Business Insurance®

June 12, 2006 www.businessinsurance.com $5

Late News

Court upholds ruling in Disney lawsuit

The Delaware Supreme Court found Thursday that awarding a $130 million severance package to former Walt Disney Co. President Michael Ovitz was a rational business decision made by the company's directors. The unanimous ruling by the court upholds a Chancery Court finding in August 2005. Both courts found that former Disney Chief Executive Michael Eisner and other directors for Burbank, Calif.-based Disney did not breach their fiduciary duty, as shareholders claimed. Risk managers and underwriters followed the derivative shareholder lawsuit for its potential impact on directors and officers liability coverage. The lawsuit had the potential to dwarf sums typically paid out in derivative lawsuits.

Ex-PartnerRe chief joins XL board

Former PartnerRe Ltd. head Herbert Haag has joined the board of directors of XL Capital Ltd. Mr. Haag has roughly four decades of insurance industry

See **LATE NEWS** / page 39

Inside

SCORING COVERAGE

Insurance will protect against World Cup risks.

PAGE 3

ON DEFENSE

WTC leaseholder loses legal cost coverage bid.

PAGE 3

Alexander Forbes looks to go private

South African brokerage changes CEO, global plans

By SARAH VEYSEY

JOHANNESBURG, South Africa—Alexander Forbes Group Ltd. announced a slew of changes last week, including a possible sale and a change in leadership at the world's ninth largest insurance brokerage.

In addition to a possible change in ownership of the main Johannesburg, South Africa-based operations, the brokerage is considering taking a separate outside investment in its London-based international unit, Alexander Forbes revealed.

The new capital in the international unit would be used to expand the operations and recruit additional teams of brokers, the brokerage said.

Observers say the moves could fuel expansion at the brokerage, which has seen sluggish growth recently.

Alexander Forbes announced to the South African Stock Exchange last week that it had "received a number of unsolicited approaches about the possibility of concluding a transaction with the company."

As a result, it has appointed investment bank J.P. Morgan Equities Ltd. as an adviser, and that "following these approaches, the company has commenced discussions with private equity partners regarding a potential transaction to acquire 100% of the company," the statement said. It did not disclose who the potential buyers were.

See **FORBES** / page 38

Calif. decision lowers disability standard

Ruling erodes bias defense

By ROBERTO CENICEROS

LOS ANGELES—Injured employees are entitled to accommodations at work even if they are not formally disabled, a California appeals court ruled.

As a result of the ruling, employers in California face a new liability and more restricted options when defending discrimination cases, observers say.

The June 2 ruling in *Charles Gelfo vs. Lockheed Martin Corp.* by the Second Appellate District Court in Los Angeles will impact workers compensation, disability and health issues for employers in the state, observers say.

It is the first decision by a state appeals court in California that addresses whether, under state law, employees "regarded as" disabled by employers are entitled to reasonable accommodations in the same way as workers that are "actually disabled" as defined by California's Fair Employment and Housing Act.

Federal appeals courts nationwide have split on whether the federal Americans with Disabilities Act protects workers regarded as disabled. The U.S. Court of Appeals for the Ninth Circuit in San Francisco, for example, has previously ruled

See **DISABLED** / page 38

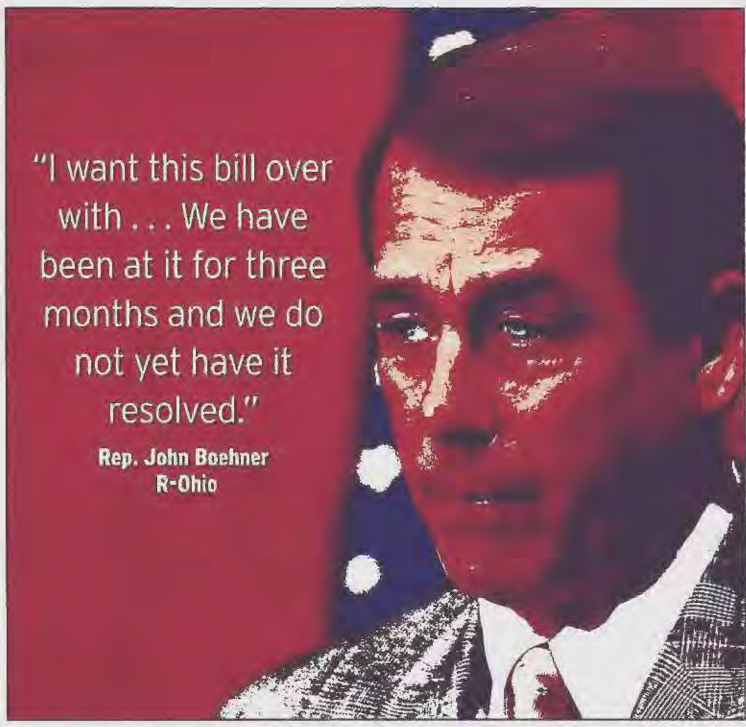


PHOTO: DENNIS BRACK/BLOOMBERG NEWS/LANDOV

Pension reform talks make little headway on sticking points

By JERRY GEISEL

WASHINGTON—As the legislative clock continues to tick, pension funding reform legislation conferees have yet to make any meaningful progress in agreeing on a final compromise bill.

Washington observers say conferees have yet to reach a decision on a single major issue, opening up new questions on when and perhaps whether there will be agreement on a final bill.

"They haven't made any big decisions. There really is not much negotiating going on," said Bill Sweetnam, a principal with The Groom Law Group in Washington and the former benefits tax counsel at the U.S. Treasury Department.

Republican and Democratic members of the conference committee, which is trying to reconcile a pension funding reform bill passed by the House last year with a different measure approved by the Senate, are publicly expressing their frustration at the slow pace of negotiations.

"I want this bill over with," House Majority Leader John Boehner, R-Ohio, said last week. "We have been at it for three months and we do not yet have it resolved."

Sen. Barbara Mikulski, D-Md., said the lack of progress "is unacceptable. Since the conference formally convened, there have been only a few initial meetings of all conferees," she said. "We must immediately have substantial negotiations among all conferees."

Washington observers say, nearly all the discussions about a compromise bill have been at the staff, not member level. And the staffers still, by and large, are working on the same issues that include whether employers with underfunded plans and subpar credit ratings should have to kick in extra contributions to their plans and how much credit—as an offset against future contribu-

See **PENSIONS** / page 39

NEWSPAPER

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

01

SPOTLIGHT

CATASTROPHE RISK MANAGEMENT

Quake-proof buildings; lessons from Katrina.

PAGE 13

RANKING

Largest property loss control consultants

PAGE 18

Inside

House panel mulls ways to limit silica claim abuses

Validity of mass tort screenings called into question at hearing.
Page 4

Louisiana commissioner urges claims extension

Proposal would give property owners two years to challenge rejected claims.
Page 4

Gov. should check facts before attacking HSAs

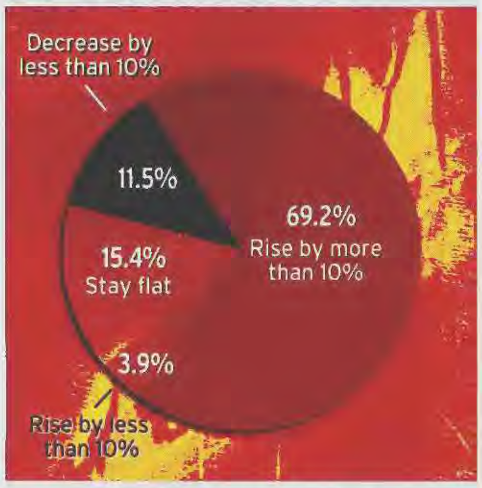
Wisconsin's governor's statements misguided, an editorial says.
Page 8

Equitas increases reserves for asbestos, pollution

Latest fiscal year sees increase in claims disputes, reinsurer says.
Page 33

Online poll - [6/5 - 6/9]

At your midyear renewal, do you expect your property insurance rates to:



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

Departments

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

Business Insurance (ISSN 0007-6864) Vol. 40, No. 24, 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.

World Cup kicks off in Germany

Host of coverages in place for month-long tournament

By MICHAEL BRADFORD

MUNICH, Germany—As 32 nations battle for the 2006 FIFA World Cup trophy in 12 stadiums throughout Germany, insurers are making sure that organizers and others associated with the event are not big losers off the field.

The world soccer championship, held every four years, began June 9 in the Allianz Arena—called FIFA World Cup Stadium Munich during the tournament—in Fröttmaning, Germany, just outside Munich. The tournament runs until July 9, when the final match is played in Berlin's Olympic Stadium.

Insurance is in place to cover a number of World Cup risks, including cancellation of the final competition due to terrorism or a natural catastrophe.

Much of the coverage for Zurich, Switzerland-based World Cup promoter Fédération Internationale de Football Assn., the German Organizing Committee and others associated with the tournament is written by Hamburg-Mannheimer Sports GmbH, a Hamburg, Germany-based underwriting agency unit of Hamburg-Mannheimer Sachversicherungs-A.G.

Although Hamburg-Mannheimer Sports was named the official insurer of the World Cup, giving it exclusivity in providing insurance to the German Organizing Committee, it worked with Erwin Himmelseher Assekuranz-Vermittlung

See **WORLD CUP** / page 36

Celebrity gala canceled to preserve grass **PAGE 36**

Disability policy backs some players **PAGE 36**

Organizers downplay safety worries **PAGE 37**


PHOTO: REUTERS/DYLAN MARTINEZ/LANDOV

Germany's Torsten Frings scores in the first match of the World Cup.

Asbestos reform plan raises concerns about fiscal, legal challenges

By MARK A. HOFMANN

WASHINGTON—A proposed $140 billion national trust fund that would replace the current litigation-based system for compensating victims of asbestos-related disease would face both significant solvency issues as well as legal challenges if it ever becomes reality, according to experts who testified before the U.S. Senate Judiciary Committee last week.


PHOTO: SCOTT J. FERRELL

Mr. Holtz-Eakin

In fact, the fund likely would face the same challenges the Pension Benefit Guaranty Corp. does today, said Douglas Holtz-Eakin during the hearing on the revised Fairness in Asbestos Injury Resolution Act of 2006, S.3274. The asbestos trust fund would be paid for by private sources, with defendant companies being responsible for $90 billion of the ultimate payout and their insurers for slightly more than $46 billion, with the remainder coming from existing asbestos injury trust funds.

But Mr. Holtz-Eakin, a former director of the Congressional Budget Office who is now a director of the Council on Foreign Relations in Washington, noted that the PBGC also is supposed to be supported solely by private funds, but the private funding has fallen short, leading to the need for federal funding. The PBGC's shortfall currently stands at about $23 billion.

See **ASBESTOS** / page 37

Silverstein GL insurers excluded defense costs

By DOUGLAS McLEOD

NEW YORK—A large part of a $1 billion general liability insurance program placed for World Trade Center leaseholder Silverstein Properties Inc. provides no defense cost coverage for injury and death claims stemming from the Sept. 11, 2001, terrorist attacks, a New York federal judge has ruled.

U.S. District Judge Alvin K. Hellerstein ruled Thursday that all but one of the 14 insurers providing the first $467 million of the program's limit excluded defense cost coverage in binders or policies issued before terrorists flew two hijacked jets into the WTC's twin towers.

Silverstein will appeal the ruling, a spokesman for the developer said. The spokesman added that Silverstein remains a defendant in only a "handful" of wrongful death cases related to the WTC terror attacks.

The federal September 11th Victim Compensation Fund of 2001 covered the majority of claimants, distributing more than $7 billion to survivors of 2,880 people killed and 2,680 people injured in the attacks or in ensuing rescue efforts. Claimants receiving compensation from the fund agreed not to pursue lawsuits for damages.

Silverstein also has been dismissed as a defendant in many remaining cases in settlements with other defendants, including airlines, a person familiar with the cases said. Silverstein remains a defendant, though, in several thousand cases alleging respiratory injuries resulting from the attacks. Silverstein's defense in these cases is covered under a separate pollution liability program led by an American International Group Inc. unit and is not affected by Judge Hellerstein's ruling last week, the person said.

A spokesman for Zurich American Insurance Co., which wrote Silverstein's primary and umbrella GL coverage and won its summary judgment motion on the defense cost issue, said the insurer is "very gratified" by the judge's decision.

Royal Indemnity Co., a unit of London-based Royal & SunAlliance Insurance Group P.L.C., was the only insurer found not to have excluded defense coverage. A Royal spokesman said the ruling is being reviewed and declined comment.

Silverstein's GL program—like the $3.55 billion WTC property insurance program that has been the subject of separate litigation—was not finalized at the time of the terrorist attacks.

Working through broker Willis Group Holdings Ltd., Silverstein had secured $1 billion in general liability coverage before closing its WTC lease deal with the complex's owner, the Port Authority of New York and New Jersey, in the summer of 2001. Several of the GL insurers had issued only binders as of Sept. 11, 2001, while others had issued final policies.

The program included a primary

See **WTC** / page 38

Louisiana seeks extension for Katrina claims

Insurance chief says claimants need more time

By MICHAEL BRADFORD

NEW ORLEANS—Louisiana property owners may have more time to settle claims from Hurricanes Katrina and Rita before resorting to legal action if insurers agree to an advisory issued by the state's insurance commissioner.

Louisiana Commissioner of Insurance James J. Donelon said in his June 5 advisory that while "the vast majority of homeowners policies" written in the state limit a policyholder's right to file suit challenging a claim to a period of 12 months, the "unprecedented number of claims generated" by the two storms make that deadline impractical.

The commissioner urged admitted and surplus lines insurers to extend the deadline to file a lawsuit to two years, saying in the advisory that adherence to a 12-month period "will hinder the legitimate efforts of the insurer and insured to work toward an amicable settlement of all aspects of the claims adjustment and resolution process with regard to their claims."

As insurers contemplate whether to give policyholders more time to negotiate their claims, they are facing a number of claims already filed in courts in Gulf Coast states. Many of the suits challenge the legality of insurers' denial of claims based on flood exclusions.

While those suits focus on the wind and water issue as it applies to homeowners claims, experts say the cases could influence settlement of some commercial claims. "I do think there are potential implications from these cases on commercial claims that policyholders or insurers will have to deal with," said John N. Ellison, a policyholder attorney with the New York-based law firm Anderson Kill & Olick P.C.

The flooding in New Orleans that resulted from the failure of the Mississippi River levee system could give rise to commercial insurance disputes, Mr. Ellison noted. "I think in the unique circumstances in New

See KATRINA / page 35

Louisiana Commissioner of Insurance James J. Donelon is urging insurers to extend the deadline for settling claims related to Hurricane Katrina.

Supreme Court limits free speech protections for public employees

By JUDY GREENWALD

WASHINGTON—A U.S. Supreme Court ruling that public employees who make statements as part of their official duties are not protected by the First Amendment should make it easier for public sector employees to discipline employees, experts say.

And while the 5-4 ruling in *Garcetti vs. Ceballos* has no bearing on private employers or on whistleblower statutes, it does give some indication on how the Supreme Court may rule on future cases involving employee dismissals, they say.

The court ruled May 30 in a case brought by Richard Ceballos, a deputy district attorney in the Los Angeles County District Attorney's office, who concluded that an affidavit police used to obtain a search warrant made serious misrepresentations.

He relayed his finding to his supervisors and followed up with a memorandum. Supervisors and, later, a district court rejected his assertions and allowed the search warrant to stand. Mr. Ceballos later was transferred to another post. He claimed the action was retaliatory and violated his First Amendment right of free speech and 14th Amendment right to due process.

The 9th U.S. Circuit Court of Appeals ruled that actions taken against Mr. Ceballos violated his First Amendment rights, but the U.S. Supreme Court disagreed. "We hold that when public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer disci-

See RULING / page 35

Outlook 'stable' for P/C insurers

Pricing discipline, solid results help industry

By RUPAL PAREKH

NEW YORK—Ratings outlooks for both the commercial property/casualty insurance and global reinsurance industries are currently stable, analysts from Standard & Poor's Corp. said last week.

The analysts, who were speaking during S&P's annual insurance industry conference, held June 5-6 in New York, made their comments as part of a panel discussion that reviewed the rating agency's outlooks for various insurance sectors.

According to John Iten, a director at S&P, the outlook for commercial lines—which has remained stable since June 2005—is based on several factors at play among property/casualty insurers, including: generally strong pricing discipline; a continuation of solid underwriting results; strong capital adequacy; and few material reserve strengthening charges.

Mr. Iten noted that over the past several years there generally has been a shrinking number of ratings downgrades of U.S. commercial insurers. So far in 2006, three companies have been downgraded by S&P. Four were subject to downgrades last year, and seven were downgraded in 2004.

Additionally, the number of insurers that have been given ratings with a "positive outlook" by S&P has increased from 8% last year to 13% this year. "We would expect that 13% to grow this year," Mr. Iten said.

Another positive sign, he said, is that regulatory investigations into bid-rigging and market conduct practices appear to be winding down.

"This issue by the end of this year should be pretty much behind us," Mr. Iten said.

And while one particular case remains unresolved—the filing of separate lawsuits by attorneys general in New York and Connecticut against Boston-based Liberty Mutual Group over alleged bid-rigging and steering—neither a court decision nor settlement likely will impact Liberty's ratings, Mr. Iten said.

See S&P / page 6

House panel mulls changes to stop alleged silica scams

By MARK A. HOFMANN

WASHINGTON—A U.S. House panel may consider legislation that addresses problems with mass tort screenings for silica-related disease.

State efforts to rein in abuses of mass health screenings met with some skepticism last week as the House Energy & Commerce Committee's Subcommittee on Oversight and Investigations held the third of a series of hearings on the issue. As Rep. Marsha Blackburn, R-Tenn., put it, "if the state licensure boards" and ethics panels had aggressively pursued questionable practices, "we would not be here." Rep. Blackburn said the situation may merit setting federal standards for silicosis screening.

The controversy over mass tort screenings gained national attention last year when U.S. District Court Judge Janis Graham Jack of the Southern District of Texas issued an opinion calling thousands of silicosis diagnoses fraudulent and said they were more about litigation than health care. In some cases, the screening companies hired by law firms had no medical directors on staff and were operating without state regulatory ap-

"We have heard some remarkable testimony," that included testimony from a doctor who said that he "never meant to diagnose anyone and, in fact, did not know the criteria for diagnosing silicosis."

Rep. Ed Whitfield
R-Ky

See SILICA / page 37

SOME SAY A STORM MIGHT RETURN.

SOME SAY THE TOURISTS WILL RETURN.

WE SAY BOOK NOW.

We don't back down from risk, we embrace it. We insure paradise. We insure Property. Contact John Gallagher at 215-640-4626 or visit us at acelimited.com for more information on Global Insurance and Reinsurance.

ace group

INSURING PROGRESS℠

S&P: Insurer, reinsurer rating outlook stable

Continued from page 4

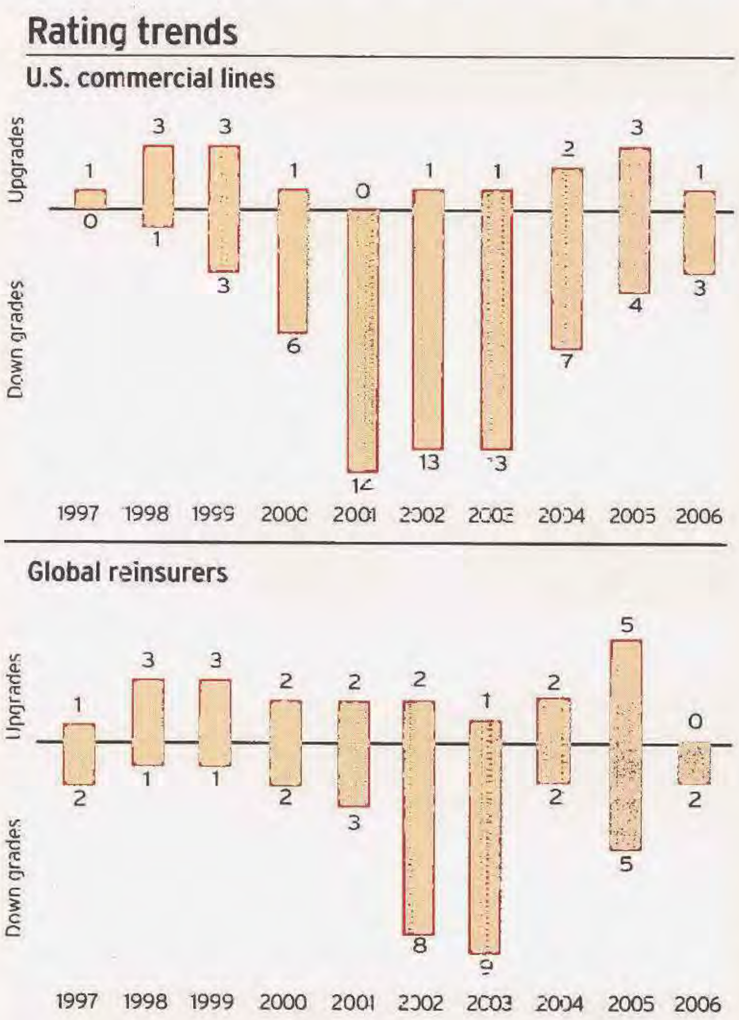
Despite all the good news for the sector, one area of concern remains: terrorism risk, Mr. Iten said. While the rating agency is confident that insurers are capable of absorbing losses from attacks using conventional weapons, S&P views the lack of a long-term insurance solution for so-called "NBCR" events—or nuclear, biological, chemical and radiological events risks—as a threat to insurers' solvency.

Although the federal terrorism insurance backstop was renewed in December for two years, that provision will expire at year-end 2007, with no foreseeable private sector alternatives, Mr. Iten said. Going into 2007 the lack of progress towards a permanent solution will be a negative ratings driver, "particularly for companies with exposures they can't mitigate very well...especially in the workers (compensation) area," he said.

Ratings are now also in the stable range for global reinsurance industry, up a notch from the negative ratings outlook the sector had until this past April, said Laline Carvalho, also a director at S&P.

Among the positive factors influencing the upgraded outlook, Ms. Carvalho noted, are: the emergence of profits from the hard market; moderating reserve strengthening trends; and continuation of a strong pricing environment. S&P downgraded five reinsurers in 2005 and has downgraded two so far in 2006.

Still, the global reinsurance industry is in the midst of a significant period of change, Ms. Carvalho said, as it grapples with unprecedented losses stemming from natural catastrophes and increased competition from the so-called "Class of 2005 reinsurers" in Bermuda and alternative insurance vehicles such as catastrophe bonds and sidecar arrangements.



Source: Standard & Poors Corp.

Top financial ratings not always necessary

Cedents who refuse to place business with reinsurers rated below A- are following a long-used "market convention" but would be well advised to consider other factors, says a rating agency director.

There is a perception in the marketplace that losing an A- rating is the equivalent of a "kiss of death," said Laline Carvalho, a director with New York-based Standard & Poor's Corp. But, there is only a "marginal difference" between the default rate of reinsurers that are rated A- and those that are rated BBB, Ms. Carvalho noted.

According to S&P, 72% of U.S. reinsurers currently are rated in the A range while 28% are rated BBB or lower.

Ms. Carvalho made her comments at S&P's insurance conference in New York last week as part of a panel discussion titled, "Reinsurance: Different Perspectives."

Jacques Aigrain, chief executive officer of Swiss Reinsurance Co.; Edward J. Noonan, chairman and CEO of Validus Reinsurance Ltd.; and Brian O'Hara, president and CEO of XL Capital Ltd., also participated in panel.

Furthermore, she said, it is problematic that many cedents are reluctant to purchase coverage from any reinsurer with a B-grade rating, because each rating agency assesses and assigns ratings differently.

"From our perspective, BBB should be an acceptable security," Ms. Carvalho said.

—By Rupal Parekh

S&P insurance conference draws record attendance

More than 600 industry executives packed into New York's Grand Hyatt hotel June 5-6 for Standard & Poor's Corp.'s annual insurance conference, marking a record attendance for the event.

The theme of the conference was "Rethinking Risk." Sessions consisted mostly of presentations by S&P analysts and interactive discussions with chief executives of several major companies, such as: American International Group Inc., Arch Capital Group Ltd., AXA Financial Inc., Liberty Mutual Group, Validus Reinsurance Ltd. and XL Capital Ltd.

Kathleen Corbett, president of New York-based Standard & Poor's, and Ernest Csiszar, president and chief executive officer of the Des Plaines, Ill.-based Property Casualty Insurers Assn. of America, each delivered keynote luncheon speeches during the event. For more information about the conference, go to *www.events.standardandpoors.com/insurance*.

BI adds staffer

CHICAGO—*Business Insurance* has taken on a new staffer in its editorial department in Chicago, with Charmain Benton joining the magazine as a copy editor.

Ms. Benton previously held editing positions at sister publications published by Crain Communications Inc., *BI*'s parent, and most recently has been a writer for United Press International, covering a wide variety of news stories for the wire service.

Ms. Benton

Prior to UPI, Ms. Benton was a copy editor at Advertising Age and before that served as managing editor of Business Marketing, a business-to-business publication now known as BtoB. Both Advertising Age and BtoB are published by Crain Communications.

Ms. Benton also served as news editor and afternoon anchor of radio stations WRMN and WJKL in Elgin, Ill., and was news and public affairs director at radio stations WMRO and WAUR in Aurora, Ill.

She has a bachelor of science degree in journalism from Northern Illinois University in DeKalb, Ill., along with minors in political science and speech.

Ms. Benton can be reached at 312-649-5262 or by e-mail at *cbenton@businessinsurance.com*.

Editorial

Wisconsin official misguided in broad dismissal of HSAs

BEFORE WISCONSIN Gov. Jim Doyle attacks health savings accounts again, we would advise him to consider some basic facts about HSAs.

Assertions Gov. Doyle made in a statement accompanying his recent veto of legislation that would have conformed state law to federal law so that Wisconsin residents could deduct from their Wisconsin taxable income contributions made to HSAs are flat-out wrong and must be challenged.

In that statement, Gov. Doyle said the tax breaks, which most other states provide, would cost Wisconsin millions of dollars in lost tax revenue "but wouldn't help a single Wisconsin family get health insurance."

Additionally, Gov. Doyle wrote, HSAs are "a windfall for wealthy and healthy individuals, but lower and middle-income families would still be struggling to find affordable insurance."

To that we say, "What?" HSAs don't benefit even one Wisconsin family? HSAs don't help lower-income families obtain affordable insurance?

The facts suggest otherwise. A comprehensive survey by the trade group America's Health Insurance Plans of the more than 3 million people covered by HSAs found, for example, that in the personal lines market, 31% of new enrollees in HSAs were previously uninsured, while in the small group market, 33% of enrollees worked for companies that did not previously offer health insurance coverage.

Surely, some of those HSA enrollees who now have health insurance coverage are Wisconsin residents and the availability of HSAs deserves at least some of the credit for removing those individuals from the ranks of the uninsured.

To describe, as Gov. Doyle has, HSAs as a windfall for the rich is hyperbole. Typically, an HSA contribution is going to reduce an individual's federal tax liability by a few hundred dollars a year, not exactly a windfall.

As for Gov. Doyle's assertion that HSAs don't help lower-income families obtain affordable health insurance, he should know that HSAs, because they are linked to high-deductible health insurance plans, cost a lot less than more traditional plans. That lower cost, we remind Gov. Doyle, does make the coverage more affordable for all employees.

We would be the first to say that HSAs are hardly a panacea for curing all that is wrong with the nation's health care system. They don't address, for example, the difficulty most consumers continue to face in obtaining provider cost and quality information before they undergo medical procedures.

But we do believe, more than any other design, they do encourage employees to use health care services more carefully and that Gov. Doyle needs to be told they are in everyone's best interests.

Silica fraud warrants action

IS SILICA THE NEXT asbestos?

We certainly hope not. But there's some reason to fear that silica exposure could become the source of the same type of lawsuit tsunami that arose from asbestos exposure, leading to legal actions of dubious provenance and sometimes outright fraud.

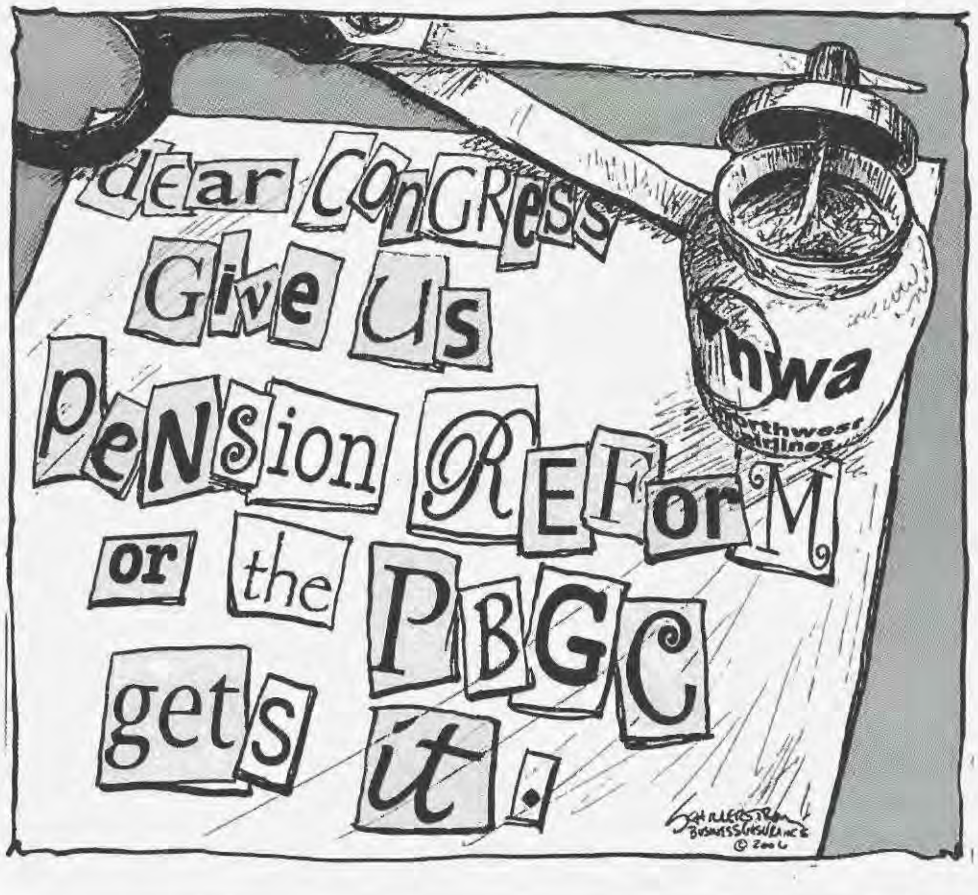
Fortunately, as we report on Page 4, a congressional panel has been investigating questionable mass tort screenings for silica injury, and has come up with some interesting findings, many of which appear to involve outright fraud. That's hardly surprising in light of U.S. District Court Judge Janis Graham Jack's 2005 decision remanding thousands of silica injury cases to lower courts after discovering widespread abuse and fraud in silica screening operations that appeared to be designed solely to generate litigation.

That such fraud could occur indicates that state medical licensing boards and ethics panels simply weren't doing their jobs. Witnesses at last week's hearing said that they'd been cracking down on unscrupulous screeners and promised to continue to do so.

That's good news, even if it is a bit late. But those regulators and overseers need to be held to their word. Continued congressional oversight is a must. And legislative action is justified when the screening abuses cross state lines.

One litigation crisis is enough, and every reasonable step should be taken to assure that the nascent silica litigation mess isn't allowed to grow into another full-blown litigation crisis.

Schillerstrom



Letters

Risk management needs cohesive strategy

To the editor: In his Emerging Risk Strategies column, "Try a Two-Executive Approach to ERM," in the May 15 issue of *Business Insurance* (also at *www.BusinessInsurance.com/EmergingRiskStrategies*), John J. Hampton suggests not two but three "risk officers": a chief strategy officer for broad strategic issues; a financial chief risk officer for portfolio risk, compliance and data security; and a nonfinancial CRO for insurance, culture, governance and ethical issues.

This suggestion is a distinct regression! It moves counter to the need in most organizations of a single focal point (not a "manager," I note) through which all forms of risk may be analyzed together. Mr. Hampton actually suggests that we return to the ineffective and outmoded "silo" approach to risk management. For more intelligent management of all the uncertainties we face, we must have a shared common view of both strategic and long-term and tactical and short-term issues. Anything less is counter-productive.

Felix Kloman
Risk Management Reports
Lyme, Conn.

Write Us

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

Business Insurance

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

Associate Publisher/Editorial Director: Paul D. Winston (*Chicago*)
Editor: Regis J. Coccia (*Chicago*)
Editor-at-Large: Jerry Geisel (*Washington*)
Managing Editor: Gavin Souter (*Chicago*)
Assistant Managing Editor - Graphics: Kathy L. Barnes (*Chicago*)
News Editor: Matt Scroggins (*Chicago*)
Senior Editors: Michael Bradford (*New Orleans*); Roberto Ceniceros (*Los Angeles*); Meg Fletcher, A.R.M. (*Chicago*); Judy Greenwald (*San Jose*); Mark A. Hofmann (*Washington*); Dave Lenckus (*Tucson*); Douglas McLeod (*New York*); Sally Roberts (*Denver*); Joanne Wojcik (*Denver*); Rodd Zolkos–*Industry Focus* (*Chicago*)
Bureau Chief: Sarah Veysey (*London*)
Associate Editors: Gloria Gonzalez (*New York*); Rupal Parekh (*New York*)
Correspondents: Carolyn Aldred (*England*); Elizabeth Fry (*Australia*)
Deputy Graphics Editor: William Murphy (*Chicago*)
Copy Editors: Charmain Benton (*Chicago*); Joe Walker (*Chicago*)
Assistant Copy Editor: Carrie A. Peinado (*Chicago*)
Directory Editor: Kevin P. Edison (*Chicago*)
Research Editor: Karen Brown Tucker (*Chicago*)
Online Editor: Kathy Downing (*Chicago*)
Online Producer: Amy R. Curtis (*Olathe*)
Editorial Cartoonist: Roger Schillerstrom (*Chicago*)

Advertising Director: Kenneth F. Luker Jr. (*New York*)
Director - Business Development : Robert L. Niesse (*Chicago*)
District Managers: Ron Kolgraf (*Boston*); William J. McGuire (Chicago); Robert B. Murray (*New York*); John L. Phillips (*Chicago*)
Classified Advertising Manager: Tina Vasilakis (*Chicago*)
Assistant to the Publisher: Pat Ghazvini (*New York*)
Advertising Traffic: Monique Murray (*New York*)
Production Manager: J. Thomas Janka (*Chicago*)

Circulation Manager: John Azua (*New York*)
Circulation Coordinator: Craig Bowman (*Detroit*)

Director of Communications: Ronnie I. Drachman (*New York*)
Promotion Manager: Michael Ambrosio (*New York*)
Promotion Coordinator: Barbara O'Brien (*New York*)

EDITORIAL: Chicago: 312-649-5200; Denver: 303-282-4260; London: 44-207-457-1400; Los Angeles: 323-370-2455; New Orleans: 985-871-1090; New York: 212-210-0100; San Jose: 408-774-1500; Tucson: 520-579-1937; Washington: 202-662-7200

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

SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by Crain Communications Inc.

Chairman: Keith E. Crain
President: Rance Crain
Secretary: Merrilee Crain
Treasurer: Mary Kay Crain
Executive Vice President/Operations: William A. Morrow
Senior Vice President/Group Publisher: Gloria Scoby
Group Vice President/Technology, Circulation, Manufacturing: Robert C. Adams
Vice President/Production & Manufacturing: Dave Kamis
Crain's Corporate Circulation Director: Patrick Sheposh

G.D. Crain Jr. Founder (1885-1973)
Mrs. G.D. Crain Jr. Chairman (1911-1996)
S.R. Bernstein Chairman-executive committee (1907-1993)

Published weekly at 360 N. Michigan Ave., Chicago, Ill. 60601-3806, Fax: 312-280-3174, *biweb@crain.com*. Offices: 711 Third Ave., New York, N.Y. 10017-5806, Fax: 212-210-0704; 71121 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. 48013. Microfiche copies: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For reprints or reprint permission: Reprint Management Services, 1808 Colonial Village Lane; Lancaster, PA 17601; 800-290-5460, ext. 160; *BusinessInsurance@reprintbuyer.com*.

To subscribe, call 888-446-1422,or 313-446-0450 outside the U.S.
www.businessinsurance.com

BPA WORLDWIDE
AMERICAN BUSINESS MEDIA

We want you to know

Aetna Health Connections℠

A new way to bring it all together for better health.

Now Aetna introduces a new approach to medical management that can help people achieve their optimal health. Aetna Health Connections integrates clinical data and programs across Medical, Dental, Pharmacy, Behavioral Health and Disability insurance plans to provide a picture of every member's overall medical condition. With our holistic approach, doctors and nurse case managers have the data they need to help patients achieve better outcomes, and make earlier interventions when appropriate. To find out more, call your broker or consultant, Aetna representative, or visit aetna.com.

We want you to know®

Aetna®

Health
Dental
Pharmacy
Behavioral Health
Long Term Care
Disability
Life

Finding ways to insure the uninsurable

Lateral thinking needed to cover the toughest risks

By Andrew Beazley

Two atrocious U.S. hurricane seasons and continuing evidence of global political instability mean that the specter of "uninsurability" has arisen with increasing frequency in the minds of risk managers.

The large-scale catastrophe exposures—terrorism, flood and windstorm—that have generated most column inches in the pages of *Business Insurance* are, of course, critically important. But this specter casts a much longer shadow.

In my experience, the problem often relates to more mundane risks that the market, sometimes unreasonably, has concluded are inherently unattractive. They can be risks common to an industry or profession, or risks that bear uniquely on a particular firm. One historic example from the former category is tax indemnities protecting law firms or their clients against an Internal Revenue Service challenge to the expected tax status of a transaction. Such risks, which undoubtedly require careful case-by-case underwriting, were once generally deemed uninsurable. Now there is a small but vibrant market among specialist insurers willing to write them.

How should risk managers respond to the challenge of allegedly uninsurable risk? Brokers' advice can obviously prove invaluable, but risk managers should also do their own homework. The insurers' marketing rhetoric may fudge the issue, but in reality there is a pretty clear divide between insurers that are willing to think laterally and partner with clients and brokers to find answers to the toughest risks, and those that aren't. The two camps can be distinguished by the talents and resources of individual underwriters, but also by the constraints that the insurers' management imposes upon the underwriters' entrepreneurial freedom.

"Entrepreneurial" is a word that is almost guaranteed to raise a cheer in the United States and, I am glad to say, increasingly in the United Kingdom as well. It is, therefore, all the more important to understand precisely what it means in the insurance context.

An entrepreneurial insurer is one that does not make fear of failure its guiding principle. It hires smart underwriters who know their business, and it gives them the freedom to fail, without which there can be no corresponding freedom to succeed. It does not allow them to risk the ranch of course, but it will let them risk an outhouse or two.

In addition to promoting entrepreneurial freedom, insurers of the toughest risks often seek opportunity through applying a principle long familiar to successful investors: counter-cyclicality. When the market flees from a risk or category of risk, they take a closer look.

By definition, not everyone can be counter-cyclical. To succeed, either as a counter-cyclical investor or underwriter, you need confidence in your judgment and insights. Take professional indemnity insurance. Between 2001 and 2003, most insurers worldwide were in full-scale retreat from U.S. professional indemnity insurance. Claims experience, fueled by the exposures of auditors and other professionals to a string of corporate scandals, looked highly alarming. Extrapolation from this experience suggested that the prudent course was to withdraw.

A few insurers took a different view and substantially increased their professional indemnity books during these years. Our view was that the sector's problems were narrowly concentrated in a few firms and that most firms continued to present quite reasonable risks.

Don't get me wrong. There are still bad risks out there, plenty of them. But their unattractiveness stems most often from the way they are worded, not the underlying hazard. The obvious and most celebrated example is long-tail liability risks underwritten on an occurrence basis, which have driven many insurers and reinsurers into runoff. But when written on a claims-made basis, these risks can make good sense for both parties.

Sometimes the terms that the client seeks are precisely the terms that a prudent underwriter would never offer. But more often a meeting of the minds is possible. Insurance is sometimes portrayed as a zero-sum game in which either gullible underwriters lose out to canny brokers or canny underwriters ensnare unsuspecting brokers and their clients. This portrayal is not merely a caricature, it is fundamentally inaccurate. Insurance is not a zero-sum game. It is—or should be—a mutually beneficial arrangement in which two parties with different levels of risk tolerance strike a deal that meets their respective needs.

The broker's role in arranging such deals is, of course, central. But all intermediaries perform best when they are acting on behalf of well-informed principals. That is why I believe it is critical for risk managers to look beyond company ratings to explore the culture and philosophy that determines their insurers' risk appetite. Is your insurer truly entrepreneurial? Is it there for the long haul? Are your underwriters both expert and empowered? Do they give straight answers to tough questions? Test them. You will often find that risks that are reputedly uninsurable need not be so.

Andrew Beazley is the London-based chief executive officer of Beazley Group P.L.C. and president of Beazley Insurance Co. Inc.

Join discussion of issues in *BI*'s Community Forums

Readers are invited to take advantage of a new online feature that allows risk and benefits management professionals to connect and exchange information at *www.BusinessInsurance.com*.

The Community Forums is an easy-to-use discussion board that enables the readers of *Business Insurance* to ask questions, exchange ideas and voice opinions on a wide variety of topics.

The Community Forums discussion board offers several topic-focused categories, including:

- **Risk Managers Forum**. A forum for risk managers to exchange ideas and ask questions of peers on various risk management issues, concerns and trends.
- **Benefits Managers Forum**. A forum for exchanging ideas and asking questions related to general employee benefits management issues, concerns and trends.
- **In the News.** For every news article in *Business Insurance*, there is an angle for the buyer of risk and benefits management services. This forum is intended for the *BI.com* community to express its opinions and comments about current issues and news stories.
- **Industry Focus Forum**. Discuss insurance industry issues, ranging from industry probes, to mergers and acquisitions, to quality improvement. Industry participants are invited to offer their views on these and other topics for buyers.
- **The Lighter Side**. Share your stories of risk and benefits management success, as well as your tales of business bloopers and blunders.
- **General Forum**. Discuss general insurance market issues and conditions, risk or benefits management trends, current events and developments and other topics.

Visit *www.BusinessInsurance.com* today and click on the Community Forums link.

A simple free registration to create a user ID is all you need to join this online community and begin exchanging information, discussing ideas and commenting on the news of the day.

How to submit articles to *BI*'s Perspectives

Business Insurance accepts articles from experts in commercial insurance, risk management and employee benefits management for publication in its Perspectives section.

The section is intended to be a forum for readers' opinions and a forum for the discussion of technical topics that do not lend themselves to a news story. Therefore, Perspectives articles should take a point of view, offer advice and/or explain a technical subject.

They should not present case studies or promotional information.

All articles for the Perspectives page should address the concerns of the corporate buyer of insurance; i.e., the risk management or employee benefits manager. Material written for only the concerns of brokers or underwriters is not appropriate.

To submit an article for the Perspective section:

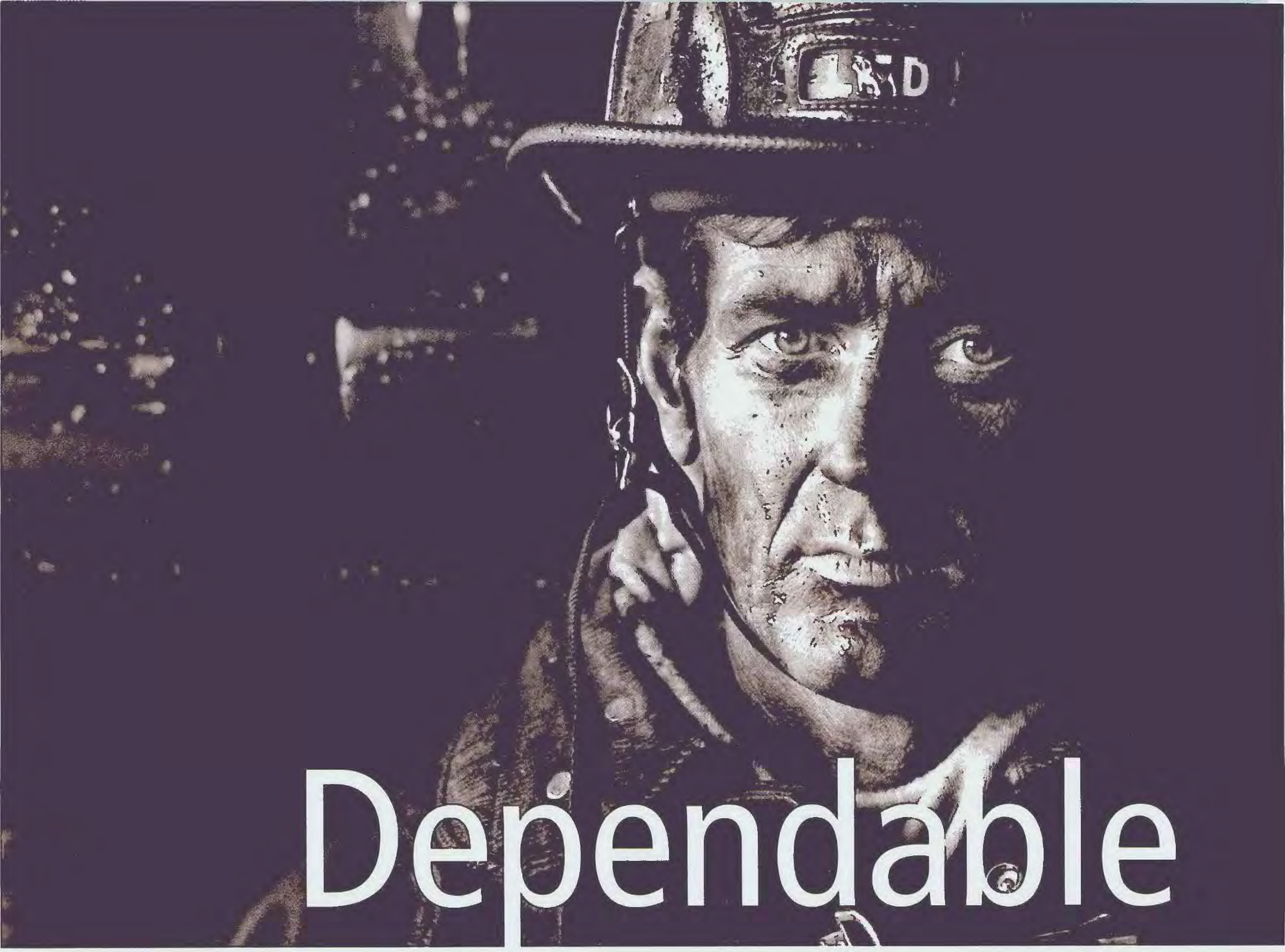
- Send us a letter describing the topic you would like to address. You might want to suggest alternative topics. For each topic, briefly describe what you want to say and accomplish in the article.
- You will receive from us an acceptance or declination of your article idea.
- If accepted, we will respond with comments and request the full article, which generally should be 800-900 words in length.
- All articles are to be accompanied by color photograph of the author and a brief biography.
- We will notify you of any questions we have about your article or any substantial editing we think is necessary.

All authors must assign the copyright on the article to *Business Insurance*.

Because of the volume of Perspective submissions we receive, we cannot guarantee a date on which an article will appear.

For the same reason, we will not run more than one article in a calendar year from the same author.

To submit a Perspective article query or for more information, send a note to *biweb@crain.com*.



When you're in a tough situation, you need someone you can count on unconditionally to be there for you.

Fireman's Fund recognizes that dependability is the foundation for trust among our agents, our policyholders and our employees. That's why we focus on building strong, long-term partnerships with the best agents in the industry.

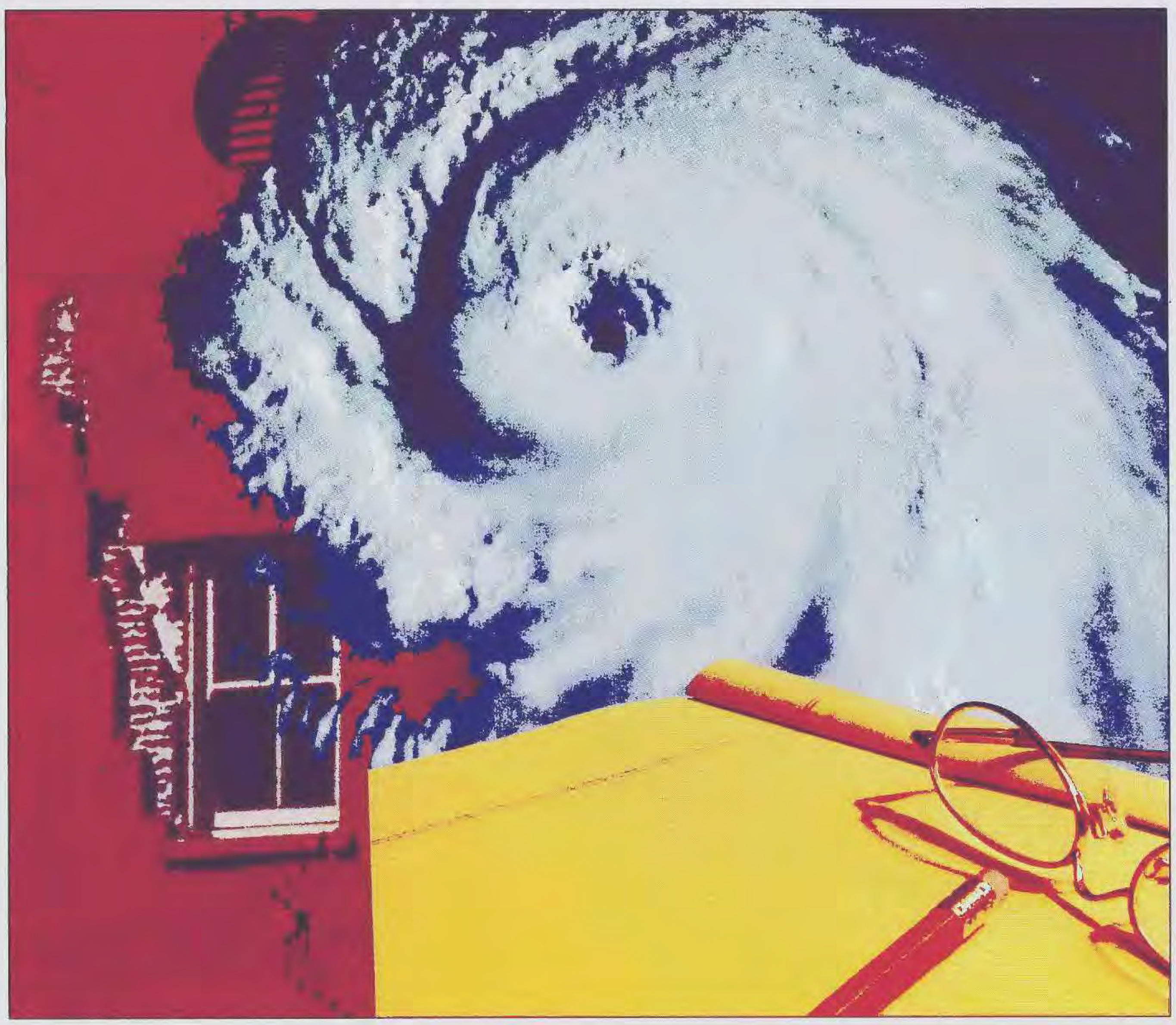
Our superior service and risk expertise help you deliver value beyond a standard policy. Plus, you can earn grants for life-saving equipment needed by fire departments in the communities you serve – the first responders we all depend on.

Fireman's Fund contributes a portion of profits to support firefighters for safer communities. For more information, visit www.firemansfund.com.

Fireman's Fund®

A company of Allianz

Spotlight CATASTROPHE RISK MANAGEMENT



Quake resistant buildings improve safety, cut premiums

By SALLY ROBERTS

In today's tight commercial earthquake insurance market, having a seismically safe building could be the difference between obtaining adequate coverage and no coverage at all.

Building owners that commit to implementing earthquake mitigation efforts, such as building retrofits, are being rewarded by underwriters, market experts say. But they need to do a better job of communicating information about their retrofits and other building characteristics to obtain the best terms and conditions, several underwriters point out.

And it's not just the integrity of the building that underwriters want to know about. They also want to see that other mitigation efforts have been implemented such as seismic bracing of automatic sprinkler systems and seismic gas shut-off valves, experts say.

"You can't foresee an earthquake," said Danette Jones, a vp of Aon Construction Services Group in Los Angeles. "In the true sense of the word, it is an accident. At some point in time it could happen 10 times in one year or one time in a 100 years, we just don't know, we're not that good yet in knowing when that's going to happen."

"It's what can we do to make sure we lessen the impact of the claims that actually occur," Ms. Jones said. "And one of those is earthquake retrofitting to make sure the sway of the building will flex in certain types of earthquakes so the building doesn't come crumbling down and the actual dollar amount is less than a

See RETROFITTING / page 20

Katrina reveals coverage holes, need to set plans well in advance

By MARK A. HOFMANN

Risk managers say the past can be prologue when it comes to catastrophe planning, particularly when most forecasters are predicting another unusually active hurricane season.

With catastrophe management plans undergoing constant review and revision, no detail is too small to avoid consideration. The process can include "hardening" facilities, enhancing communications networks to ensuring backup power sources are available, and bringing operations back online as soon as possible following a catastrophe, among other things.

Sometimes, an expenditure of just a few cents can reap dollars in benefits, some experts say.

"We went through Hurricane Andrew in 1992 and at the time had about a $95 million loss," said Scott Clark, risk and benefits officer for Miami-Dade County Public Schools in Miami. "Since that time, we have been continuing to try to fine-tune our hurricane-preparedness activities."

> "We went through Hurricane Andrew in 1992 and at the time had about a $95 million loss.... Since that time, we have been continuing to try to fine-tune our hurricane-preparedness activities."
>
> **Scott Clark**
> **Miami-Dade County Public Schools**

A key part of this year's planning is filling in blanks that were uncovered in last year's storms, say risk managers.

For example, Mr. Clark said the school system has better organized its debris removal process. He said the system has advance contracts in place for removing debris, and is working on getting more pre-catastrophe contracts signed.

Getting contracts and reconstruction materials in place long before a catastrophe is key, said Steve Sachs, senior vp and managing director of Hilb Rogal & Hobbs Co.'s national real estate practice in Columbia, Md. In a natural disaster—unlike a single event such as a building fire—resources and labor become scarce as demand increases, he said. Given that a hurricane could affect a

See HURRICANES / next page

Hurricane Wilma, which raked Florida, prompted organizations in the area to revise their crisis response plans.

Hurricanes: Small changes may avoid huge losses

Continued from previous page

wide area, risk managers would do well to have suppliers of rebuilding basics, such as roofing materials, signed up outside the hurricane zone, Mr. Sachs said.

Lance Ewing, vp-risk management in Memphis, Tenn., for Harrah's Entertainment Inc., said the Las Vegas-based company realized after Hurricane Katrina ravaged Harrah's Gulf Coast casinos that it had "to back up our backup supplies" for building materials such as plywood.

"We had to get drywall from as far away as Memphis in order to help us with remediation because our supplier in Alabama was just as adversely affected by the storm," he said.

Simple things can make a big difference, said Mike Burke, vp and manager of catastrophe exposures at Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global.

After Katrina, FM Global conducted its normal post-event survey of policyholders, said Mr. Burke. The survey of 476 locations found that 310 had followed the insurer's loss control recommendations completely but the other 166 had not, he said.

Those that completely followed the recommendations sustained losses of 34 cents per $100 of total insured value, said Mr. Burke. The others suffered losses of $2.34 per $100 of insured value, he said.

"Three out of four recommendations (are) for more screws" to better fasten building components, said Mr. Burke.

Other aspects of preparation are similarly basic, noted Stan Smith, vp-risk management and security at Boyd Gaming Corp. in Las Vegas, which operates a riverboat casino in Kenner, La., and a racetrack casino in Vinton, La. "We have more equipment," such as sleeping bags and battery-operated lanterns, "ready to roll," he said.

For the Miami-Dade schools, the issue of fuel logistics was "horrendous" after Hurricane Wilma, Mr. Clark said. The fuel was available in storage tanks, but the lack of power meant it couldn't be pumped into vehicles. The school system now makes sure it has emergency generators in place at every fueling station so trucks and school buses can continue to roll, he said.

> "Unless and until we have an assessment of our employees' circumstances, we can't help respond and relieve some of the suffering that's going on."
>
> **John Phelps**
> **Blue Cross & Blue Shield of Florida**

Another area that's undergoing upgrading in preparation for this year's hurricane season is the broad area of communications.

Eileen Gardner, risk manager for Brunswick County, N.C., in Bolivia, N.C., said Randy Thompson, the county's emergency management director, has "secured satellite backup communications" systems that allow the transfer of voice, data and images during a catastrophe.

The county has also put in place a Web tool that allows real-time communications on a secure Web site, which includes a geographic mapping system tool "that allows us to hone in directly to where the blocked roads are," she said.

John Phelps, director-risk management at Blue Cross & Blue Shield of Florida in Jacksonville, Fla., said the company is trying to "better understand the personal situation of our employees in the affected areas and to do it faster. Unless and until we have an assessment of our employees' circumstances, we can't help respond and relieve some of the suffering that's going on. Having a system to better collect that information is essential," he said.

The Blues are taking two approaches to the issue, he said. One approach is to use a manual system in which employees in unaffected areas receives calls from and offer

See **HURRICANES** / page 16

Harrah's Entertainment Inc.'s Lake Charles, La., casino sustained significant damage from Hurricane Rita.

Hurricanes: Crisis planning overhauled in wake of storms

Continued from page 14

assistance to their colleagues in the hurricane zone. The other—and the Blues have already bought the equipment—is to set up an automated system in which employees could provide information, such as their whereabouts, by pushing buttons on the phone.

Boyd Gaming has distributed wallet cards with an emergency hotline telephone number in the event a property is closed to all employees, said Mr. Smith. Employees can call with their locations and receive information about benefits and other concerns, he said. The company currently has two rooms in its Las Vegas headquarters capable of functioning as two emergency operation centers at one location.

For the Miami-Dade schools, part of the communications challenge has been to identify exactly which employees constitute "essential personnel," who must report to duty, said Mr. Clark. He noted that schools function as hurricane shelters, and essential personnel must be on site not only to perform damage assessment but to manage the temporary shelters as well.

Mr. Phelps said the Blues are stressing individual employee responsibility for hurricane preparedness "more than we ever have." After Katrina, the Blues sent tractor trailers full of basic emergency needs to employees in affected areas, he said. That led to the conclusion "that our employees need to do a better job of preparedness" and stockpile essential supplies, he said.

However, even the best planning can't prevent all losses, particularly when a hurricane like Katrina is involved. Harrah's Mr. Ewing noted that in Mississippi, a change in law means that floating casinos—which were heavily damaged in last year's hurricane—can be rebuilt onshore.

"In the gaming industry, we were blessed in Mississippi because the legislature saw some light at the end of the tunnel and allowed us to build casinos on the land, because most of our land-based properties weathered the storm much better than the floating casinos that we had before," he said.

"As we begin to rebuild in the Mississippi area, our viewpoint is to try to work hand-in-hand with Mother Nature, although she tends to be more vengeful than we would like," Mr. Ewing said.

He said Harrah's is making architectural modifications in rebuilding, which should enable its properties to better withstand the brunt of storms.

"We're building to a larger category storm than we had before; if we had to build to a Category 3, we're now building to a Category 4," Mr. Ewing said. "In addition to that, we are also looking to where are our high-value exposures as it faces the storm, so therefore the parking garages will take more of the brunt of the storms than will the casinos, restaurants and entertainment facilities."

The Florida Blues also just finished building a new, hardened Tier 3 data facility just outside Jacksonville, said Mr. Phelps. "We have built it with the capability to provide a backup emergency management location" should it be necessary, he said.

A Tier 4 facility is the most hardened, and the new Blues facility incorporates some elements of Tier 4 construction, he said.

"For a risk manager, it's the best looking five acres of reinforced concrete you're ever going to see," Mr. Phelps said.

BI RANKING

Common consulting services

Most common services offered by property loss consultants

Services	Percentage of companies
Client training	100%
General onsite plan loss prevention inspections	100%
Risk and hazard analysis	100%
Building plan review	92.6%
Fire prevention inspections	92.6%
Hazard identification	92.6%

Source: BI Survey

Top 10 largest professional staff

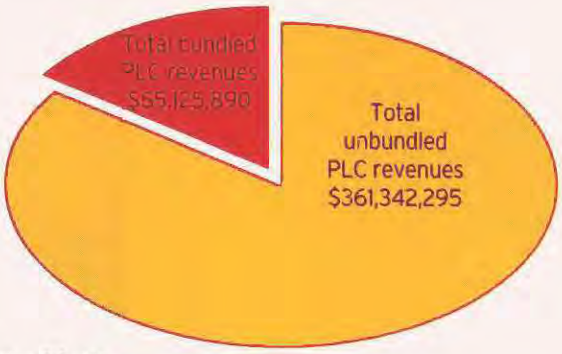
By number of professional property loss control staff

Company	Professional staff
ABS Consulting	516
Zurich Services Corp.	400
Marsh-Risk Consulting Practice	300
Arup	200 *
Global Risk Consultants Corp.	192
Hughes Associates Inc.	156
GE Global Asset Protection	120
TVA Fire & Life Safety Inc.	100
Gallagher Bassett Services Inc.	53
HSB Professional Loss Control	50

* Estimate
Source: BI Survey

Bundled vs. unbundled

Total property loss control revenues vs. total unbundled property loss control revenues.



Source: BI Survey

Largest property loss control specialists

Ranked by 2005 gross revenues from unbundled property loss control consulting[1]

Rank	Company/Address	Phone/Fax/Web site	Unbundled property loss control consulting revenue	% of total revenue from unbundled property loss control consulting services	Total staff	Professional property loss control staff	Branch offices	Unbundled clients	Principal officer
1	ABS Consulting 16800 Greenspoint Park Drive, Suite 300 S., Houston, Texas 77060-2393	281-673-2800 Fax: 281-673-2801 *www.absconsulting.com*	$104,900,000	78.9%	738	516	20	1,500	Tony Nassif, CEO
2	Global Risk Consultants Corp. 100 Walnut Ave., Fifth Floor, Clark, N.J. 07066	732-827-4400 Fax: 732-827-4490 *www.globalriskconsultants.com*	$43,360,753	100%	291	192	32	767	William F. Ramonas, chairman/CEO
3	GE Global Asset Protection 20 Security Drive, Avon, Conn. 06001	860-507-1506 Fax: 860-507-1510 *www.gegapservices.com*	$30,000,000	100%	130	120	11	300	Dan Eudy, president
4	Hughes Associates Inc. 3610 Commerce Drive, Suite 817, Baltimore, Md. 21227-1652	410-737-8677 Fax: 410-737-8688 *www.haifire.com*	$25,200,000	98.1%	174	156	31	600	Phil DiNenno, president
5	TVA Fire & Life Safety Inc. 9740 Scranton Road, Suite 300, San Diego, Calif. 92121	858-795-1000 Fax: 858-795-1001 *www.tvafiresafety.com*	$16,000,000	84.2%	160	100	11	72	James W. Tomes, CEO
6	HSB Professional Loss Control P.O. Box 585, Kingston, Tenn. 37763	865-376-1131 Fax: 865-376-5078 *www.hsbplc.com*	$7,700,000	96.3%	60	50	3	20	Michael E. Mowrer, executive vp
7	ACE USA Property Engineering 1601 Chestnut St., Philadelphia, Pa. 19106	215-640-1380 Fax: 215-640-4090 *www.aceapex.com, www.acelimited.com*	$6,700,000	100%	38	38	6	110	Michael Schmidt, vp
8	Matrix Risk Consultants Inc. 3130 S. Tech Blvd., Miamisburg, Ohio 45342	937-886-0000 Fax: 937-432-2099 *www.matrixrc.com*	$3,790,000	100%	24	16	1	23	Walter P. Luker, CEO
9	Risk Logic Inc. 93 Apple Ridge, Woodcliff Lake, N.J. 07677	201-930-0700 Fax: 201-930-8795 *www.risklogic.com*	$1,730,000	100%	8	7	4	54	John Durante, president
10	Fire Protection Solutions Inc. 668 N. Coast Highway, Suite 518, Laguna Beach, Calif. 92651	866-777-3473 Fax: 949-371-0103 *www.fpsolutions.org*	$926,842	100%	6	6	6	3	Steve Shabazian, president

1 Only those companies that derive a majority of their total revenues from unbundled property loss control consulting are ranked.
Source: BI survey

Visit *www.businessinsurance.com* for more information and to access the full searchable Directory of Property Loss Control Consultants. *Business Insurance* now offers the option to purchase the entire online directory as an Excel file or as a PDF.

The Loma Prieta earthquake in 1989 caused significant damage in San Francisco, including to this structure in Marina District. Implementing earthquake mitigation efforts can help protect against property damage.

Retrofitting: Safer buildings influence price and capacity

Continued from page 13

total loss."

Doing so not only helps protect human life, but also helps in the underwriting process.

"Retrofitting or constructing more earthquake-resistant buildings will help differentiate the insured in the marketplace," said Steven W. Sachs, senior vp and managing director of the national real estate practice for Hilb Rogal & Hobbs Co. in Columbia, Md. "You're competing for capacity and to the degree you make your case that you've hardened your buildings the more likely you are to gain capacity."

Just as importantly though, Mr. Sachs, said risk managers should look at expected losses within their own retentions and what impact a safer building will have on their own finances. "A lot of times the hardening of a building...is going to have more impact down in your deductible level then it is above it."

But for those seeking risk transfer, a more earthquake-friendly building will be rewarded, insurers say.

At Factory Mutual Insurance Co., for example, California earthquake capacity is based on the risk quality, which has two components in broad terms: the projected intensity of the site shaking and the expected performance of that individual risk, said Louis Jacobs, manager of earthquake underwriting and engineering for the Johnston, R.I.-based insurer, which does business as FM Global. "Based on those characteristics we will release capacity" and capacity "in an earthquake area tends to be the most important issue, even more important than price," he said.

"One of the tasks for underwriters is to accurately assess the construction and/or retrofitting of buildings so that the final premiums will reflect the expected performance of the building in an earthquake," said David Keeton, risk and product manager for extreme events for Swiss Re America in Armonk, N.Y.

"Knowledgeable underwriters are well aware that newer and retrofitted construction generally perform much better than older, non-retrofit buildings," he said. "This knowledge, in turn, generally translates to lower premiums charged for the same limits than if the same building were older or not yet retrofit."

Insurers point out, however, that in order for them to properly underwrite an earthquake risk they need more complete information from risk managers.

> "You're competing for capacity and to the degree you make your case that you've hardened your buildings the more likely you are to gain capacity."
>
> **Steven W. Sachs**
> **Hilb Rogal & Hobbs Co.**

Most of the data shared with insurers is primary characteristics like the date of construction, the number of stories, how many buildings and maybe the square footage, said Rich McElreath, a Pasadena, Calif.-based account manager with Industrial Risk Insurers, a unit of Kansas City, Mo.-based GE Insurance Solutions.

"There's a lot more that goes into the rating models that we don't get" and that can have a big impact on an insured's premiums, he said.

Such "secondary characteristics" as the quality of construction, structural upgrades, information about the building's foundation, exterior and shape and how the mechanical and electrical equipment is secured within the building, are often not shared by risk managers. And such information can have "a huge impact" on price and capacity, he said.

"We've been in a market in the past where capacity was not a huge issue where there was not a lot of demand," he said.

In today's market, where earthquake capacity has become scarce, the more information a policyholder shares with underwriters about

See RETROFITTING / page 22


Great partnerships help you explore new territory.
www.cna.com/agents

Retrofitting: Related risks also affect earthquake coverage terms

Continued from page 20

the integrity of the building, the better, Mr. McElreath said.

"Many times the information sent is not 100% complete and the information is what underwriters utilize to make the best underwriting decision possible," said George Stratts, a senior vp with Lexington Insurance Co. in Boston.

Even such basic information as occupancy figures, the year built, the type of construction and the number of stories, often is not shared in its entirety, Mr. Stratts said.

A lot gets down to engineering standards and building code standards, which is why the year the building was built or data on the retrofit is so important, he said. "That will tell you where the code is and where the building is relative to code."

"The more specific the information, the better equipped the underwriter is to assess the earthquake risk," he said.

But it's not just about having stronger buildings, experts say. Other risks associated with earthquakes like fire and content loss also will help in the underwriting.

The amount of shaking from an earthquake "will probably disrupt the content and create gas leaks before (it) will damage anything but the worst kind of structures," noted FM Global's Mr. Jacobs.

Fire is a critical part of underwriting, he said. "The terms of the policy typically put an insured at risk for a much greater potential of loss due to fire than to shake because of the way limits are placed on the quake portion." Because of that, "we concentrate quite a bit on that part of the package," Mr. Jacobs said.

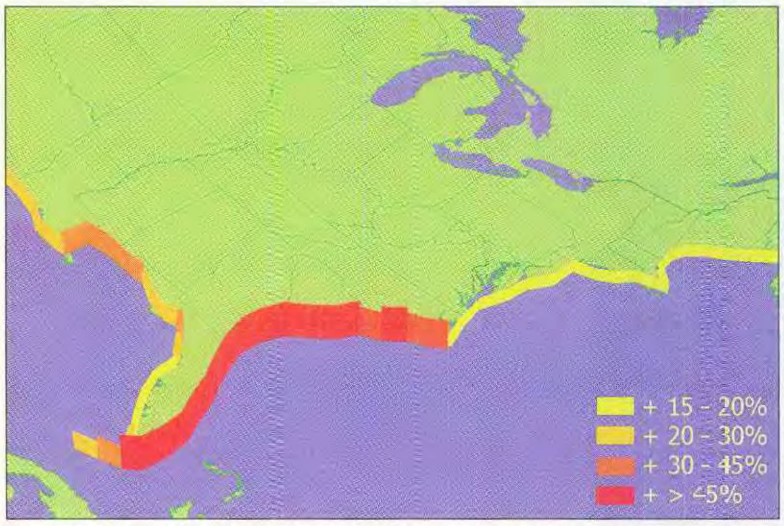
When seismic bracing of automatic sprinkler systems and automatic seismic gas shut-off valves are discovered at a site "we're able to provide additional capacity to our customers," he said.

In addition, risk managers can also anchor to the wall important contents like key production machinery and racks containing valuable product, Mr. Jacobs said.

"For the sake of some expansion bolts that may cost $1.50 each you can keep all these key contents in place" if an earthquake occurs Mr. Jacobs said.

While FM Global has yet to correlate such content loss mitigation efforts within its underwriting specifications, "we are going to be getting into that in the near future," he noted.

Catastrophe model changes tighten market for storm risks



Risk Management Solutions Inc.'s latest hurricane model predicts greater likelihood of Category 3 to 5 storms making landfall in the United States, compared with previous versions of its model.

By ROBERTO CENICEROS

Recent changes to catastrophe models are having a widespread impact on commercial insurers and their policyholders.

Significant adjustments, which became necessary after modelers underestimated losses from Hurricane Katrina, have resulted in increased rates and reduced capacity, as insurers incorporate increased loss projections into their underwriting procedures, several observers said.

The need to build reserves to handle higher maximum loss projections and satisfy rating agency concerns about capitalization have been driven by the catastrophe model changes, they say.

With models effectively determining underwriters' appetites, capacity for wind-exposed property coverage is significantly lower now than it was prior to last year's storm season, said Karen Temme, risk manager for the town of Palm Beach, Fla. Many risk managers in the public and private sectors are not finding the limits they were seeking as they renew their coverage this month, she said.

Similar factors also have tightened the market for earthquake coverage in California (*BI*, May 8).

Recently released versions of hurricane models engineered by Newark, Calif.-based Risk Management Solutions Inc. and Boston-based AIR Worldwide Corp. include adjustments to better account for loss severity driven by "building vulnerability" and by "demand surge."

The changes made by both modeling companies have raised average loss expectations significantly, said Ryan Ogaard, managing director and global leader of Guy Carpenter & Co. Inc.'s Instrat unit in Seattle, which holds licenses for the three main catastrophe models used in the insurance industry—RMS, AIR and Oakland, Calif.-based EQECAT Inc.

> "If (the modeling firms) admit they were wrong and grab the new data to get better and better over time, that is a good thing."
>
> **John DeMartini**
> **Towers Perrin**

The modeling firms said they found that buildings, particularly older commercial structures, were more vulnerable to storm losses than they had previously thought.

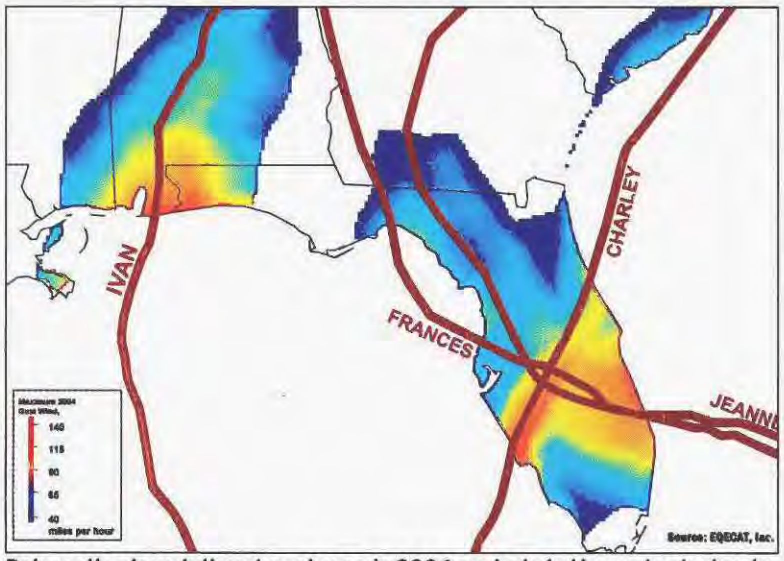
Demand surge refers to the impact of building material and labor cost inflation following a catastrophe. Demand surge, considered a loss amplification factor by modelers, also includes cost increases driven by evacuations or the chaos that prevents normal emergency and rebuilding responses following a "super catastrophe," such as Katrina.

Modelers say they continually learn from each catastrophe and Katrina, because of the event's magnitude, provided numerous lessons.

To improve the most recent version of its model, RMS incorporated available claims data for 2005, including information from still-open claims, along with engineering observations on the devastation that Katrina caused, said Paul VanderMarck, executive vp of products for RMS.

That information helped RMS conclude that losses stemming from demand surge following a large event will max out at 40% of

See MODELING / page 26



Data on the devastating storm losses in 2004 are included in most catastrophe models, but not all models include data from the 2005 storms.

Modeling: Companies incorporate data changes

Continued from page 24

property values rather than 25% as it previously assumed.

While each of the modeling companies has adjusted its products, all have taken different approaches.

For example, Tom Larsen, senior vp for EQECAT, said his company hasn't encountered "deficiencies" in its model's accounting for building vulnerability or demand surge.

EQECAT's current model relies on claims data from storms that occurred through the 2004 season, Mr. Larsen said. It does not include 2005 claims data. Additionally, gauging demand surge will require economic data related to Hurricane Katrina that is not yet available, he said.

EQECAT, however, this year has included new information on storm surge and flooding that its model previously did not contain, Mr. Larsen said.

RMS, meanwhile, announced that the latest version of its model incorporates a five-year, short-term, forward-looking view of hurricane activity to better forecast future hurricane frequency. Its new view is based on climate conditions such as higher sea-surface temperatures in the Atlantic.

RMS previously based its hurricane frequency estimates on a historical average that weighed more 100 years of storm activity. The company says, however, that it now believes increased sea-surface temperatures are likely to drive a 30% greater frequency of hurricanes making landfall in the United States during the next five years.

That "will increase modeled annualized insurance losses by 40% on average across the Gulf Coast, Florida and the Southeast," the company said in a statement when it announced the changes earlier this year.

GE Insurance Solutions of Kansas City, Mo., predicts that insurers relying on a short-term model view may need to apply price increases of about 30% to 70% to maintain their loss ratios at current levels, the company wrote in a recent publication, "Exposure Property and Engineering," on catastrophe exposures.

AIR says it believes that its standard model, based on more than 100 years of historical data rather than a short-term view, still provides the most credible results, said Jayanta Guin, the company's vp of research and modeling.

While recommending that clients use the standard historical model, the company also is making a version available that's based on near-term sea-surface temperatures.

Under AIR's standard U.S. hurricane model, insurer loss estimates will increase about 10% this year based on findings from the past two years, a company spokesman said. Additionally, the company said it believes that industrywide losses will continue to increase because of continued development in coastal areas and property value increases.

EQECAT, meanwhile, is "straddling" the historical outlook and its new near-term analysis, Mr. Larsen said.

There is not a single view of risk with which to manage a portfolio, said John DeMartini, catastrophe risk management leader for the reinsurance business of Towers Perrin in Stamford, Conn. Because it is impossible to predict which model is best, several insurers rely on more than one product to help them purchase reinsurance and report to rating agencies, he said.

Immediately following Hurricane Katrina, when it became obvious that modeling companies had underestimated the potential for insured losses, underwriters grew skeptical of modeling companies, said several sources including insurers and modelers.

But by readily admitting that they erred, making changes and explaining that environmental factors such as sea-surface temperatures may have greater impact than previously contemplated, modelers have won back trust from the industry, Guy Carpenter's Mr. Ogaard said.

"If they admit they were wrong and grab the new data to get better and better over time, that is a good thing," Mr. DeMartini said.

Additionally, some predictions went awry because, in some cases, insurers collected and added inaccurate data into the models, Mr. DeMartini said. In other cases, clients of the modeling firms didn't turn on all of the features that models make available to produce better analyses, Mr. Ogaard said.

Federal natural catastrophe backstop debate continues

Supporters say government action is needed to guard against potential financial disasters

By MEG FLETCHER

Efforts to create a federal backstop for natural catastrophes are gaining some momentum in the United States but those lobbying efforts are still a ways from reaching their goal, observers say.

While devastating storms that hit the Gulf Coast last year highlighted the huge hurricane exposure facing the country, there appears to be little political will to offer significant federal protection for natural catastrophes, they say.

In the insurance industry itself, a few major insurers, reinsurers and industry groups have taken firm positions either supporting or opposing the concept of a backstop for personal lines coverages. In addition, several other groups such as the New York-based Risk & Insurance Management Society Inc. and the National Assn. of Professional Insurance Agents say they are studying the issue.

Although the 2005 hurricanes caused mostly personal lines claims, the debate should be of "substantial" interest to large, commercial policyholders, said L. James Valverde Jr., director of economics and risk management at the New York-based Insurance Information Institute.

Commercial policyholders lost billions of dollars in property damage, especially in the offshore energy and marine sectors, Mr. Valverde said.

They also are bearing the brunt of the "very, very hard market" now for coastal risk, said Joel Wood, senior vp-government affairs for the Washington-based Council of Insurance Agents & Brokers.

"Finding a solution to the catastrophe insurance problem for personal lines may increase capacity for commercial policyholders," he said.

Commercial policyholders also face higher prices due to disruptions of supply chains and natural resources such as petroleum, Mr. Valverde said.

The major proponents of establishing a federal backstop program for natural catastrophe risks include Northbrook, Ill.-based Allstate Insurance Corp. and supporters of its ProtectingAmerica.org lobbying group, which operates a Web site with the same name. Bloomington, Ill.-based State Farm Insurance Co. is also a member of the organization. Other members include New York City, the Los Angeles Area Chamber of Commerce, AT&T Corp., EDS Corp. and several groups of emergency management officials, first responders, disaster relief experts as well as the Chicago-based National Assn. of Realtors.

Federal backstop proponents also include some insurance regulators from Florida and other catastrophe-exposed states who led efforts among members of the National Assn. of Insurance Commissioners to draft a catastrophe plan and resolution.

Those backstop supporters were joined late last month by U.S. Sens. Bill Nelson, D-Fla. and Mary Landrieu, D-La., who introduced a four-bill package to help prevent future devastation from natural disasters. Initially, they proposed Congress create a bipartisan commission of experts to recommend the best approach to addressing catastrophic risk insurance. Among the proposals the commission would analyze would be the senators' bills to create "a national backstop for state natural catastrophe insurance programs" as well as programs to change tax laws so property/casualty insurers could use pretax dollars to fund catastrophe reserves and consumers could use tax-free dollars to fund home-repair accounts.

Meanwhile, the major opponents of creating a federal backstop include industry trade groups such as the Washington-based Reinsurance Assn. of America, the Washington-based American Insurance Assn. and some individual insurers, such as Liberty Mutual

See BACKSTOP / page 30

European countries establish reserves for natural cat risks

By MEG FLETCHER

A government backstop for natural catastrophe risks may be a distant hope of some advocates in the United States, but governments in some European countries already offer some mechanism to help insurers fund cat losses.

In France, Spain and Switzerland, programs have been established to cover natural catastrophes. In addition, in those countries as well as Germany, Italy and the United Kingdom, insurers are allowed to establish tax-deductible reserves for certain catastrophes, according to a 2005 study by the U.S. Government Accountability Office that was co-authored by William B. Shear and Wesley M. Phillips.

In France, the national program, Catastrophes Naturelles, began in 1982 and covers perils that include floods, mudslides, landslides, drought, earthquakes, tidal waves and avalanches. Policyholders pay a premium surcharge set by the government. Insurers nearly always reinsure their natural catastrophe risks with the state-backed reinsurer.

Spain's program, Consorcio de Compensacion de Seguros, began in 1954 and covers some perils including earthquakes, tsunamis, "extraordinary" floods, volcanic eruptions, "unusual" cyclonic storms and meteorites. Policyholders pay a premium surcharge set by that state-run insurance entity, which insurers collect and transfer to the entity.

Switzerland's program is similar, although there is no explicit financial commitment from the government, the study said. Its Elementarschadenpool began in 1953 and covers high water, floods, windstorms, hail, avalanches, snow pressure, falling rock and landslides. Policyholders pay a premium surcharge set by the pool. Insurer members of the pool transfer catastrophe losses to the pool, which provides limited coverage based on the size of its insurer members.

The six studied countries for many years have allowed insurers to establish tax-deductible reserves to fund various types of natural perils. However, in the United States, "permitting tax-deductible reserves is controversial," Mr. Shear said in an interview.

The GAO report, "Catastrophe Risk: U.S. and European Approaches to Insure Natural Catastrophe and Terrorism Risks," GAO-05-199, is available at *www.gao.gov*.

Backstop: Discussion heats up over federal protection for natural catastrophes

Continued from page 28

Insurance Co. in Boston.

"Each of these viewpoints proceeds from a particular vantage point and set of beliefs about the role of government in managing and financing natural catastrophe risk," Mr. Valverde wrote in an analysis earlier this year.

Proponents are "those who believe that natural catastrophes are fundamentally uninsurable and the federal government should serve as the ultimate risk manager in these instances...since it is in the best position to mitigate large losses" in economically efficient ways, he wrote.

ProtectingAmerica.org urges "a comprehensive approach," like that proposed in H.R. 4366, which would create the Consumer HELP Fund, a national backstop created by insurers' premiums for state or regional catastrophe funds, said Edward Collins, the organization's national director and Allstate's managing counsel.

As proposed, the fund would pay claims only when a natural catastrophe exhausts the financial capacity of a state or regional fund. Such funds, however, would pay "actuarially sound" rates to a federal fund for the backstop protection, "which guarantees that catastrophe-prone states are not subsidized by other states," according to an explanation of the plan.

Kevin McCarty, Florida's commissioner of insurance regulation, is a strong proponent of the need for a federal backstop. "The current system of financing catastrophe losses after the fact is not working," he said in an e-mail comment. "We need a comprehensive federal solution that pre-funds catastrophic losses, not funding after the event using the federal deficit. The national plan would address not only the financial losses but also emergency response to catastrophes."

He and other regulators supported an NAIC resolution calling for creation of a national backstop as part of a comprehensive plan to cope with natural catastrophes.

Opponents of creating a national backstop "believe that the private sector and the free markets are in the best position to adjudicate and manage these risks for those who choose to insure privately," Mr. Valverde wrote. "According to this view, the solution to the insurance

> "I think we have to have another big natural disaster before we see the members of Congress look at fundamentally reshaping the system."
>
> **Joel Wood**
> **Council of Insurance Agents & Brokers**

dimension of this problem is not more government involvement and regulation, but rather, less. Relaxing regulatory constraints and stringent tax policies will, (opponents) argue, stimulate markets to craft creative solutions to the problem of 'who pays?' for mega-catastrophes," he said.

Frank Nutter, RAA president said: "We think the solution to catastrophe programs is regulatory recognition of the value of a competitive rating environment."

Florida drives this issue because it has a unique exposure to hurricanes as well as an extraordinary combination of high-value properties and an insurance market "that seems doomed to lose money," although recent legislative reforms might help that situation after they go into effect in 2007, he said.

"The problem with state funds and federal funds is that they tend to mask the need for rate adequacy," Mr. Nutter said. Congress sees them as a risk-transfer mechanism for otherwise profitable insurance companies and they are not inclined to provide relief, he added.

Eric Goldberg, AIA assistant general counsel, said: "The case hasn't been made that the private sector can't handle natural catastrophes." While the hurricane losses in 2004 and 2005 affected insurers' earnings, they did not affect their solvency, he said.

"We have doubts about any national fund developing actuarially sound rates for catastrophe insurance," he said. "Politics may prevent a fund from charging appropriate rates," Mr. Goldberg said. The resulting inadequate rates could result in other people who are not facing such risks subsidizing those who are, he added.

Speaking personally, the CIAB's Mr. Wood said too many reform proposals offer only "piecemeal" solutions rather than a national backstop program that is critically needed. While he usually does not support federal programs, "this is not a well-functioning marketplace."

Unfortunately, he said, "I think we will have to have another big natural disaster before we see the members of Congress look at fundamentally reshaping the system."

Sens. Nelson and Landrieu cited the need to "overcome a congressional unwillingness to act" as one of the reasons they introduced their bills.

Vote your choice for best companies

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 9 different categories relating to risk management and employee benefits. The winners will be announced and profiled in the Aug. 21 issue.

The categories are:

- Best employee benefit consulting firm
- Best managed health care organization.
- Best property/casualty reinsurer.
- Best reinsurance intermediary.
- Best surplus lines insurance company.
- Best insurance wholesaler.
- Best risk management consulting firm.
- Best employee assistance program provider.
- Best 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 in October.

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

This year, voters will have the opportunity to explain why they consider a company to be the best in its field. Voting for the 2006 Readers Choice Awards will again be confidential but must be completed by the end of Friday, July 28.

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

Soon, one publication will cover Europe like no other.

Business Insurance Europe begins regular publication 11th September after the Spring preview of this new, targeted business publication. Focusing on news, trends and issues important to risk management executives across Europe, **Business Insurance Europe** will champion the European corporate buyer's perspective with the same editorial integrity and vitality that **Business Insurance** offers its predominantly U.S. audience.

From Dublin to Moscow, and everywhere in between, our editors and correspondents will cover the key stories and the critical issues that directly affect European multinational companies and organizations.

Call now for details. **Business Insurance Europe** will unpack its regular biweekly publishing schedule beginning this September – it's a trip you won't want to miss!

Publishing — **11th September** • **Ad Close** — **30th August**

Editorial Feature — Reinsurance

Bonus Distribution — Monte Carlo Rendez-Vous • DVS Insurance Symposium • IRM Risk Forum

Contact Nick White, Associate Publisher/Advertising Director +44 1883 734785 or e-mail nwhite@crain.com.

Business Insurance
EUROPE™

Between the Lines

Compiled by Joanne Wojcik

Where are the peanuts and Cracker Jack?

A minor league baseball team in Pennsylvania is hosting a "Salute to Frivolous Lawsuit Night" next month to demonstrate its sentiment about a lawsuit filed by a Los Angeles Angels fan who did not receive a red nylon tote bag as part of the Angels' recent Mother's Day promotion.

To make sure men attending the Altoona Curve's July 2 game at Blair County, Pa., Ballpark don't feel they've been discriminated against, the AA ball club will give out pink tote bags to the first 137 male attendees who are 18 or older. The club also will serve lukewarm coffee to the first 137 women over the age of 18 "so they don't burn themselves." Each of the first 137 kids who enter the stands will receive a beach ball clearly labeled with a warning that it should not be ingested.

But why will only the first 137 fans in each category receive such trivial tokens?

"We chose the number 137 because it was as frivolous as the lawsuits themselves," explained Billy Harner, media relations manager for the Altoona Curve.

Meanwhile, Curve General Manager Todd Parnell acknowledges that the giveaways are "fairly stupid and serve no real purpose. But if our fans don't like them, they can sue us!"

Cabbie still waiting for accident to happen

The next time you're gripping the armrest in the back of a New York taxicab fearing for your life, think about Cliff Adler, who has been safely maneuvering through the Big Apple's crowded streets for more than 30 years.

To reward his exceptional driving skills, Allstate Insurance Co. on June 6 gave him a check for $2,500, which NASCAR driver Jerry Mayfield presented. The Northbrook, Ill.-based insurer also held a Bumper Car Derby for New Yorkers who stopped by the South Street Seaport on June 6 and 7. The Derby is an interactive driving experience where accidents are always forgiven and safe driving is prized.

The event promoted Allstate's new Your Choice Auto Insurance, which gives insurance buyers a choice among a variety of benefit and cost options, including additional good-driver discounts, accident forgiveness and expanded new-car replacement coverage.

Britons scan gossip columns for investment options

While many U.S. workers worry about whether buying their own company's stock is too risky for retirement investments, 29% of Britons say they might consider something even more risky—squirreling away some of their nest egg in celebrity memorabilia, among other things.

At a time when public confidence in traditional pension investments has been tainted by concerns over market volatility and corporate fraud, interest in certain unconventional alternatives is growing, according to Chicago-based Aon Consulting, which recently polled U.K. residents on the subject.

Real estate and timeshare properties were the most popular, favored by 58% of the 1,680 British adults Aon interviewed. Other appealing options included classic cars and even evergreen forests, which 34% of respondents said they would consider. Still others said they would entertain the possibility of investing some of their pension money in antiques and vintage wine.

But Ian Dearnley, an Aon client relationship director in London, offers this bit of advice to investors considering such non-traditional investments: "The average U.K. investor should be wary of directing too many funds towards the latest investment craze of buying signed photos of today's hottest celebrity or relying on a dusty bottle of Bordeaux to appreciate in value."

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

COMINGS & GOINGS - INDUSTRY

Brokers:

Irvine, Calif.-based Countrywide Insurance Services Inc. has promoted **David Kuhn** to managing director of the commercial lines brokerage business. Previously, he was president.

Mr. Kuhn

Elizabeth Edelman has been named general counsel for Atlanta-based Swett & Crawford Group. Previously, she was general counsel, vp and corporate secretary for RBC Centura Bank.

New York-based Willis Group Holdings Ltd. has named **Thomas V. Ealy** as director of client advocacy for North America. Before his promotion, he was managing partner and chief executive officer of the Chicago office and regional partner for Chicago and Milwaukee.

Michael Liss will succeed Mr. Ealy as regional partner. Previously, he was Atlanta branch manager for Wachovia Insurance Services.

London-based Marsh Ltd. has appointed **Jeremy Cooke** managing director and senior adviser. Previously, he was chief executive of wholesale broking in Marsh Inc.'s underwriting management group.

New York-based Mercator Risk Services has appointed **Michael Connelly** as senior vp and manager of the Midwest casualty practice. Before joining Mercator, he was vp of American Wholesale Insurance Group.

Sean Sullivan has been named principal in the property practice of Integro Ltd. in San Francisco. Previously, he was a vp of the national property practice of Hilb Rogal & Hobbs Co.

Insurers:

Tom Warthen has been named senior vp and chief actuary for Rockhill Insurance Co. Before joining Rockhill, he was chief actuary for RLI Corp.

Eugene B. Kelly has been named senior vp, eastern division, for Wausau Insurance Cos. Mr. Kelly, who will be based in Atlanta, previously was senior vp for branch management for Tower Insurance Group.

Other providers:

Urs Zimmermann has been named chief executive officer of Asian/Pacific operations in Sydney, Australia, for London-based Claims Management Group Ltd. Previously, he was executive vp for ThaiSri.

Brett Houghton and **Ron Myers** have joined Buck Consultants' Lifetime Health practice as directors in Sandy, Utah. Previously, Mr. Houghton was a director of TenFold University for TenFold Corp. Mr. Myers joins Buck from Accela, where he was director of product management.

Arlington, Va.-based Watson Wyatt Worldwide has named **Kirby Bosley** as director of west division group and health care consulting in Los Angeles. Before joining Watson Wyatt, she was health care practice leader at Mercer Human Resource Consulting.

Mesirow Financial Services Inc. in Chicago has made several senior-level promotions in its insurance services division.

- **Craig E. Goesel**, **Paul Halloran**, **Michael C. Klee** and **Howard R. Nusbaum**, all former senior vps, have been named managing directors.
- **Sheila D. Kelly**, **Dana M. Mikstay** and **Nicholas Saviano** have been promoted from managing directors to senior managing directors.

William Bowden has been named managing director of the insurance practice of Promontory Financial Group in New York. Previously, he was general counsel of Willis Group Holdings Ltd.

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

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

Equitas ups asbestos, pollution reserves

Reports increased disputes, litigation over reinsurance recoverables

By SARAH VEYSEY

LONDON—Equitas Ltd. recorded yet another asbestos reserve boost in its most recent fiscal year, and the company also had to increase its pollution-related reserves for the first time in seven years.

Equitas, the runoff reinsurer for the pre-1993 long-tail liabilities of Lloyd's of London syndicates, saw its retained surplus fall by £18 million to £458 million ($31.3 million to $796.6 million) over the fiscal year, which ended March 31.

A significant contributor to that decrease was Equitas' addition of £128 million ($222.6 million) to its gross discounted reserves for asbestos, the latest in a string of increases (see chart).

On March 31, 2006, Equitas' gross discounted asbestos reserves stood at £2.2 billion ($3.83 million), while the company's total gross reserves were £4.2 billion ($7.31 billion). During the year ending March 31, Equitas paid asbestos-related claims of £103 million ($179.2 million), compared with £116 million ($219.1 million) the previous year.

The runoff reinsurer said that the most recent fiscal year had seen the reinsurer reach settlement agreements with 18 direct policyholders, including a deal with Colombia, Md.-based chemical and building materials company W.R. Grace & Co. That deal, the terms of which were not disclosed, is dependent on approval of a bankruptcy plan for certain of W.R. Grace's operating divisions, Equitas noted.

In addition to again boosting its asbestos reserves, Equitas increased its reserves for pollution claims during the year, the first time it has needed to boost such reserves in seven years.

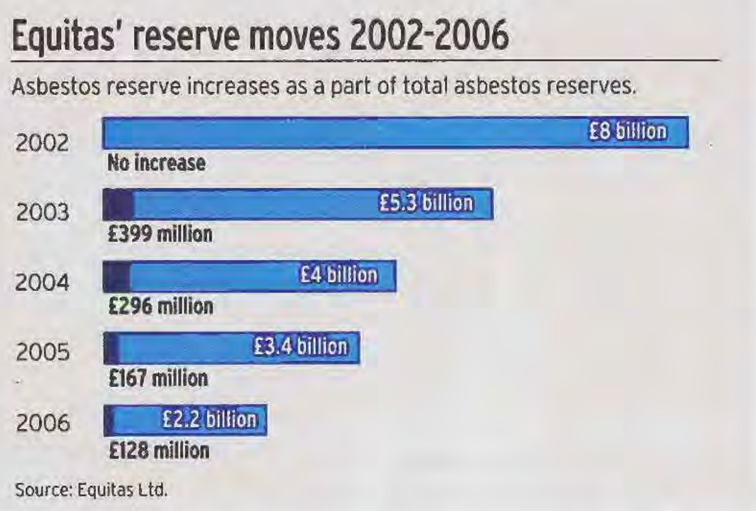
Scott Moser, chief executive officer of Equitas in London, said this boost was prompted by adverse developments in a small number of pollution-related cases. He declined to provide details on the size of the reserve increase or the nature of the claims.

The runoff reinsurer reviews cases "all the time," he said, and just a "handful" of cases prompted the reserve increase.

Mr. Moser said that overall, the runoff reinsurer last year "made slow progress going down a bumpy road."

The Equitas chief also said that during the past year, Equitas has noted a growing trend among some reinsurers to dispute Equitas' claims, and that it had, therefore, increased the amount of litigation it has undertaken to recover reinsurance.

See EQUITAS / next page



HIH liquidator seeks $300M from Gen Re

By ELIZABETH FRY

SYDNEY, Australia—The liquidator of failed Australian insurer HIH Insurance Ltd. has decided to pursue a $400 million Australian ($300.6 million) damage claim against a unit of General Re Corp. for its alleged role in HIH's insolvency, and has been granted more time to pursue a settlement of related claims before the matter moves to court.

HIH Liquidator Tony McGrath

HIH liquidator Tony McGrath first issued statements of claim against Gen Re unit GeneralCologne Re Australia Ltd. in 2004 in the New South Wales Supreme Court, but the claim never was served. Late last month, though, Mr. McGrath's Sydney-based lawyer, Blake Dawson Waldron, alerted GCRA attorneys at Sydney-based Allens Arthur Robinson that the liquidator planned to pursue the action.

Last week, NSW Supreme Court Justice Carolyn Simpson granted Mr. McGrath another three months to file statements of claim against Sydney-based GCRA and a host of other defendants, including reinsurance broker Guy Carpenter & Co. Inc.—a unit of New York-based Marsh & McLennan Cos. Inc.—and certain former executives of FAI General Insurance Co. Ltd. HIH's 1999 takeover of FAI, which eventually became insolvent, has been cited as part of the reason for HIH's unraveling.

Other defendants include now-defunct auditing firm Arthur Andersen L.L.P, and HIH's actuary, David Slee.

Most of these proceedings relate to losses incurred by HIH continuing to trade while insolvent, but the action against GCRA also relates to the takeover by HIH

See HIH / next page

Polish risk managers form trade association

By RICK MILLER

WARSAW, Poland—Risk managers in Poland have formed a new association, one of a number emerging in Eastern and Central Europe.

The Polish Assn. of Risk Management, also known as Polrisk, held its first official meeting last month to select members of its board and supervisory committee, said Rafal Rudnicki, Polrisk's board president and group risk manager for Dutch distribution and logistics company Raben Group.

Warsaw-based Polrisk has 22 members so far, with hopes to double that number by the end of the year, Mr. Rudnicki said. The association, made up mostly of risk managers, is still trying to determine how to handle affiliated professionals, such as academics, brokers and insurers.

"We have already been approached by a number of underwriters to sponsor our activities, but we want to be very careful with that because we want to stay an independent organization," Mr. Rudnicki said. "We want to represent the interests of the insured, rather than the insurance market."

Polrisk members will be meeting again later this month to decide "who we are, what we want to do, and what is our risk management view," he added.

In Poland, a companywide risk management function is still a relatively new concept, Mr. Rudnicki said, with companies more commonly managing risk in only specific areas of their business.

"Right now, the situation is ripe for jumping one step ahead, meaning to introduce companywide risk management involving all activities of the company," he added. "This issue appears more and more everywhere, so that is the right moment to open an association."

Polrisk hopes to be a resource for risk management in Poland, he said. However, the Polrisk board does not intend to support a single risk management standard, such as one that was jointly formulated by the Assn. of Insurance & Risk Managers, the Assn. of Local Authority Risk Managers and the Institute of Risk Management in the United Kingdom, and is widely promoted in Europe.

"This is a good standard, but there should be some freedom to choose," Mr. Rudnicki said.

Polrisk is among several Eastern European associations that are seeking membership in the Federation of European Risk Management Assns., which is located in Brussels, Belgium.

Another association in Warsaw, the Risk Management Forum/Polish Confederation of Private Employers, which formed last September, has also applied for membership, said Florence Bindelle, FERMA's executive manager. However, FERMA has asked for more clarification about any collaboration between the Polish associations, she said.

The Bulgarian Risk Management Assn. in Sofia has been accepted in principle for membership, Ms. Bindelle added.

Also, an association is being constituted within the Turkish Assn. of Industries in Istanbul, and other risk management associations exist in Slovakia and Romania, though the groups are not FERMA members, she said.

Updates

Quanta, Chaucer discuss joint venture

Quanta Capital Holdings Ltd. has signed heads of agreement with Chaucer Holdings P.L.C. to establish a Lloyd's of London managing agency, Pembroke Managing Agency Ltd., to manage Quanta's syndicate 4000. Quanta last month announced that most of its operations would go into runoff but said it would continue to support the speciality lines syndicate, which was established in late 2004 and has capacity of £82 million ($151.1 million) for 2006. Pembroke will be a joint venture between Quanta, Chaucer and the underwriting team of the syndicate. Chaucer—whose managing agency, Chaucer Syndicates Ltd., previously managed syndicate 4000—will provide up to 10% of capital needed to support the syndicate's underwriting for 2007.

Swiss Re places cat bond program

Swiss Reinsurance Co. has placed a natural catastrophe bond program that will give the reinsurer $950 million of protection for North Atlantic hurricane, European windstorm, Californian earthquake and Japanese earthquake risks. Swiss Re said the cat bond program, known as "Successor," enables investors to choose between different risk layers and triggers options within single and multiperil tranches and gives the reinsurer protection both against low-level earnings volatility and high-level catastrophic events.

AXA agrees to sell reinsurance unit

AXA S.A. has signed a definitive agreement to sell reinsurance unit AXA Re to newly created Paris Re Holdings Ltd. AXA said in April it received a binding offer from an investor group led by Trident III L.L.P., a fund managed by Stone Point Capital L.L.C. of Greenwich, Conn., for the business of its Paris-based reinsurance arm. AXA will take about a 4% stake in Paris Re.

Lloyd's warns insurers on climate change

Insurers must face the risks that climate change could have on their business and regularly review and communicate conditions of coverage in the light of potential changes, Lloyd's of London warned. While Lloyd's said it believes most weather-related risks are insurable, some industry participants might take a different view, according to the report, and Lloyd's position could be altered if climate change progresses more rapidly than expected or insurers become unable to price risks.

World Cup: Organizers turn to capital markets to secure coverage for tournament

Continued from page 3

GmbH & Co., a Cologne, Germany-based broker, to "make sure that our insurance program is highly competitive," said Jürgen Görling, managing director of Hamburg-Mannheimer, in an e-mail.

The sports unit holds underwriting authority for its parent. If Hamburg-Mannheimer is unable to write a particular coverage, the underwriting unit turns to other insurers, he said.

"We are providing a very comprehensive cover for the FIFA World Cup," said Mr. Görling. Among policies written by Hamburg-Mannheimer Sports is a cancellation and abandonment policy for the German Organizing Committee. That policy is written to limits of €158 million ($204 million), he confirmed, and includes coverage for terrorism and political risks that Mr. Görling declined to specify.

Hamburg-Mannheimer is the lead underwriter on the coverage, which is spread among a small consortium of insurers and is reinsured with companies that include Munich Reinsurance Co. and Swiss Reinsurance Co. Mr. Görling said.

Swiss Re is a "significant reinsurer" of the tournament, said Peter Luck, head of underwriting special risks, in an interview posted on Swiss Re's Web site. It is important, he added, to note that the World Cup is "always covered by a whole syndicate of insurers and reinsurers that share and distribute the risk."

The German Organizing Committee also purchased public liability insurance with per-occurrence limits of €140 million ($180.8 million), Mr. Görling said. Hamburg-Mannheimer writes the first €35 million ($45.2 million) of the coverage and is the lead insurer on the €105 million ($135.6 million) of excess coverage, he said.

FIFA, meanwhile, turned to the capital markets for its cancellation coverage, purchasing a $260 million catastrophe bond that is triggered if the World Cup's final match cannot be played.

The bond is unique in several ways, according to sources who worked on its placement.

FIFA opted for a capital-market transaction to cover the cancellation risk after determining the traditional insurance market no longer met its needs. In 2001, FIFA's insurers, led by a German unit of Paris-based AXA S.A., withdrew cancellation coverage of the 2002 World Cup in Japan and South Korea amid concern about increased terrorism risk. FIFA found alternative coverage for that tournament and later required any future insurance arrangements be immune from the risk of withdrawal.

The FIFA bond issue in 2003 was the first to transfer the risk of staging a sporting event to the capital markets. While cat bonds generally are written to cover natural perils such as hurricanes and earthquakes, the FIFA securitization was the first to also cover terrorism.

The risk of terrorism striking Germany during the games is "the same as in any country in the world," said David Bruce divisional head in charge of the specialty unit at Lloyd's of London managing agency Hiscox, which specializes in coverage such as that written for the World Cup. There is a risk of terrorism "at any major event," he said.

But if a terrorist incident does interrupt the tournament, it is unlikely to halt it, Mr. Bruce said. He pointed out that the 1972 incident at the Munich Olympics, in which Palestinian terrorists took Israeli athletes hostage, interrupted that event only briefly.

Under the FIFA bond's structure, the cancellation risk was transferred to Golden Goal Finance Ltd., a special purpose vehicle on the island of Jersey. Golden Goal, in turn, issued notes in U.S. dollars, euros and Swiss francs amounting to the equivalent of $260 million in the capital markets, transferring the risk of cancellation to investors.

While the bond covers cancellation due to terrorism, it does not provide coverage if the final match cannot be played because of a world war or a boycott by athletes or a sports organization.

The bond is a four-tranche issue with an expected maturity of Sept. 30. Credit Suisse First Boston was the lead manager in the transaction and Swiss Re Capital Markets, a unit of Swiss Re, was a co-lead.

Apart from coverage written for FIFA and the organizing committee, certain "ancillary" coverage has been placed to protect sponsors, promoters, retailers and others who have "a financial interest in the event" and stand to suffer losses if the tournament does not go as planned, said Jonathan Cole, partner with JLT Sport, a unit of London-based Jardine Lloyd Thompson Group P.L.C.

The ancillary coverage, placed by JLT Sport, amounts to prize indemnity insurance for retailers that are holding promotions tied to the outcome of World Cup matches, Mr. Cole said. Cancellation insurance for hotels or other organizations holding events related to the tournament also has been written, and hospitality groups offering World Cup packages are among the policyholders of coverage that will provide reimbursement of funds lost due to cancellation, he said.

Mr. Cole said Lloyd's writes about 60% of the ancillary coverage, with the remainder placed with insurers "mainly based in Europe."

Plans are in place to protect fans at World Cup matches if chaos does erupt from a terrorist event, hooliganism or other disruptive event, organizers say. There has, however, been some debate as to the safety of some of the stadiums where matches will be held and whether fans can be properly tended to if problems arise (see story page 37).

If hooliganism does lead to injuries within the stadiums or at other official sites, the German Organizing Committee's public liability coverage will respond, according to Hamburg-Mannheimer's Mr. Görling. If rowdy fans damage stadiums, property insurance led by Hamburg-Mannheimer will be triggered, he said.

Mr. Görling pointed out that his company also provides other coverage for FIFA, the German Organizing Committee and others involved in the World Cup. Coverage provided includes personal accident insurance, legal expenses, marine risks and 900 Hyundai automobiles to be used during the tournament. He did not provide limits or other details of the policies.

Hamburg-Mannheimer Sports also wrote coverage protecting the World Cup trophy, which was exhibited on a tour of 29 countries that ended April 11 and a journey to 21 stops in Germany that finished May 26.

World Cup injury cover placed

Special disability policy for hurt players

By MICHAEL BRADFORD

REUTLINGEN, Germany—Some players in the FIFA World Cup are not taking chances that an injury sustained in the tournament could hurt their income.

A special insurance policy valid only for World Cup competition covers the entire squad from Poland and some members of the Italian team. The coverage pays up to €300,000 ($387,360) to a player who suffers a permanent total disability in the competition. World Cup matches sponsored by the Fédération Internationale de Football Assn. began June 9 in Munich and continue in 12 stadiums throughout Germany until the July 9 final in Berlin. Thirty-two nations, each with 23-man squads, are competing for the World Cup trophy.

The disability coverage was packaged by Die Sport Assekuranz, a Reutlingen, Germany-based broker specializing in sports and entertainment insurance. It was written by Paris-based AXA S.A. and reinsured through unnamed reinsurers in France and the United Kingdom, said Claus Wunderlich, owner of Die Sport Assekuranz.

"It's part-time insurance" that will be triggered only if a player is injured in a World Cup match, Mr. Wunderlich said.

Hamburg-Mannheimer Sports GmbH, a Hamburg, Germany-based underwriting agency unit of Hamburg-Mannheimer Sachversicherungs-A.G., also provides disability coverage for a small number of players from different nations, according to Jürgen Görling, managing director of the sports unit.

The insurer also writes coverage for the German Organizing Committee of the World Cup and others with interests in the tournament, such as stadium owners, marketing firms and hospitality service providers.

Italy's national team is covered by an insurance policy for income loss should a permanent disability occur.

Berlin's Olympic Stadium was to host the World Cup's opening gala on June 7, which was canceled due to concerns about field damage.

No insurance purchased for abandoned gala

BERLIN—Landscaping worries forced cancellation of a World Cup event weeks before the matches began and there was no insurance to make up losses resulting from the scrubbed event.

A gala featuring entertainers such as the Black Eyed Peas, soprano Jessye Norman and other celebrities scheduled for June 7 at Berlin's Olympic Stadium had to be scrapped when organizers determined it would damage grass on the playing field that could not be repaired in time for the stadium's first scheduled match on June 13.

A Fédération Internationale de Football Assn. spokesman would not say how much the cancellation cost, but confirmed that no insurance was in place to respond to the loss. "The cancellation of the opening gala has been dealt with by way of a separate agreement with the parties involved," he said in an e-mail.

A spokesman for Germany's Ministry of the Interior in Berlin, could not provide specific figures, but said "the decision cost a lot of money; entertainers cost a lot of money."

By Michael Bradford

FIFA, Germany downplay World Cup safety concerns

Critics say security plans don't properly address crowd control outside stadiums, terrorism

By MICHAEL BRADFORD

BERLIN—The prospect of violence at FIFA World Cup matches in Germany has some worried that there are flaws in security and safety planning for the tournament.

An expert in disaster preparedness has criticized the Zurich, Switzerland-based Fédération Internationale de Football Assn. and other organizers of the World Cup for what he said is a lack of planning to handle injuries and chaos that could ensue if hooliganism or terrorism erupts at the soccer matches. A consumer safety organization has claimed some of the 12 stadiums hosting the matches in Germany have design flaws that make them unsafe.

FIFA says the concerns are unfounded and a spokesman for the German Ministry of the Interior in Berlin said, "We are very well prepared" to protect fans. Criticism, though, did prompt changes at some of the stadiums before the matches began June 9.

Wolf Dombrowsky, a professor and head of the Disaster Research Center at the University of Kiel in Kiel, Germany, said he is especially concerned about plans to handle violence that could occur among crowds of fans without tickets who gather outside the stadiums to watch games on video screens.

"Inside the stadiums, you have trained speakers to address the people on how to behave" and direct them to marked exits and escape routes if problems arise, Mr. Dombrowsky said. Such help on how to react "is not available outside the stadiums," he said.

Crowds watching the games outside the stadiums are "much more uncontrolled," Mr. Dombrowsky noted.

Mr. Dombrowsky said he also fears that hospitals in cities where stadiums are located will not have adequate supplies to treat "mass casualties" if violence does strike during the World Cup. "It is almost completely unknown what the resources for the hospitals are in terms of medicines and other supplies," he said.

The FIFA spokesman said in an e-mail that the soccer association has met with the Ministry of the Interior and "is very comfortable" with security arrangements for the tournament.

The ministry's spokesman said emergency drills were held before the start of the World Cup in all 12 venue cities. Evacuation plans are in place and the ministry has evaluated Germany's national disaster response plan to make sure it will be adequate to respond to incidents of violence, he said.

Police will be present in large numbers both inside and outside the arenas, according to the spokesman.

Meanwhile, a consumer safety organization, Stiftung Warentest in Berlin, has raised concerns about the design of some of the stadiums where matches are being held.

The group hired safety experts that it declined to identify to help inspect the stadiums in October 2005.

"What we found is that there are some problems," said Holger Brackemann, head of product testing at Stiftung Warentest.

Among the most serious problems identified by the organization was a photographers' moat that separates fans from the field at Berlin's Olympic Stadium. Spectators automatically run towards the field when a panic occurs, Stiftung Warentest said, and the approximately 6-foot-deep ditch had blocked that escape route.

The group's concern led to changes at the stadium.

"There have been discussions on the best way to solve that and it was decided to install permanent bridges to enable people to evacuate onto the (field of play) in an emergency," said the ministry spokesman.

British transport police teamed with German police in Frankfurt, Germany, as British fans arrived last week for the World Cup. Germany promised a strong police presence inside and outside stadiums hosting the matches.

Stiftung Warentest said escape routes also were blocked at stadiums in Gelsenkirchen and Leipzig, and fire protection measures were inadequate at stadiums in Dortmund, Frankfurt/Main, Hamburg, Kaiserslautern and Stuttgart.

Faring better in the organization's inspections were stadiums in Cologne, Hanover, Munich and Nuremberg, where only minor safety deficiencies were cited.

"Minor changes" have been made at venues other than Berlin's Olympic Stadium to ensure fan safety, the ministry spokesman noted.

FIFA said it is confident that fans will be adequately protected during the matches. The association's spokesman said Stiftung Warentest's concerns "proved to be rather unfounded."

Mr. Brackemann said Stiftung Warentest sparked an emotional controversy with its findings and FIFA "stopped discussions with us before we entered the level of detailed discussions" concerning what the group perceived as safety flaws.

Mr. Dombrowsky indicated he is fairly confident problems inside the stadiums can be handled. "The main problems will happen outside," he noted, where fans are partying during the games in an uncontrolled atmosphere.

The possibility of terrorism, which looms over all major events, creates a particular challenge, Mr. Dombrowsky said.

Germany is "a completely illiterate society" with regard to terrorism, Mr. Dombrowsky said, "which makes the problem worse." Germans have not been adequately advised as to how to respond to a terrorist attack, he said, and likely would be at a loss as to how to behave if one occurs. "Nobody knows anything—how to behave, what to do," he said.

The interior ministry said it had no evidence that any terrorist activity has been planned for the World Cup.

Asbestos: Trust fund faces legal, funding challenges

Continued from page 3

The majority of the witnesses, however, embraced the asbestos trust fund approach.

John Engler, president and chief executive officer of the National Assn. of Manufacturers in Washington, called the revised act a "win-win-win for asbestos victims, particularly veterans, workers and our economy. Only a trust fund approach, which takes asbestos cases out of the courts, can end the asbestos litigation nightmare."

The proposal also has the support of a union that represents asbestos workers.

"While it is true that there is an asbestos litigation system out there, the system is broken," said James A. Grogan, general president of the Lanham, Md.-based International Assn. of Heat and Frost Insulators and Asbestos Workers. "Many who cannot identify where they were exposed to asbestos recover nothing. The asbestos crisis is a national tragedy and we need a national legislative solution that is fair and equitable to all. That is what S.3274 provides," he said.

While he was head of the CBO, Mr. Holtz-Eakin testified that the asbestos trust fund probably would end up paying claims of $120 billion to $150 billion. Now, he questions whether the funding would be adequate.

There is both "uncertainty over the scale of claims" as well as "comparable uncertainty on the revenue side," he said. If the fund proves inadequate to meet claims, "there will be political pressure to continue the spending," he said. "We will now have on the books a new federal mandatory spending program" at a time when spending should be reined in.

The fund also could face court challenges if it incorporated assets of existing trust funds, said Eric Green, a professor at Boston University School of Law and a court-appointed legal representative for future asbestos bodily injury claimants in existing trusts. When asked by Sen. Tom Coburn, R-Okla., about the impact of the proposed trust, Mr. Green said that, based on talks with others involved with the existing funds, he could "guarantee" that court challenges would be filed. "That's going to happen, senator," he said.

Another witness, Edmund F. Kelly, president, chairman and chief executive officer of Boston-based Liberty Mutual Group, said the solvency of the $140 billion trust fund proposed by the FAIR Act "will be threatened before very long" if the fund comes into being.

Instead, he proposed enacting medical criteria, venue and case-consolidation reform legislation such as that already in place in states as varied as Texas, Ohio and Mississippi.

The bill's chief sponsor, Senate Judiciary Committee Chairman Arlen Specter, R-Pa., said he was "determined to succeed" in getting the bill through the Senate. "We're going to do what it takes to pass this legislation," said Sen. Specter. Late last month, the senator said the committee probably would not take up the trust fund again if the bill failed to win Senate approval this year.

Sen. Specter noted that the approach is opposed by financially powerful entities, but added, "occasionally around here, the public interest prevails."

Silica: Screening law considered

Continued from page 4

proval as they X-rayed thousands of workers for silicosis.

Oversight Subcommittee Chairman Ed Whitfield, R-Ky., said that even before last week's hearing "we have heard some remarkable testimony." This included a doctor, who testified before the panel and said that he "never meant to diagnose anyone and, in fact, did not know the criteria for diagnosing silicosis" despite being credited with delivering 3,600 diagnoses of silicosis, said Rep. Whitfield.

In another case, a screening company said that one law firm paid it only for positive diagnoses of silicosis. In addition, three physicians under oath before the committee responded by invoking their Fifth Amendment right against self-incrimination when asked if their diagnoses were accurate and followed medical standards, said Rep. Whitfield.

"Today promises to be an equally illuminating day in the committee's inquiry," he said.

Although representatives of state regulatory agencies and medical societies testified as to what they have done to prevent abuses of mass health screenings, other witnesses were not nearly as forthcoming. Officials of two screening companies used their Fifth Amendment shield to avoid answering any questions, while another screening company executive and a physician failed to appear before the panel at all.

The failure of state medical societies to deal with the issue troubled Rep. Michael Burgess, R-Texas. "It seems to me that someone in the medical community should have caught this," said Rep. Burgess, who also is an obstetrician.

Rep. Whitfield left open the possibility that the panel would try to devise a legislative fix to the problem after it holds additional hearings.

That, however, did not please the panel's ranking member, Rep. Bart Stupak, D-Mich. Rep. Stupak said that he remains "unconvinced" that the hearings will lead to legislation that would improve public health. "I can't find any public health issue, other than perhaps to embarrass the trial bar," he said.

Forbes: Brokerage announces possible sale, management changes

Continued from page 1

"These discussions are in an early stage and may or may not result in a transaction," added the brokerage, which was the world's ninth largest in *Business Insurance*'s 2005 broker ranking.

The brokerage also announced that in light of the potential changes, it had decided to relocate the position of group chief executive officer to South Africa; for the previous three years the company's head, Rael Gordon, had been based in London.

As a result, it said, Mr. Gordon, who moved to London in 2003, had resigned from the CEO post.

Peter Moyo, currently managing director of Alexander Forbes Africa, will replace Mr. Gordon effective July 1.

Mr. Gordon will continue to serve as a director of the brokerage's international operations and will remain with the company until March 2007, Alexander Forbes said in the stock exchange announcement.

In addition, Alexander Forbes said it was considering taking outside investment in its London-based International Risk Services division as part of a "repositioning" of that unit.

Stewart McCulloch, chief executive officer of the division, said that the undisclosed potential investors are separate from those seeking to buy the parent company, and would be capital providers whose interests were aligned with the unit's desire to grow internationally.

The International Risk Services division, which last month announced the appointment of Mike Hammond, former chief executive of London-based Jardine Lloyd Thompson Group P.L.C.'s risk solutions unit, to the post of deputy chairman, said it was in discussions with private investors interested in taking a stake in the company, alongside its South African parent, to allow it to "best capitalize on current market conditions."

Mr. Gordon

Mr. McCulloch said that the unit was looking to raise additional capital to allow it to grow, and to attract additional teams of brokers as part of that effort.

He said that the unit aimed to take a leading position in certain specialist market segments and "beef up (those areas) where we are underweight."

For example, Mr. McCulloch said the unit wants to grow its mining and natural resources, energy, technology, life sciencesand biotechnology capabilities, among others areas and "attract the best possible talent to take a leading position."

The International Risk Services unit is part of the EOS RISQ network of European insurance brokers, which also includes Paris-based Diot S.A.; Detmold, Germany-based Ecclesia GmbH; Vienna, Austria-based GrECo International A.G.; Milan, Italy-based Gruppo Assiteca; and Antwerp, Belgium-based Vanbreda Risk & Benefits.

In its latest available financial report—for the fiscal year to March 31, 2005—Alexander Forbes' revenues from international business declined 5% to £111.1 million ($209.9 million), a drop which Mr. Gordon blamed in part on a softening insurance market and the weak U.S. dollar. Overall the Alexander Forbes group saw revenues increase 3.6% to 4.70 billion rand ($753.2 million) in the year to March 31, 2005.

At Sept. 30, 2005, Alexander Forbes' international business reported income of £2.2 million ($3.82 million), a 7% drop over the same period in 2004.

Neill Young, an analyst at Coronation Fund Management in Cape Town, said that Alexander Forbes had suffered a degree of negative publicity in South Africa lately after being forced to pay a 380 million rand ($57.1 million) settlement to clients affected by its practice "bulking" of retirement fund accounts. That negative publicity impacted the broker's share price, Mr. Young noted, and the settlement likely will depress the broker's next set of financial results, which are due to be published later this month, according to sources.

"Bulking" is the practice of aggregating the total value of pension fund clients' current accounts in order to negotiate better interest rates with banks on behalf of clients.

Alexander Forbes said that although clients had benefited from this practice, the broker had received income from banks from the practice that had not been adequately disclosed to clients. The broker said it had ceased to receive such income from banks in 2004, although it continues to bulk retirement funds on behalf of clients.

"Taking the company private would take it out of the public eye a bit," noted Mr. Young.

Possible buyers for the broker include VenFin Ltd., a Johannesburg-based technology investment company that already has a significant stake in the company, (*BI*, July 18, 2005), sources said.

One explanation for the move to seek outside investment into the International Risk Services division could be a desire to focus on the its operations in South Africa while also building up international business, noted Chris Steward, an analyst at Investec Asset Management in Cape Town, South Africa.

The brokerage's international business has been "subscale," he said, and has not been as profitable as Alexander Forbes may have hoped, so private equity investment—or investment from another insurance broker—could help the unit to grow, he said.

Alexander Forbes "doesn't have enough scale" internationally, said Mr. Young.

The introduction of outside investment would allow the unit to grow, he said.

Ruling: Protection extended for injured worker

Continued from page 1

that workers "regarded as" disabled are not entitled to reasonable accommodations under the ADA.

As a result, before the latest decision, employers with workers in the state could rely on the Ninth Circuit's decision when defending against lawsuits brought by certain injured employees, said Casey M. Christensen, a partner at Bullivant Houser Bailey P.C. in San Francisco.

In cases where workers were just regarded as disabled, employers could win a summary judgment as the workers would not be able to prove a cause of action, said Gregory Valenza, a managing partner at Jackson Lewis L.L.P. in San Francisco.

But employers should now look to the more employee-friendly California ruling for guidance rather than rely on the Ninth Circuit decision, Mr. Valenza said.

The California appeals court decision stems from a March 2003 disability discrimination lawsuit filed by Mr. Gelfo, a metal fitter who injured his back at work in September 2000. He filed a workers compensation claim, but continued to work.

In October 2000, he was laid off and placed on a rehire list. In 2001 Lockheed sent him for training in a new role as a fabricator and then offered him a position.

But in early 2002, the company learned that although a doctor who examined Mr. Gelfo's work injury diagnosed him as permanent and stationary—meaning his injury was stabilized and he was no longer making improvements—and released him for duty, the doctor imposed some restrictions, such as prolonged sitting and standing.

Lockheed then rescinded its new job offer, and told Mr. Gelfo that it could not accommodate some of the restrictions. He insisted he was healthy and could handle the job.

But a Lockheed committee that reviews accommodations agreed that the employer could not accommodate some of the restrictions listed in Mr. Gelfo's medical file.

After exhausting administrative remedies, Mr. Gelfo sued. He made several claims, including disability discrimination and failure to engage in a timely good faith interactive process, both of which are violations of California's FEHA.

The interactive process refers to informal discussions between workers and employers to help determine any need for accommodations. Large employers in California regularly engage in interactive discussions with employees with health concerns, said Deborah L. Jacobs, manager of disability management for Southern California Edison in Rosemead, Calif.

A trial court ruled, among other findings, that Mr. Gelfo did not have a disability as defined by FEHA and, therefore, Lockheed did not have to provide a reasonable accommodation or engage in an interactive dialogue with him.

Transcripts show that the trial court relied on the standing federal Ninth Circuit ruling on "regarded as" plaintiffs, which says they are not entitled to reasonable accommodations.

The trial appeals court agreed that Mr. Gelfo was not "actually disabled," but it also found that Lockheed regarded Mr. Gelfo as though he did have a disability.

The court then ruled that FEHA requires reasonable accommodations and an interactive process for employees "regarded as" disabled, just as it does for employees that are "actually disabled."

The appeals court reversed the lower court's finding and remanded the case for further action.

As a result of the ruling, workers comp claimants that have been declared permanent and stationary, yet have been accommodated for out of fear of re-injury could represent a "fertile area" for litigation, Mr. Valenza said.

Mr. Christensen agreed it could create an additional class of plaintiffs.

The ruling is of concern to employment practices liability underwriters, said Dana Kopper, a senior vp for broker Lockton Cos. Inc. in Los Angeles. But EPL underwriters already load their rates for unique California risks and whether they will need to add an additional charge for the recent ruling will take time to determine, Mr. Kopper said.

For now, some employers might take a conservative approach and not regard any employees as disabled, Mr. Kopper said.

Employers sometimes make accommodations to help employees with health concerns even if they are not required to do so under the ADA or California's FEHA, Ms. Jacobs said.

Yet attorneys point out that while the decision may create new liabilities for employers, it also states that by engaging in the interactive process, companies are likely to find that making accommodations may not take great sacrifice.

WTC: Defense costs excluded

Continued from page 3

layer of $2 million per occurrence and $4 million annual aggregate, along with a $50 million umbrella layer, all written by Zurich. Above that were $415 million in excess limits in layers of:

- $50 million split equally by Gulf Insurance Co. and Lumbermens Mutual Casualty Co.
- $25 million written by General Star National Insurance Co.
- $25 million written by U.S. Fire Insurance Co.
- $115 million divided among Athena Assurance Co., Great American Insurance Co. and Great American Assurance Co.
- $200 million split among AXA Corporate Solutions Insurance Co., National Surety Corp., Liberty Mutual Insurance Co., Ohio Casualty Insurance Co., Royal and St. Paul Indemnity Insurance Co.

Bermuda insurers that are not involved in the litigation provided the remaining $535 million in limits.

Silverstein and the GL insurers disputed whether defense costs were covered by the program, and both sides filed summary judgment motions on the issue.

Judge Hellerstein ruled that Zurich and all of the excess insurers involved in the case except Royal clearly excluded defense coverage.

Silverstein and Willis had repeatedly pressed underwriters for defense coverage while placing the program, but Zurich and other insurers refused, citing Silverstein's inability to produce defense cost loss history data, Judge Hellerstein found.

Binders and policies issued by Zurich and other insurers before the attacks either excluded defense coverage or followed the forms of underlying insurers that excluded it, the judge concluded.

The judge also rejected Silverstein's contention that Zurich must provide defense coverage regardless of its binder because New York insurance law forbids excluding it.

Only Royal, which wrote a $25 million part of a layer excess of $265 million, explicitly assumed a defense obligation in its policy, Judge Hellerstein ruled.

ADVERTISER INDEX

Issue of June 12

Pensions: Conferees seek to resolve differences

Continued from page 1

tions—employers should receive for prior contributions that exceeded the minimum required amounts.

"They are trying to work through credit ratings and credit balances," said Lynn Dudley, senior vp with the American Benefits Council in Washington.

Meanwhile other tough issues have yet to be touched by conferees or staffers.

The issues include how much protection against age discrimination suits Congress should provide employers with cash balance plans as well as the period of time changes in interest rates should be used by employers in valuing the size of their pension plan liabilities and the amount of money needed to fund those liabilities.

The sluggish pace in working out a final bill already is shaping corporate pension decisions and could result in yet more losses for the Pension Benefit Guaranty Corp., the deficit-ridden federal agency that Congress wants to better protect from future losses by stiffening employer pension plan funding rules.

Last week, Northwest Airlines Corp. warned that it will move to terminate its hugely underfunded pension plans unless Congress begins to pick up the pace in coming to an agreement on the pension funding bill.

Northwest, as well as other commercial airlines, would be the beneficiary of a provision in the Senate pension bill that would give airlines nearly four times longer than other employers to fund their plans. Airlines would have 20 years to fund—using their own actuarial assumptions—plan liabilities. If the plans were still underfunded after 20 years, the airlines would have another seven years, using actuarial assumptions laid down in the legislation, to amortize the liabilities. In contrast, all other employers would have only seven years to amortize plan liabilities.

While there is frustration about the lack of progress in reaching an agreement, there also is understanding of the extraordinary challenge conferees face in producing a final bill that does not do more harm than good.

"We are talking about very complex issues," said Bob Shepler, director-corporate finance and tax for the National Assn. of Manufacturers in Washington.

For example, if the funding rules are too tough, that could accelerate the exodus of employers from the defined benefit plan system.

On the other hand, if the funding rules contain too many loopholes and companies legally can continue to significantly underfund their plans, the PBGC will remain exposed to large losses, which ultimately could result in a taxpayer-funded bailout of the agency, something legislators also want to avoid.

Still, there is optimism that before the session ends, conferees will hammer out an agreement. "Despite the complexity and differences of opinion, legislators want a stronger defined benefit plan system," Ms. Dudley said. "I expect common sense will prevail. It just may take awhile."

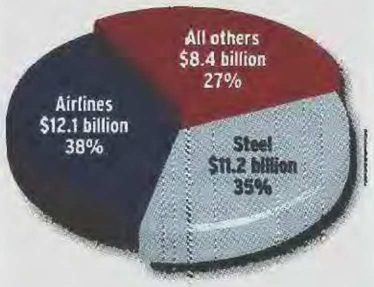
With no agreement, though, in sight, business groups say they will continue to press for delaying the effective date of provisions in the legislation by one year to Jan. 1, 2008, an idea that lobbyists say has some support on Capitol Hill.

A delay "has been fairly well received," Mr. Shepler said.

Such a delay is necessary, business groups say, because of the time regulators will need to produce the guidance to aid employers in complying with the many and complex requirements laid down by the legislation.

Airlines No. 1 in claims

Historic PBGC claims, 1975 through 2005.



Source: Pension Benefit Guaranty Corp.

BI Stock Index [6/5 - 6/9]

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	2833.47	-2.26
Dow Jones	10891.92	-3.16
S&P 500	1252.30	-2.79

Largest gains

RenaissanceRe Holdings	5.42%
Aspen Insurance Holdings	4.68%
Endurance Specialty	3.84%
PartnerRe Ltd.	3.55%
Sierra Health Services	3.43%

Largest losses

SCOR S.A.	-10.46%
AXA	-8.01%
ING Group N.V.	-6.91%
Tower Group Inc.	-6.82%
CNA Surety Corp.	-6.46%

Weekly change by market segment

Brokers	-2.90%
Insurers/Reinsurers	-1.14%
Managed Care Organizations	0.37%

Source: FinancialContent Inc. *(http://financialcontent.com)*

Late News

Continued from page 1

experience, among other things serving at Swiss Reinsurance Co. for 24 years and founding Bermuda-based reinsurer PartnerRe, from which he retired as president and chief executive officer in 2000. "He is well-respected in the industry and will provide us with the sound guidance we need to steer XL through the next phase of its development," Brian O'Hara, XL's president and CEO, said in a statement.

N.Y. bars UnitedHealth from some enrollment

The New York State Department of Health, citing noncompliance issues, has implemented an enrollment ban on a portion of UnitedHealth Group Inc.'s New York operations. United Healthcare of New York Inc. failed for several years to promptly pay service providers or file timely financial cost reports and has "had issues with disclosure," a department spokesman said. As a result, the department has barred UnitedHealth from taking new customers for its HMO Medicaid and commercial HMO products. Those operations together have about 103,000 members in New York, a UnitedHealth spokeswoman said. "We take the concerns of the Department of Health very seriously and are working closely with the department to address those concerns," Michael Turpin, chief executive officer of UnitedHealthcare Northeast, said in a statement.

Arch Insurance names new head

Mark Lyons has been named president and chief operating officer of Arch Insurance Group. The appointment is effective immediately. Mr. Lyons—who most recently served as executive vp of group operations and chief actuary of Arch Insurance Group, a unit of Hamilton, Bermuda-based insurer and reinsurer Arch Capital Group Ltd.—in his new position will oversee underwriting for all of Arch's U.S.-based insurance operations.

Garamendi on ballot for lieutenant governor

California Insurance Commissioner John Garamendi beat his Democratic opponent in last week's primary in the race for lieutenant governor. Mr. Garamendi now faces state Sen. Tom McClintock, R-Thousand Oaks, who easily defeated his opponent, California Secretary of State records show. Democrat Cruz Bustamante, who currently serves as California's lieutenant governor, also beat his Democratic rival in seeking to fill the insurance regulator post that Mr. Garamendi will vacate. Lt. Gov. Bustamante will face Republican Steve Poizner in November.

Wisconsin won't allow tax breaks on HSAs

The Wisconsin Assembly failed to override Gov. Jim Doyle's veto of legislation that would have amended Wisconsin law to conform with federal law that gives tax breaks to health savings accounts. Under the measure, A.B. 4, contributions employees make to HSAs would have been tax-deductible, while employer contributions would not have been added to employees' Wisconsin taxable income. Wisconsin is one of a handful of states that has not changed its laws to provide the same tax breaks for HSA contributions as the 2003 federal law that authorized HSAs.

Colo. governor vetoes 'name and shame' bill

Colorado Gov. Bill Owens has vetoed a bill, S.B. 227, that would have required a state agency to prepare an annual report identifying each company in the state that has at least 50 employees enrolled in public health care plans, such as Medicaid. The report would have included each employer's name, the total number of its employees and dependents enrolled in public health care plans, and the total cost to the state of providing coverage to those individuals. Gov. Owens, in his veto message, said that the intent of the legislation was transparent: "Embarrass and harass employers in an attempt to publicly pressure employers into providing health insurance."

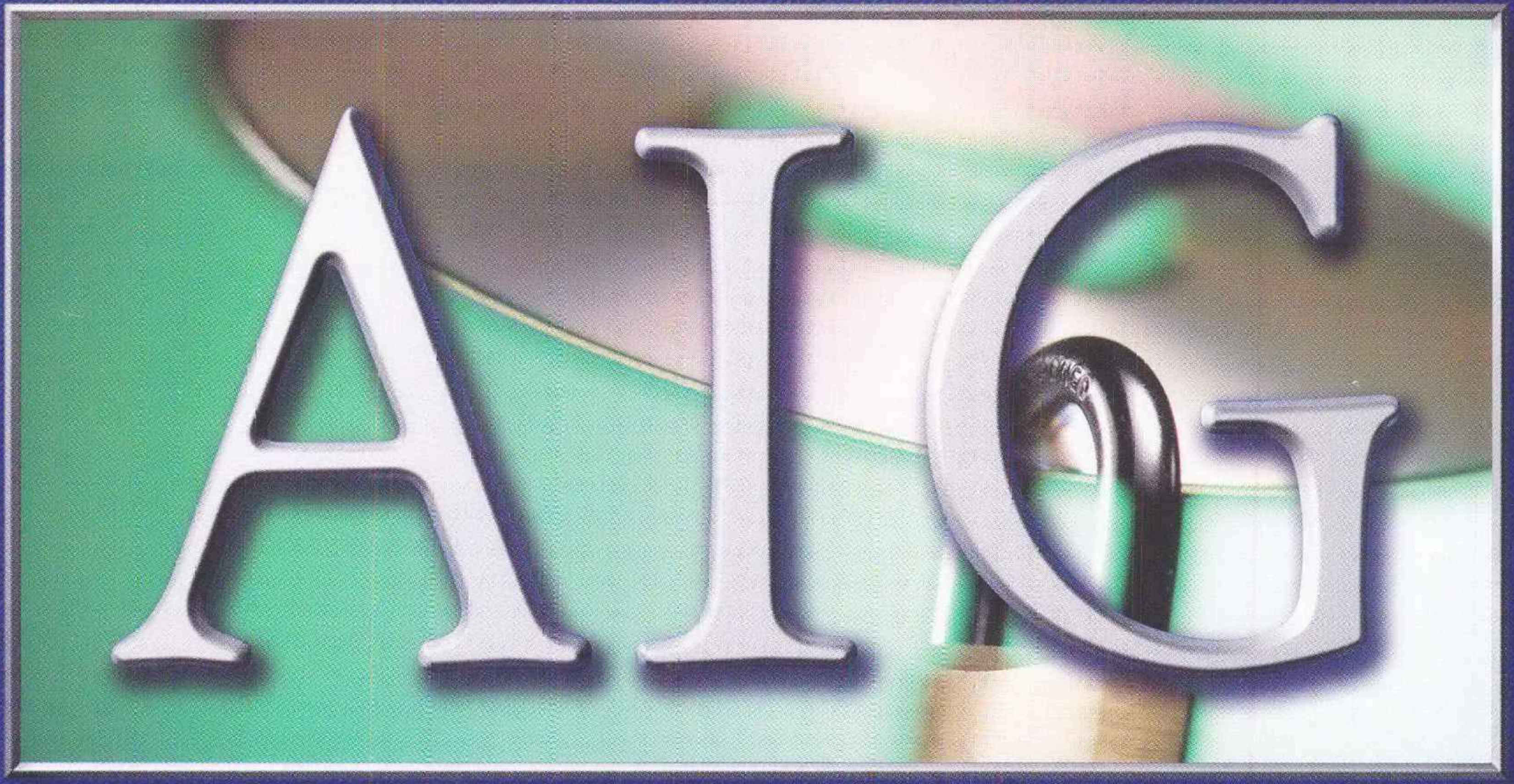
N.Y. hearing set for comp rate hike

The New York Insurance Department will hold a June 28 public hearing to consider the New York Compensation Insurance Rating Board's proposal for a 7.5% rate increase. The rate increase would apply to policies incepting Oct. 1, and Insurance Superintendent Howard Mills has until July 1 to make a final determination on whether to grant the proposal.

At *BusinessInsurance.com*

New **Online Poll**: Does your organization buy coverage from a property/casualty insurer that does not have at least an A- rating?

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.


AIG