some risks, brokers and underwriters say.

Rates remain stable but D&O insurers seek more detail

By DAVE LENCKUS

Risk managers typically fared better than anticipated during July renewals of directors and officers liability coverage, because a feared reinsurance squeeze on underwriters did not materialize, according to brokers and insurers.

Rates fell modestly for many buyers and were stable for most others, market executives reported.

At the same time, they said, buyers often improved their coverage terms and conditions.

D&O RENEWALS

But risk managers can expect D&O insurers to continue to press for a better understanding of buyers' practices in compensating executives with stock options.

While reinsurance is not cheap, its cost has not ballooned for D&O underwriters this year as some market experts feared it would.

"It's a bit more costly than in prior years but not enough to affect actual underwriting or market conditions," said Gary Dubois, chief un-

derwriting officer at New York-based Liberty International Underwriters, a unit of Liberty Mutual Group Inc.

Meanwhile, D&O underwriters have grown comfortable with retaining a larger portion of their risks over the past few years, which has helped keep their reinsurance costs in check, Mr. Dubois said.

A downturn in securities class-action claim frequency also has helped market conditions for buyers, market executives concur.

Still, "I don't take any particular comfort in this," because settlements "keep getting bigger and bigger," said

Tony Galban, senior vp and global D&O underwriting manager at Warren, N.J.-based Chubb Specialty Insurance, a unit of Chubb Corp.

The lower frequency and higher severity claim activity have led to a softening in primary coverage but a more stable excess market—which is facing more losses as the higher settlements burn into more excess layers, market executives agree.

Continued on next page



Hurricane Katrina caused widespread damage in the energy sector, including at an oil and gas facility in Port Fourchon, La.

Workers comp rates soften as insurer losses drop

Combined ratios decline sharply for 2005

By ROBERTO CENICEROS

Pricing for workers compensation coverage is softening slightly in a market that several observers describe as competitive yet stable.

California, however, represents an anomaly as reforms adopted in 2003 and 2004 continue to put greater downward pressure on rates than has been seen elsewhere in the United States.

Across the rest of the nation, there has been little rate movement within the past six months, although workers comp rates are "gradually softening," said Paul Ramont, vp of workers compensation product management and underwriting for St. Paul Travelers Cos. Inc. in Hartford, Conn.

Overall, insurers continue to maintain strong underwriting standards when renewing accounts, said Joe DeChiaro, managing director of the casualty practice for New York-based Marsh Inc. While the market is competitive, underwriters are not overreaching to gain an advantage, he added.

Nationwide, rates range from nearly flat to a 10% reduction from a year ago, depending on each account's circumstances, Mr. DeChiaro said. The workers compensation

market is similar to the rest of the casualty market—"stable but competitive," he said.

The general decrease includes California, which has posted even larger declines to pull down the national average.

Rich Marko, senior vp of commercial strategic services for Liberty Mutual Group in Boston, said workers comp pricing during the first half of 2006 does appear softer than for other casualty lines. Ongoing improvement in employer safety and loss experience is continuing to help reduce costs, he said.

Mr. Marko agrees that, overall, insurers are applying solid underwriting standards and are not reducing prices more than is appropriate. "I don't think we are seeing anybody who is totally misbehaving," he said.

The market is healthy with rates reflecting loss experience, said Richard Thomas, senior vp and chief underwriting officer for American International Group Inc.'s domestic brokerage group in New York.

Mr. Thomas said rates are down an average 3% to 5% nationwide.

Insurers' assessments agree with what risk managers say they are experiencing.

For its July 1 renewal of excess coverage, Chicago-based Equity Office Properties Trust obtained rates that decreased slightly, said David Turner, senior vp of risk management for the real estate investment

trust.

Because the company operates a Hawaii-based captive, which provides primary workers comp coverage for about 2,000 employees, it

WORKERS COMP RENEWALS

maintains a viable loss control program, Mr. Turner said. Therefore, its losses, like its renewal pricing, have been relatively flat.

Rates are flat, agrees Michael Lusk, corporate vp of insurance and risk management for the Decatur, Ill.-based agricultural processor Archer Daniels Midland Co., which renews its excess workers comp coverage on July 1.

Insurers say accounts that are not managing their losses are seeing commensurate price increases.

But Marsh's Mr. DeChiaro noted that about 90% of all workers comp renewals nationwide are seeing flat or decreasing prices.

Even in states where medical cost inflation is up nearly 10%, employers are seeing excess coverage renew at a flat or slightly decreasing rate, said John Chino, area senior vp in Aliso Viejo, Calif., for Arthur J. Gallagher & Co.

The pricing is a function of insurer competition, although excess writers continue to worry about a concentration of employees in locations susceptible to catastrophes or terrorism, said Mr. Chino, who specializes in placing coverage for self-

insured public entities.

With investment yields continuing to produce modest returns, most underwriters are aiming for an underwriting profit and a combined ratio below 100%, AIG's Mr. Thomas said.

In 2005, workers comp insurers' calendar year combined ratio stood at 102%, according to a May 11 report by the Boca Raton, Fla.-based National Council on Compensation Insurance Inc. That represents a five point improvement from a year earlier and the best result since 1997, the NCCI said.

"All of the major financial performance measures for the line experienced significant improvement," NCCI Chief Actuary Dennis Mealy said in a statement. "Even the workers compensation calendar year combined ratio, which has remained stubbornly higher than most other major lines of insurance during this recovery cycle, has finally improved to a range that allows the industry to show a reasonable, albeit not outstanding, return on the surplus supporting the business. In fact, workers compensation was the only major line of insurance that had an improved combined ratio in 2005."

For insurers, 2005 also proved "excellent" on an accident-year basis, according to the NCCI. It estimates that insurers' combined ratio for 2004 and 2005 stands at about 90%, a 50-point improve-

ment since reaching a 140% peak in 1999. Those results also represented the third consecutive year that insurers have earned an underwriting profit.

The NCCI said it is cautiously optimistic that the workers comp market will continue to perform "reasonably well" during 2006.

For large accounts, little is changing in employers' program structure, several sources said. Large employers continue to retain substantial risk while controlling losses.

In California, however, employers and insurers say that as prices drop, some middle market employers are moving into guaranteed-cost programs (BI, June 5). Since July 2003, California Insurance Commissioner John Garamendi has recommended a series of rate cuts that total 55.1%, although insurers have not dropped their pricing by that much.

Dave Dolnick, risk manager for La Mesa, Calif., construction company The Brady Cos., said rates dropped 20% to 35%, depending on various employee classifications, for his June 1 renewal. But courts have yet to rule on challenges to California's reforms and it remains to be seen whether such "drastic" rate reductions are warranted, Mr. Dolnick said.

After all, Mr. Dolnick recalls that inadequate rates during the 1990s set off problems that troubled California's workers comp market for several years and led to the reforms adopted in 2003 and 2004.

Continued from previous page

Those market conditions are "a flip-flop from six months ago," said Mike Rice, a managing director in Denver at Aon Financial Services Group, a division of Aon Corp.

"Excess cannot drop its pricing as much as in the past," he said.

Even so, excess market rates remain at around 70% to 80% of the underlying rate, market executives said.

While the executives agree that, overall, primary and excess rates typically renewed at rates ranging from flat to 10% lower, they characterized the market differently. Insurers pronounced the market stable, while brokers called it competitive.

"I would characterize the market as very stable; there's very little rate change on our book of business," said John Doyle, president of New York-based National Union Fire Insurance Co. of Pittsburgh, Pa., a subsidiary of American International Group Inc.

In addition, National Union's business retention rate is strong, Mr. Doyle said.

Broker Lou Ann Layton, however, described the market as comparable to the soft market during the second half of 2005. The majority of buyers have negotiated low to high single-digit rate cuts and better coverage terms for July 1 renewals, said Ms. Layton, a managing director and the national D&O practice leader for Marsh Inc. of

New York.

Liberty International's Mr. Dubois said that, generally, the size of a policyholder's market capitalization determined its ability to negotiate a rate cut.

Describing the D&O market as "a bit more stable than it was at this time last year," he said publicly held companies with \$1 billion or more in market capitalization renewed their coverage at expiring rates or low single-digit rate cuts.

Many companies with market caps under \$1 billion negotiated 5% to 10% rate cuts, he said.

The most attractive risks for underwriters during renewals were wholesalers, select retailers, real estate companies, manufacturers with steady income streams and some service companies, market experts said.

Despite the overall favorable market for buyers, underwriters have been able to impose rate hikes on organizations in select industries: health care, pharmaceutical, banking and energy.

Underwriters also have boosted rates for some technology and telecommunications companies with high product-obsolescence risks, Aon's Mr. Rice said.

Worldwide market capacity of up to \$1.5 billion continues to far exceed the biggest appetites for D&O coverage, reported market executives, who say the largest programs consist of \$500 million to \$600 million limits.

But more buyers are purchasing greater limits than they have in the past, market experts reported. Typically, buyers are using savings from traditional D&O programs to purchase additional limits for their separate Side A towers of limits. Those increasingly popular towers of limits cover the defense and indemnity costs for which organizations cannot legally indemnify their outside directors.

Market conditions also are allowing brokers to "tweak" the language "in any number of places" to convince buyers that they are receiving valuable service, Chubb's Mr. Galban said.

Marsh's Ms. Layton said buyers are improving terms in, for example, conduct exclusions, severability provisions that allow coverage for innocent executives when others have committed wrongful acts, and priority-of-payment agreements to ensure maximum coverage for outside directors.

But each buyer's negotiating power has depended on its loss experience and how good a deal it negotiated last year, Ms. Layton noted.

For example, even though HCA Inc. of Nashville, Tenn., is in the health care field, James D. Hinton, vp-risk and insurance, had expected to renew the hospital organization's coverage at expiring or slightly lower rates in April.

But shortly before HCA's renewal, the company was hit with share-

holder allegations of insider trading because of the gains several executives realized when they exercised stock options earlier this year ahead of an earnings report that led to a drop in share price.

Mr. Hinton, who noted that several HCA employees who are not company officers also exercised their stock options at a point when HCA shares had reached a record price, said the allegations led to a 10% rate hike for the company.

But the stock option issue that has greatly concerned insurers during July renewals centers on the practice of inflating executive compensation packages by backdating option grants to periods when share prices were low. HCA did not backdate its stock option grants, but several companies' backdating practices have triggered shareholder lawsuits and investigations by U.S. securities officials and a U.S. attorney (BI, May 22).

Concerns on backdating

Insurers have approached the backdating issue in different ways in trying to understand the issue and the risk it poses.

The discovery of another questionable business practice "came as a bit of a surprise," Mr. Galban said.

"We're dissecting the issue," he said. "We're trying to understand the issue" of backdating option grants and how much the practice is being used.

Underwriters "believe they are beginning to understand the issue and are addressing it on an account-by-account basis," Liberty International's Mr. Dubois said.

To limit their exposure, some insurers have tried to impose exclusionary language in policies, and others have asked policyholders to complete a questionnaire about their stock option backdating practices.

But brokers are resisting those approaches.

Ms. Layton said that even a questionnaire is troublesome for policyholders, because it could become part of the application for coverage and serve as a warranty that could leave the organization without coverage for backdating claims. The problem for buyers in answering insurers' questions is that the risk manager may not be able to gather all the information necessary to completely answer the questions, she said.

Mr. Rice said insurers already have all the information they need from public disclosures to underwrite the risk.

Kevin Hoskinson, director of global risk management at Sun Microsystems Inc. in Broomfield, Colo., said he addressed the stock option issue during coverage discussions before Sun's underwriters asked about it. Ultimately, the underwriters did not ask Sun to fill out a questionnaire or attempt to restrict coverage for the risk.

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COMMENTARY

Senior Editor Rodd Zolkos

Information genie carries time bomb

For Americans, the Independence Day holiday is a good time to think about some of the things we hold dear about living in the United States. One of those, I believe, is the right to keep our personal business to ourselves.

The Constitution may not explicitly guarantee a right to privacy, but the Legal Information Institute of the Cornell Law School notes that Supreme Court Justice Louis Brandeis once "extolled a right to be left alone."

Here's to Justice Brandeis.

According to the institute, the 14th Amendment protects "a liberty of personal autonomy," while the 1st, 4th and 5th amendments all provide narrowly defined elements of privacy protection.

Meanwhile, both at the federal level and in various states, statutory protections have been enacted to protect the privacy of personal information.

Increasingly though, it looks like there's reason to worry about just how safe our private information and personal business really is.

Maybe it's just me, but unless you're a bookie or an international man of mystery, I think there's something a little weird about a document shredder becoming a standard household appliance.

Identity theft has become a serious issue for most Americans, and, while that's fostered a market for privacy violation coverage for businesses and various identity theft recovery products for individuals, I think more broadly that this can't be good for any company that handles personal information.

I think there's a growing unease among Americans about the risks to their privacy. It's not surprising, really. There seems to be more fuel for that unease every day.

News accounts carry reports of computer equipment containing the personal information of thousands or even millions of individuals being stolen from everyone from AIG to the VA.

Earlier this year, ChoicePoint Inc. paid out \$15 million to settle Federal Trade Commission charges in connection with security breaches that put the personal financial records of more than 163,000 people at risk. The settlement also requires that ChoicePoint undergo audits by an inde-

pendent third-party security professional every other year until 2026.

Anyone using e-mail has no doubt been the subject of phishing efforts, those e-mails trying to convince you they're from a legitimate financial institution that simply needs you to update your personal information to keep your account current, etc.

I received one about a month ago purporting to be from the Internal Revenue Service suggesting I click the link to provide the personal information needed to get me my \$63.80 refund. I noticed the e-mail was also addressed to my London colleague Sarah Veysey, a U.K. citizen. I wonder whether Sarah's gotten her refund yet.

Lately I've received several claiming to be from eBay, regarding a dispute over a pair of sneakers I apparently haven't delivered to someone in Denmark or something. I've read that someone was convicted in England for running this particular phishing scam. I guess you can't keep a good scam down.

Then there are the e-mails from the son of the personal doctor to the chief gardener of the former interior minister of Botswana, who wonders if he could just borrow your bank account to transfer several million dollars out of the country in exchange for a piece of the action. Risk free, of course.

Some of these are almost comical, but each, I think, ratchets up privacy concerns a bit more.

Advances in information technology have made it easier and easier for businesses to collect information on their customers, information that can help make their businesses more profitable, and also help them better serve their customers, better treat patients, better design their products.

If handled carelessly or without adequate protection, though, that information can also be a ticking time bomb, exposing companies not only to financial liability but damage to their reputations and possibly attacking the very value of their brands if allowed to fall into the wrong hands.

It might not be possible to put the information genie back in the bottle, but if people get angry enough they might make it pretty miserable for businesses that let the genie out.

MBGH: Cost management improves bottom line

Continued from page 4

ney-Bowes at that time created seven onsite primary care clinics that conducted 35,000 patient encounters each year for about 5,500 employees, offering free services and prescription drugs, he said.

"When people enter the system early in their illness, there's a reduction in overall cost," he said.

Over time, the company moved to a predictive model, based in part on an employee or dependent's age and health care spending, to forecast high-cost claims for the following year, Mr. Hom said.

Looking at the company's office locations and workforce demographics, Mr. Hom said Pitney-Bowes found four chronic, high-cost diseases linked to those factors (see box, page 4).

One of Pitney-Bowes' programs is Health Care University, which offers courses in health and wellness each year and gives graduates credits to use to pay for health care benefits, Mr. Hom said.

The company's medical plans are designed to encourage preventive and routine services, making them available at low or no cost, with no deductibles. Major medical services

offer a choice of deductible and coinsurance maximums, and a three-tier prescription benefit plan design with a revised formulary gives members easy access to drugs for the four chronic illnesses, Mr. Hom said. Pitney-Bowes found \$1 million in savings in year one, and \$2.5 million in savings by year three, he said.

"The lesson is, if you treat the chronic condition, you see a reduction in your overall costs," Mr. Hom said. "If you can reduce disability, it increases your margins in your services business."

Randy Vogenberg, senior vp in the life sciences practice at Aon Consulting in Providence, R.I., suggested that a "return on risk" approach is one way to translate health care benefits for upper-level management.

"In health care, quality and value are almost interchangeable," he said. Organizations must ask, "How do we achieve an opportunity to improve health care and minimize the risks and costs?"

"The return on risk concept will resonate with the CFO, CEO and upper management level," Mr. Vogenberg said.

Five strategic "rules" apply to return on risk, and they "can and do apply to any organization," he explained: the rule of repercussions, where the cost of failure in care quality goes beyond a claim or settlement; the rule of converging factors, with quality having an outward effect around which other factors converge; the rule of deep data, where relevant benchmarking information demonstrates quality to both consumers and insurance markets and is the "backbone that delivers return on risk"; the rule of practical tools, or advanced technology to measure, analyze and report quality of care data; and the rule of positive returns, which influences actions that maximize return on risk.

"Data itself is not enough. You need to know how to aggregate it and interpret it," Mr. Vogenberg said. "Commonly available data (on health care) looks similar on the surface. A deeper dive shows differences in the quality of care."

The Midwest Business Group on Health's 26th annual conference will take place July 27-28 in Chicago. For information and to register, visit www.mbgh.org.

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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 award winners will be announced and profiled in the Aug. 21 issue.

The categories are for the best:

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- Managed care organization.
- Property/casualty reinsurer.

- Reinsurance intermediary.
- Surplus lines insurance company.
- Insurance wholesaler.
- Risk management consulting firm.
- Employee assistance program provider.
- Third-party claims administrator.

The categories of retail brokerage firms and property/casualty insurers are not included this year as they will be the subject of an in-depth survey to be conducted later this year with assistance from a professional financial services research firm.

The 2005 Readers Choice winners were identified through confi-

dential balloting by subscribers.

While *Business Insurance* provided alphabetical lists of the 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 Readers Choice winners and cast your vote this year, please visit www.businessinsurance.com/ReaderAwards.

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Bombings uncover recovery plan problems

By SARAH VEYSEY

MANCHESTER, England—The bombings that struck the London transportation system almost a year ago provided valuable risk management lessons for the public-sector risk managers involved in dealing with the attacks' aftermath, delegates at a recent conference were told.

Peter Rogers, chief executive of the Westminster, England, City Council, said the public authority put its "well-rehearsed" recovery plan into action as soon as the serious nature of the attacks became clear. However, he said the council had to face various problems, including the lack of communication and information, and setting up a temporary mortuary and viewing area for relatives of victims, among other things.

Mr. Rogers made the comments at the Assn. of Local Authority Risk Managers' annual conference in Manchester, England, last week.

On July 7, 2005, suicide bombers caused explosions on three subway trains and a bus during the morning rush hour, killing 56 people and injuring about 700, many of them seriously.

In the immediate attack aftermath, there was confusion as to the nature of what had taken place, with reports suggesting that a series of "power outages" had occurred. But by about 11 a.m., it was clear



London police walk past the King's Cross station where one of four bombs exploded in a terrorist attack last year. The bombings provided risk managers with many lessons about dealing with emergency situations.

that there had been some form of terrorist attack, that there had been fatalities and that evacuations of local streets, schools and other public areas were necessary, Mr. Rogers said.

Later in the day, the Westminster City Council was appointed as the "mortuary authority," Mr. Rogers said.

The council already had a site earmarked in its emergency plan for such events, but that site—a sports

facility—was host to a fair on July 7, so another site had to be found.

This task was complicated by the fact that the four bomb sites were being treated as crime scenes, noted Mr. Rogers, and that somewhere among the bodies of those killed in the blasts were those of the four suspected bombers.

While the council had a plan to care for relatives of the victims, it became clear by the day after the attacks that this was inadequate, as

relatives were wandering around hospitals trying to gather information about their loved ones.

"We weren't as prepared for this as we should have been. We should have learned lessons from the (Dec. 26, 2004, tsunami) and Sept. 11, 2001," U.S. terror attacks, he said. When relatives and friends of the missing put up posters and visited hospitals searching for victims, "it

See BOMBING / next page

Insurers settle semiconductor plant fire claims

By MICHAEL BRADFORD

CHUNG-LI, Taiwan—Advanced Semiconductor Engineering Inc. will collect \$247 million from insurers to settle claims from a fire that damaged its plant last year.

As repairs at ASE's plant at Chung-Li, Taiwan, are ongoing, the company reached a final settlement with nine insurers to cover damage caused by a May 2005 fire that swept through computer chip packaging and testing operations. Five ASE employees, one firefighter and two employees of contractors suffered minor injuries in the accident.

The insurers contributing to the settlement are Cathay Century Insurance Co. Ltd., Chung Kuo Insurance Co. Ltd., The First Insurance Co. Ltd., Fubon Insurance Co. Ltd., Mingtai Fire & Marine Insurance Co., Shinkong Insurance Co. Ltd., South China Insurance Co. Ltd., Taiwan Fire & Marine Insurance Co. Ltd. and Zurich Insurance (Taiwan) Ltd.

ASE said in its 2005 annual report that property and inventory damaged by the fire had an estimated value of around \$400 million.

Project aimed at cutting schools' insurance costs

By SARAH VEYSEY

MANCHESTER, England—A pilot project aimed at improving risk management in elementary and secondary schools likely will reduce insurance costs for public-sector risk managers, according to a panel at the Assn. of Local Authority Risk Managers annual conference.

The project involves "risk ranking" individual schools—assigning them a risk profile—and weighting the premiums charged to individual schools according to their ranking, rather than buying a single policy for an entire school district and charging schools a flat rate, delegates at ALARM's conference in Manchester, England, were told last week.

After reports from several local authority risk managers that rising insurance premiums were placing pressure on their school budgets, the United Kingdom's Department for Education and Skills investigated the idea of weighting premiums charged to schools based on their risk profile as a move to encourage schools to better manage their risks, according to Pauline Sheehy. Ms. Sheehy is in charge of best value and benchmarking in the department's value-for-money unit in London.

In January, the department set up a strategic implementation group for the project, which comprises insurers, local authority risk managers and representatives of the Assn. of British Insurers and the Health and Safety Executive, she said.

The project also will produce an Internet-based risk management tool for schools to give guidance on risk management best practices, she said. Advice on the site will be supplied by ALARM and the HSE, among others, Ms. Sheehy said.

One of the objectives of the project is to enable local authorities to offer incentives to schools to improve their risk management and to highlight the benefit of good risk management, said Ms. Sheehy.

It is essential that schools understand how the weighted premiums that they are charged are calculated, so that they understand the link between good risk management and reduced premium, she said.

Doncaster Metropolitan Borough Council was one of the local authorities to begin work on the pilot project at the start of this year, she said.

Wayne Rigby, the borough's senior insurance manager, said common risk management problems already highlighted by the surveys include a lack of adequate signage for visitors to elementary schools and potentially dangerous storage of refuse in some cases.

So far, the feedback from schools surveyed has been positive overall, he noted. "It does help them to identify problems they wouldn't otherwise have thought of," he said.

In addition, Mr. Rigby noted, the system ensures that there is a consistent approach to risk management across the borough, he said.

Updates

Generali to buy Italian insurer

Assicurazioni Generali S.p.A. has agreed to buy rival Italian insurer Toro Assicurazioni for €3.85 billion (\$4.81 billion). Trieste, Italy-based Generali said it would buy a 55% stake in Toro from publishing company De Agostini Group and then launch a public offer for the remaining shares in Turin-based Toro. The deal will make Generali the largest nonlife insurer in Italy, the company said in a statement. Last year, Toro posted premium volume of €1.73 billion (\$2.04 billion).

Goshawk losses rise in 2005

Goshawk Insurance Holdings P.L.C., which is in runoff, posted a \$140.1 million loss for 2005, compared with a \$4.1 million loss the previous year, caused mainly by large losses from hurricanes in the United States, reserve deteriorations and runoff costs. London-based Goshawk, which operates Bermuda-based reinsurer Rosemont Reinsurance Ltd., announced in May that it had missed the regulatory deadline for filing its 2005 results and, as a result, trading in its shares would be suspended temporarily. The group said its results had taken longer than usual to prepare because Rosemont had been put into runoff in October by large hurricane losses and being downgraded to B from A- by A.M. Best Co. Inc.

FAI Security executive sentenced for bribery

Bradley Cooper, former chairman of security firm FAI Security Group, a unit of FAI Insurance Ltd., was jailed for eight years for bribing agents of failed insurer HIH Insurance Ltd. and for publishing false and misleading statements "with intent to obtain financial advantage," according to the Australian Securities and Investment Commission. HIH became Australia's biggest-ever corporate collapse when it failed in 2001. The New South Wales Supreme Court ordered Mr. Cooper to serve a minimum of five years before becoming eligible for parole. Several executives of HIH have been jailed for their role in the scandal.

Kiln syndicates to increase capacity

Lloyd's of London company Kiln P.L.C. said its four syndicates will have a combined capacity of more than £1 billion (\$1.82 billion) for 2007. Kiln operates multiline syndicate 510, life syndicate 308, catastrophe syndicate 557 and short-tail nonmarine syndicate 807. The four syndicates have total combined capacity of £803 million (\$1.46 billion) for 2006.

Bombing: Lessons learned

Continued from previous page

became clear that we needed somewhere for the families" to gather and get information.

The council found a temporary solution, and the day after the London attacks, a leisure center was assigned as a place where relatives of victims could gather to receive information.

This solution was temporary, however, and in the following days a new site was found at the Royal Horticultural Hall in central London. The council was able to borrow furniture from local busi-

nesses to equip the information center, "a good example of multi-agency work," Mr. Rogers said.

Dealing with the aftermath of the attacks involved operational risk, staff risk—ensuring that the council staff was safe—and financial risk, Mr. Rogers noted. The public authority incurred large expenses in setting up and running the mortuary, and staff had to carefully monitor all medical equipment and other supplies used in the recovery effort as the council had to bill the U.K. Treasury for the cost of these after the event.

300 attend ALARM conference

MANCHESTER, England—About 300 attendees gathered June 26-28 for the Assn. of Local Authority Risk Managers' annual conference at the University of Manchester's Institute of Science and Technology in Man-

chester, England.

Next year's event will be held July 1-4 at the Cardiff City Hall in Cardiff, Wales. For more information, go to www.alarm-uk.com.

—By Sarah Veysey

PRODUCTS & SERVICES

Lexington introduces warehouse policy

NEW YORK—Lexington Insurance Co., a unit of American International Group Inc., is offering warehouse legal liability insurance.

The warehouse legal liability insurance policy provides coverage for the warehousing, trucking and logistics industries and addresses the legal liability that may arise from the loss of property in the policyholder's custody. This policy can be purchased alone or as part of the company's Lex TransportPlus product suite.

For more information, contact Steve Silverman, assistant vp and product line manager, at 617-330-8492 or steve.silverman@aig.com.

Venture adds banking market

WEST CHESTER, Pa.—Venture Insurance Programs, a national program administrator, has added a new community banking offering

through OneBeacon Insurance Group.

The Venture Banking program provides access to Boston-based OneBeacon's suite of banking and financial institution insurance products including professional liability, cyber liability, property/casualty and financial institution bond coverages. It is designed for community banks with assets up to \$2 billion.

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

AI Risk security program enters new market

NEW YORK—AI Risk, the middle market unit of Lexington Insurance Co., is offering its GuardSecure program to a new segment of the private security industry.

The company selected East Islip, N.Y.-based Brownyard Programs Ltd. to bring GuardSecure to small and

midsize private security companies that include private investigators and investigative firms, background screening firms, armored car companies and security consultants, among others.

The program offers general and professional liability and is available on nonadmitted occurrence form via Lexington Insurance. Limits of up to \$5 million are available.

For more information, contact Bruce Brownyard, president of Brownyard Programs, at info@brownyardprograms.com or visit www.airisk.com.

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("the Company")

AND IN THE MATTER OF THE COMPANIES ACT 1985

NOTICE IS HEREBY GIVEN that, by an Order dated 21 June 2006 made in the High Court of Justice in England and Wales in the above matter, the Scheme of Arrangement (the "Scheme") proposed between the Company and its Scheme Creditors (as defined in the Scheme) pursuant to section 425 of the Companies Act 1985, which was voted on and approved by the requisite majority of Scheme Creditors at the meetings held on 26 April 2006, was sanctioned.

On 22 June 2006 an office copy of the Court Order sanctioning the Scheme was delivered to the Registrar of Companies for registration. The Effective Date of the Scheme is therefore 22 June 2006.

Nigel Rackham and Dan Schwarzmann, both of PricewaterhouseCoopers LLP are the Joint Scheme Administrators responsible for implementing the Scheme.

Claim Forms must be received by the Scheme Administrators by no later than the Final Claims Submission Date which is 23:59 London time on the 23 October 2006. Any Scheme Creditors who do not return their Claim Forms by the Final Claims Submission Date will be precluded from any further submission and no payment will be made in relation to claims submitted late.

Claim Forms together with further information about the Company and the Scheme can be obtained by contacting Caroline Turnbull of PricewaterhouseCoopers LLP at the address given above or by telephone on +44 (0) 20 7804 8203. Alternatively, they can be downloaded from the website www.pwc.com/uk/aamii. Scheme Creditors should return all Claim Forms to Caroline Turnbull, PricewaterhouseCoopers LLP, Plumtree Court, London, EC4A 4HT.

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Mucerino: New AIG unit reaffirms resources, commitment to energy

Continued from page 3

financial services, too. We have people who focus on those areas as their primary source of business, but what we're doing now is we have mechanisms in place that will bring those other divisions into the strategy, so when we talk strategy it's not just a property/casualty, nonlife strategy. Is there a group life strategy, a group benefits strategy in there, is there an annuity strategy in there, a pensions strategy, some kind of a need for the financial services that we offer?

Q: What's the advantage in AIG Global Energy's new corporate structure as opposed to writing energy business through a managing general agency?

A: Implicit in the relationship in energy is service. You've got engineering service, claims service. What is the client buying? It's our ability to pay claims. If an entity is selling just one line of business, whether it's an insurance company or it's a managing general agent, there's a limit in what the client will be able to get from that single-purpose entity. Ultimately, an insurance company controls its own checkbook. Other entities, like MGAs, don't necessarily have the same flexibility. Clients want to know they're dealing up front and personally with the people who are going to be signing those checks.

Q: How sophisticated, in general, are clients in the energy markets?

A: When things go boom for us, they go boom. They're not small losses all the time. If there's a vapor cloud explosion, an entire facility can be gone forever. It's not

just the physical damage. It's the business interruption that will occur for an extended period of time. Given that kind of volatility, given the fact that when losses occur, they tend to be big. On the capacity accounts, they tend to be market losses, because nobody is writing these things 100%. A big line might be 20% on some of the mega accounts. If there's a bad run of losses and there's a constriction in capacity, it's going to most likely occur in the energy sector first. Cyclically, the property markets have changed much more dramatically on energy (accounts). Energy has been the first to loosen up and the first to harden.

I've been extraordinarily impressed with the people that I'm dealing with as risk managers. Absolutely unequivocally, these people have to know their business. When you consider the technical nature of this business, they really have to know it. They also have to be ready to move on a dime when an event occurs. Katrina and Rita really tested the risk managers in the offshore segment of the business. They had to be many things to many people, deal with the human tragedy. They had to deal with the business strategies of how to get their business up and running, how to find alternative sources of production. Our risk managers tend to be so embedded in the business.... Given the nature of this business, the risk managers have to be technically adept, and that's not taking away anything from risk managers in other industries.

Q: What kind of buying habits and retention strategies do energy clients tend to have?

A: Looking at the major account segment, there are energy ac-

counts out there that buy very little insurance because their balance sheets are so big they'd just be trading dollars. They have enormous retention structures, captives that have enormous amounts of surplus.... They just manage their risk entirely on their own balance sheet. They buy some esoteric coverage. They may have statutory or regulatory-driven needs that require the intervention of insurance or certainly in some cases, fronting programs.

Down into the next layer below the megas, there's a fair amount of retention, high limits, and they'll want to buy as much limit as they need. A billion-dollar limit is not uncommon in this sector. Where we are selling (business interruption coverage), we'll pay very close attention to waiting periods. One of the keys to keeping the pricing consistent is to have a reasonable waiting period. Energy clients tend to use a worldwide market. I don't know a risk manager that we deal with who is not regularly in London, in Bermuda or any other city that has capacity for them. They're very international in nature, and given the size of what they need, they need to use the world market. This is where AIG, I believe, is the best partner in the industry because of the breadth of our network.

Q: How does AIG's international network serve energy clients' needs?

A: I believe we have the best coverage from a national and international perspective. But that's not enough. There are other companies out there that can say, "I have a company in Argentina, I have a company in Hong Kong." What makes AIG different is we manage our network with dedicated resources and we have an extraordi-

nary ability to bring those resources together.

About a year ago, we created within (American International Underwriters) the major-accounts practice. We have teams of people in all our major regions around the world who are dedicated to managing the major accounts relationships. Think of how difficult it is to have a strategy on an international account, with 50 countries flowing at any given point in time. These teams of people not only manage the outgoing business that is generated in those regions, but they manage business that's flowing in from other regions, and they are responsible for it. The other key is we've brought that international network together with the U.S. network of national accounts managers. So there are many professionals in the United States interfacing with specific individuals overseas who take care of the U.S. accounts that are going out, plus their own accounts going in. There's an extraordinary synergy in all of that, which I think places us far beyond what our competition can offer.

Q: What are some common problems for which energy clients seek help?

A: Energy clients may have a breadth of operations where a loss might occur in a remote sector of China, for example. As part of those major-accounts practice teams, we have claims executives who are focused on dealing with the claims needs of those major-accounts clients. When a loss occurs in China or Vietnam or anywhere far from a client's home base, we've got the claims resources ready to deploy at the drop of the hat who can manage these claims. Sure, we'll use outside adjusters on our claims, but

they are managed by our resources, and I've got some really top-notch people in the energy sector claims area.

Clients also have needs when they operate with employees in remote areas. If something happens, how do they evacuate workers to safety, to an area where they can get the proper medical care? Think of the some the venues that we operate in. We'll cover oil rigs in Nigeria, we'll cover refineries in Algeria. There is remoteness, not just from a claims perspective, but the ability to understand the environment. Our clients have to go where the oil is, where the gas is. Not everything is Main Street America.

Q: How much capacity is AIG willing to commit to energy risks? What are common limits?

A: On the major accounts, our property commitment will vary based on the sector, anywhere from \$166 million to \$206 million. On casualty, we'll generally run no higher than \$50 million, and within that \$50 million we're going to be selective based on the risk. The typical casualty offering is \$25 million to \$50 million. There's an enormous amount of business (outside of the major category, though), so those limits are far more than you'd need to satisfy a middle-market account. A middle-market account might be satisfied with \$10 million in limits. Offshore, the available limits are \$110 million. These are traditional businesses to us. We were in them before and we're committed to them going forward. AIG's appetite for this business is there and it has been consistent. Our commitment is there to all the businesses that our former agencies were involved with, and we've got a good story to tell.

School: \$13M award reinstated

Continued from page 4

not likely to take up further appeals because the appellate court ruling did not create legal precedent, said Brian Frohmuth. Mr. Frohmuth initiated the litigation against Coregis in his former role as risk manager for Fresno Unified. He currently is risk manager for Tulare County in Visalia, Calif.

The case first drew attention for the plaintiff's effort to build its case by waging a mail campaign to find other Coregis policyholders who also had been denied coverage under the same policies (BI Oct. 16, 2000). Coregis then sued the school district for recklessly disparaging statements contained in the letters and questionnaires mailed to 430 public entity risk managers. A judge, however, found that the contents of the letters were privileged.

Fresno was one of about 500 California school districts that purchased similar comprehensive liability policies during the 1980s from Chicago-based Coregis.

Coregis in 2003 sold off the renewal rights to its public entity book of business. It was a unit of GE

Insurance Solutions, which was acquired by Swiss Reinsurance Co.

Special endorsement

Coregis' "all-risk, broad form" manuscript policy included a special endorsement, offered at additional cost, that was marketed as protecting against discrimination claims, court records show.

But when two teachers filed discrimination claims and the district sought defense and indemnity from Coregis, the insurer maintained "there was no occurrence under the policy," the records state.

In 2000, a jury awarded Fresno Unified the \$13 million along with \$1.4 million in compensatory damages. Letters sent out to other policyholders helped the plaintiffs find two similar cases where courts had ordered Coregis to provide coverage under the same policies.

Fresno Unified was allowed to present those other court rulings to show the jury hearing its case that Coregis' denial of coverage amounted to a pattern, which likely helped sway jurors, Mr. Lucas said.

Securities: Legislation seeks more accountability

Continued from page 4

Protecting Investors: A Review of the Milberg Weiss Indictment and Ways to Prevent Securities Litigation Abuse," even before federal prosecutors in Los Angeles took the unusual step of indicting Milberg Weiss Bershad & Schulman L.L.P. and two of its partners. The indictment, handed down in May, charges that the parties misused referral fees by allegedly paying individuals in securities litigation—in which the firm specializes—secret payments in exchange for being named lead plaintiffs. The firm and the two attorneys deny the charges.

Rep. Baker subsequently removed Milberg Weiss' name from the hearing's title, following the initial complaint from his Democratic colleagues.

To even discuss an indictment of a firm—in this case a nationally known securities litigation firm that has yet to be convicted of any wrongdoing—was inappropriate and a "terrible abuse of the separation of powers," Rep. Frank, who is the ranking Democrat on the full committee, said at the hearing.

Another panel member, Rep. Gary Ackerman, D-N.Y., took the argument a step further, calling the hearing "a hit" on Milberg Weiss in an ongoing "vicious war" between consumers and investors on one side and corporations attempting to avoid accountability on the other.

"We should be making it easier for defrauded investors to get their money back, not harder."

**Pamela Gilbert
Cuneo Gilbert & LaDuca L.L.P.**

But Rep. Ackerman's attempt to move the hearing into executive session closed to the public failed on a party-line vote.

After the motion failed, Vaughn R. Walker, chief judge for the U.S. District Court for the Northern District of California, praised the measure as necessary, holding that most of the private securities litigation cases he's seen are "lawyer-driven,

lawyer-brought and lawyer-controlled."

But another witness, William Francis Galvin, secretary of the Commonwealth of Massachusetts, said he believes the bill would "stifle the ability of plaintiffs to obtain recourse where the securities laws are violated," and he urged its rejection.

A prominent consumer advocate shared Mr. Galvin's sentiments during a brief interview after the hearing. "In the wake of the worst accounting frauds in history, we should be making it easier for defrauded investors to get their money back, not harder," said Pamela Gilbert, a partner in the law firm Cuneo Gilbert & LaDuca L.L.P. in Washington.

The U.S. Chamber of Commerce's Institute for Legal Reform, however, welcomed the measure. In a statement, ILR President Lisa Rickard said, "the time is right for Congress to conduct a thorough and broad investigation of securities-related class action fraud and consider meaningful reforms to repair this broken system."

Pension: New hybrid design combines elements of retirement plans

Continued from page 1
cial performance.

Employees would direct their account balances in the defined contribution plan, which legally would be a profit-sharing plan, into investment options offered by their employers.

When employees leave or retire, they could take their defined contribution plan account balance as a lump sum. They also could transfer the amount to the defined benefit plan, boosting, for example, the value of their annuity.

PwC executives say the design will appeal to employers that understand the advantages of defined benefit plans—providing a secure benefit to employees—but that want to reduce corporate exposure to funding volatility associated with traditional final average pay plans.

They also say the design will appeal to cash balance plan sponsors, which have begun to move away from the plans in the wake of a widely publicized court ruling that cash balance plans are inherently age discriminatory.

"This will have a natural appeal to anyone with a cash balance plan or anyone with a traditional plan thinking of going to a cash balance plan," said Sheldon Gamzon, a PwC principal in New York.

Additionally, a combined defined benefit and defined contribution plan will appeal to employers that like the visibility of defined contribution plans but do not—as is the case with an approach that uses only defined contribution plans—want to shift all investment risk to employees.

"This is the best of all worlds," said Dennis Letham, chief financial officer of Glenview, Ill.-based Anixter International Inc., a major distributor of communication products as well as electronic wire and cable, which has adopted the design for new employees.

The new design comes at a time when dozens of major employers, including some of the nation's best-known corporate names, are phasing out defined benefit plans—typically by freezing them—and beefing up their 401(k) plans, which become the only retirement savings plan for employees.

The No. 1 reason for phasing out their defined benefit plans, say employers, is their desire to reduce financial volatility.

Volatility is inherent in defined benefit plans with changes in interest rates and investment results causing swings in plans' funding levels.

Employers long accepted defined benefit plan volatility, but extraordinary volatility in the past several years has sharply eroded employers' tolerance.

In the late 1990s, for example, most corporate pension plans were significantly overfunded due to hefty investment returns during the bull equities market.

But following the Sept. 11, 2001, terrorist attacks, the equities markets sank, driving down the value of plan assets. At the same time, interest rates tumbled and boosted plan liabilities. The result was that many employers, which had not contributed to their pension plans for years, now had to make

How it works

Defined benefit and defined contribution plans work together in PricewaterhouseCoopers' Pension Preservation Plus design:

Defined benefit portion

- Employees receive annual credits, such as a percentage of pay
- Credits added to a notational account
- At retirement, employees receive account balance as an annuity or lump sum

Defined contribution portion

- Annual employer contribution is calculated by multiplying employees' DB account balance by an interest rate
- Employer decides on interest rate formula and can change formula anytime or stop providing interest credits
- At retirement, employee can take DC balance as a lump sum, or transfer amount to DB plan to boost value of annuity

Source: PricewaterhouseCoopers L.L.P.

huge contributions.

Volatility continues to be high. The Dow Jones Industrial Average, for example, has had a nearly 1,000-point swing between its high and low points this year.

A Pension Preservation Plus design doesn't eliminate volatility. However, because the defined bene-

fit portion is designed to produce much smaller benefits compared to a traditional plan, "you have a lot less volatility" since the money needed to fund the plan also is much less, PwC's Mr. Gamzon said.

At the same time, Mr. Gamzon said, the defined benefit plan portion of a Pension Preservation Plus design may offer an advantage over cash balance plans, a pension hybrid that combines elements of defined benefit and defined contribution plans but legally are considered defined benefit plans.

Such plans enjoyed great popularity throughout the 1990s as more than 1,000 employers converted traditional plans to cash balance plans. A key selling point is that the benefit formula was easier than traditional plans for employees to understand, which proponents said increased employee appreciation. Additionally, as career-average pay plans, cash balance plans pay richer benefits to shorter-service employees—an appealing feature when job mobility is rising—compared to final-average pay plans.

Like traditional plans, employers also have started to move away from cash balance plans, due at least in part to a 2003 federal court decision that found IBM Corp.'s cash balance plan is age discriminatory. IBM is appealing the ruling.

Federal Judge G. Patrick Murphy of the Southern District of Illinois said a feature of IBM's cash balance plan in which employees receive interest credits on their account balance is inherently discriminatory in terms of age because the credits expressed as an annuity at retirement

always would be more valuable for younger employees than older ones. Virtually all cash balance plans have that feature.

But the defined benefit portion of a Pension Preservation Plus design deliberately lacks such a feature—both to reduce employer costs and exposure to litigation, Mr. Gamzon said.

Other experts, while intrigued with the new design, say it is not without problems.

Ethan Kra, chief actuary with Mercer Human Resource Consulting in New York, said the design over a very long period could result in highly compensated employees receiving such large amounts in their defined contribution plan that Internal Revenue Service nondiscrimination rules would be violated. Those rules compare contributions, as a percentage of pay, received by highly paid employees to those received by rank-and-file employees.

"There is a potential nondiscrimination issue," said Don Segal, a senior consultant in New York with CCA Strategies L.L.C., a retirement plan and health care consulting firm.

PwC's Mr. Gamzon, though, said the design is one that "will work for many years to come," adding that "we don't see anything that would resemble a nondiscrimination problem for the short- and mid-term."

Very long-term predictions are difficult to make, Mr. Gamzon said, noting that no one knows the shape of nondiscrimination rules that will be on the books decades from now.

USI: Broker plans to appeal \$18.9 million copyright infringement ruling

Continued from page 1

some ways it's flattering that someone wants to copy it. But the bottom line is, the information is extremely unique and valuable for us and for our clients, and that's why we fought to protect it."

One of the documents, called the Standard Proposal, explains and summarizes proposed insurance for existing and prospective clients, while the other—Standard Survey and Analysis—reviews exposures in existing coverage and recommends improvements to that coverage, according to court records.

Graham alleged that, after leaving the brokerage, Mr. Haughey brought its manuals with him, copied them into his new employer's computer system and then distributed them to all USI employees for widespread use. Over a 13-year period, USI and its predecessors generated 950 proposals containing some of Graham's copyrighted language for more than 350 clients, Graham said in a statement.

Graham did not discover the infringement until late 2004, when a USI customer asked Graham to quote insurance coverage.

The jury last week found that Mr. Haughey breached his employment agreement and violated copyright

laws, and ordered him to pay nearly \$2.3 million to Graham. The jury found that USIM violated copyright laws and ordered it to pay nearly \$16.6 million to Graham.

Graham sought damages representing all commissions earned by USIM and Mr. Haughey from every client that received a proposal that contained any information copied from Graham's manuals, according to a statement from Briarcliff Manor, N.Y.-based USI.

"We could not disagree more strongly with the jury's conclusion that our subsidiary, USIM, or Thomas Haughey infringed Graham's copyright or that the commissions we received were attributable to the use of Graham's materials," David L. Eslick, chairman, president and chief executive officer of USI, said in the statement.

In an interview, Mr. Graham countered, saying: "I can tell you unequivocally that (USI) used in 25% of their proposals our copyrighted language, and they were very successful in using it to the point where they earned \$32 million in revenue on that copyrighted language."

Under a section of the U.S. Copyright Act, a copyright owner is permitted to recover "infringer profits," said David J. Wolfsohn, a copy-

right attorney with Woodcock Washburn L.L.P. in Philadelphia, who represented Graham.

The copyright owner must prove that the profits are "attributable to the infringement," and courts have

"We could not disagree more strongly with the jury's conclusion that our subsidiary, USIM, or Thomas Haughey infringed Graham's copyright."

David L. Eslick
USI Holdings Corp.

interpreted that to mean that the copyright owner must show a connection between the infringement and a particular pool of revenue received by the infringer, he explained.

In this case, the damages, or pool of revenues, are "indirect" because neither Graham nor USI sold the insurance documents or the proposals made from the documents, Mr. Wolfsohn said. Instead, the documents were used to generate pro-

posals that, in turn, helped convince customers to use the brokerage's services.

In attempting to limit damages, USI had to demonstrate that it would have made all of that revenue even if it hadn't infringed, Mr. Wolfsohn said. "The jury apparently felt that USI met its burden of proof with respect to about 30% of the revenue we identified, but... concluded that it did not meet its burden of proof with respect to 70% of the revenue."

Of the \$31 million pool of revenues the jury used to allocate damages, 25% was taken out for expenses.

Mr. Wolfsohn said he is unaware of any copyright "verdicts involving insurance-related materials and certainly nothing of this order of magnitude."

He also said he's unaware of any "indirect profit" copyright case where "the judgment was for more than a few hundred thousand dollars."

USI said it intends to file a motion with the court to set aside or significantly reduce the judgment. If the motion is denied, USI will appeal, the company said.

USI said it previously notified its insurers of the claim and that certain insurers have denied coverage, while others are evaluating their

positions. One insurer has provided "some coverage," USI said, not revealing the individual insurers.

If needed, USI said it would establish a contingency reserve that would be reflected in its second-quarter financial statement.

William A. Graham Co. vs. Thomas P. Haughey and USI MidAtlantic Inc.; United States District Court for the Eastern District of Pennsylvania; No. 05-612.

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WTC: Policyholders seek assurance from insurers

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Insurer defendants, though, "have persistently sought to shirk their contractual obligations" to pay claims to the Silverstein policyholders, the Port Authority and WTC Retail, according to the filing.

The insurers also have refused to assure the policyholders that obligations to pay claims will not be affected by agreements and transactions called for in the framework, the complaint states.

The defendants are Allianz Insurance Co., Industrial Risk Insurers, Travelers Indemnity Co., Royal Indemnity Co., Gulf Insurance Co., Zurich American Insurance Co. and Employers Insurance Co. of Wausau.

Policyholders are worried that insurers may balk on paying some replacement costs under the coverage by claiming that those costs under the rebuilding plan are not ones for which insurance was written.

IRI responded to a request from plaintiffs seeking assurances that coverage would be paid by stating that, "should the Port Authority's interest under the conceptual framework differ 'from its interest that was insured,' IRI's obligation to provide replacement costs would cease," the complaint states.

A spokeswoman for Swiss Reinsurance Co., which owns IRI's parent, GE Insurance Solutions, said, however, that IRI "believes the conceptual framework does not affect its obligations and is committed to honoring its contract" written for

Will they pay?

WTC policyholders are suing:

- Allianz Insurance Co.
- Industrial Risk Insurers
- Travelers Indemnity Co.
- Royal Indemnity Co.
- Gulf Insurance Co.
- Zurich American Insurance Co.
- Employers Insurance Co. of Wausau

coverage on the World Trade Center.

Allianz, Royal, Travelers and Gulf Insurance have said the framework "may" extinguish their obligation to provide some replacement costs, and Employers and Zurich did not respond to the plaintiffs' request for assurances that claims would be paid, according to the complaint.

A spokeswoman for St. Paul Travelers Cos. Inc. would not comment on allegations contained in the litigation, but said the insurer "remains committed to funding the rebuilding" under the terms of its policy written to cover the World Trade Center. She said the insurer has agreed to meet with New York Mayor Michael Bloomberg, New Jersey Gov. George E. Pataki, New Jersey Gov. Jon Corzine and U.S. Sen. Charles E. Schumer, D-N.Y., after those officials contacted the insurer regarding the rebuilding.

Travelers Indemnity, now a part of St. Paul Travelers, wrote \$210.6

million in property insurance, and St. Paul Cos. Inc. provided property limits of \$30 million on the World Trade Center for the Silverstein entities, the Port Authority, WTC Retail and affiliates of those companies, according to an exhibit in the complaint.

Allianz issued a statement calling the suit "unnecessary because it selectively addresses only one of many issues between the parties. This one issue and many others are already part of a comprehensive federal lawsuit that has been actively proceeding for nearly five years."

Allianz wrote \$354.7 million in property coverage for the World Trade Center policyholder plaintiffs, according to the complaint filed last week.

The insurer, the spokeswoman said, is "eager for a judicial resolution" that will determine how much of a maximum \$4.68 billion award, which a federal court determined to be owed to Silverstein Properties, is to be paid under the terms and conditions of insurance contracts. (BI, Dec. 13, 2004)

Silverstein Properties and defendant insurers have asked a federal appeals court to overturn portions of the split-jury verdicts awarding the \$4.68 billion. Neither side was happy with the decisions, one of which found that the insurers were liable for just one occurrence limit and another in the second phase of the trial that concluded nine of the insurers were liable for two occurrences (BI, March 13).

Late News

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in the comparable period in 2005, according to the estimates by the Jersey City, N.J.-based Insurance Services Office and the Des Plaines, Ill.-based Property Casualty Insurers Assn. of America. Insurers' after-tax net income fell 3.8% to \$16.7 billion, though, due chiefly to lower investment income and higher federal income tax, the report notes. Net earned premiums for the quarter rose 2.6% to \$106.6 billion.

HCC to buy medical stop-loss insurer

HCC Insurance Holdings Inc. said it will acquire Novia Underwriters Inc. for an undisclosed amount.

Indianapolis-based Novia is an underwriting manager specializing in medical stop-loss insurance, currently writing about \$20 million in premiums. HCC, an international insurance holding company based in Houston, already writes more than \$500 million of medical stop-loss insurance through its HCC Life Insurance Co. and Perico Life Insurance Co. subsidiaries.

More big employers offer partner benefits

Slightly more than half of Fortune 500 companies now offer domestic partner health insurance benefits, according to the Human Rights Campaign Foundation. As of June 1, 253, or 51%, of the Fortune 500 companies provided benefits to employees' same-sex domestic partners, according to "The State of the Workplace for Gay, Lesbian, Bisexual and Transgender Americans 2005-2006" report released last week. In addition, 86% of Fortune 500 companies now include sexual orientation in their nondiscrimination policies. Eighty-one Fortune 500 companies now include the terms "gender identity" and/or "gender expression" in their nondiscrimination statements—10 times the number that had such policies in 2001, the report found.

Heart attack from stress compensable: Conn. court

The Connecticut Appellate Court has ruled that a school superintendent's fatal heart attack during a stressful school board meeting is compensable even though he had prior medical conditions. The decision in *Chesler vs. City of Derby et al.* upholds a similar June 2004 finding by a workers compensation commissioner and a subsequent ruling by a state review board that awarded death benefits to the widow of Nathan Chesler. The appeals court found that a fatal heart attack is a physical injury and that state workers comp statutes do not preclude compensation for stress-induced physical injuries.

Consumer-driven plan use growing: Survey

About 28% of employers currently offer a consumer-driven health plan to their employees, up from 22% last

year, according to a study of 434 employers conducted by Chicago-based Aon Consulting and the Brookfield, Wis.-based International Society of Certified Employee Benefit Specialists. Forty-eight percent of respondents said they were offering a CDHP to foster consumerism, while 38% cited a desire to control rising health care costs. About 39% of all surveyed employers said they believe a CDHP will be successful in controlling employers' health care costs in five years, while 30% believe it will fail to do so, the study found. Of those employers that offer CDHPs, about 43% offer a health reimbursement account, 48% offer a health savings account and 10% offer both. Of the employers offering an HSA, 62% make contributions.

Defined benefit plan terminations increase

The number of the nation's largest employers that are terminating or freezing pension plans has increased substantially since 2004, according to a recent analysis of Fortune 1000 companies by Arlington, Va.-based Watson Wyatt Worldwide. Watson Wyatt found that of the 627 defined benefit plan sponsors, 113 had at least one frozen or terminated plan or had announced plans to freeze or terminate a plan as of April 2006, compared with 71 in 2004. In addition, 49 of the plan sponsors had closed their defined benefit plans to new hires or announced such an intention, up from 25 in 2004.

Briefly noted

Marsh Inc. is combining its Asia and Pacific operations in a move to streamline service to clients in that region. Marsh's strategy in Asia is based on acquisitions, gaining new business and growing its middle-market client base, the company said in the statement....**Mark Ricciardelli**, chief executive officer of **Alea Group Holdings (Bermuda) Ltd.**, which is in runoff, will leave the company at the end of August to "pursue other interests," the company said. Mr. Ricciardelli will be replaced by Mark Cloutier, who most recently was president and CEO of Overseas Partners Re Ltd., also of Hamilton, Bermuda....**Health care costs** for the average family of four enrolled in a typical employer-sponsored preferred provider organization plan grew 9.6% from 2005 to 2006 to a national average of \$13,382, a report from Milliman Inc. has found. This year's increase follows four previous years of increases averaging 9.7%, according to the "Milliman Medical Index 2006."

At BusinessInsurance.com

New Online Poll: How many brokers do you use to place your insurance coverage: one, two, more than two or zero.

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.

Energy: AIG and ACE create energy divisions

Continued from page 3

York-based AIG and C.V. Starr, however, have had a contentious relationship since early 2005, when Maurice R. Greenberg was ousted as AIG's longtime chairman and chief executive. Mr. Greenberg is chairman of C.V. Starr & Co.

Over the past several months, AIG and the C.V. Starr agencies have severed their ties, and the agencies have entered underwriting contracts with other insurers, in-

cluding ACE Ltd., Berkshire Hathaway Inc., Chubb Corp. and Everest National Insurance Co.

In another energy market development, Philadelphia-based ACE USA has set up ACE USA Custom Casualty Energy to offer primary general liability, primary commercial automobile, lead umbrella and pollution liability programs to energy-related risks.

The new unit is marketing the coverages to oil and gas lease opera-

tors, well-servicing contractors, drilling contractors, alternative energy producers, utilities, mining companies and other energy risks.

Primary general liability limits of \$2 million per occurrence with a \$4 million aggregate are available. The new unit has up to \$25 million in lead umbrella liability capacity, ACE USA said in a statement.

Senior Editor Michael Bradford contributed to this article.

BI Stock Index [6/26 - 6/30]

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
2848.96



Dow Jones
11150.22



S&P 500
1270.19



Largest gains

Baldwin & Lyons	11.60%
Harleysville Group	9.87%
CNA Surety Corp.	9.71%
Navigators Group	8.22%
AXA	7.55%

Largest losses

NYMAGIC Inc.	-6.26%
Aetna Inc.	-2.54%
Axis Capital	-2.05%
Gallagher & Co.	-1.67%
Willis Group Holdings	-0.99%

Weekly change by market segment

Brokers	1.32%
Insurers/Reinsurers	3.02%
Managed Care Organizations	1.24%

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

IS RISK SNEAKING UP ON YOU?



Recent natural catastrophes and the unpredictable U.S. liability system have many rethinking insurance program limits. Yet, many companies buy the same amount of insurance year after year, leaving assets dangerously exposed. To be sure you are adequately insured, talk to your carrier and broker. Understand the full extent of your risk. Then, find the limits and lines of coverage you need at Lexington. We offer everything from catastrophe property and terrorism insurance, to excess casualty, employment practices liability, and medical malpractice coverage. And we have financial stability, capacity and claims expertise to give you peace of mind, even as exposures rise.

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