



GREENBERG LED PRIVATE EQUITY FUND INVESTS IN LLOYD'S / PAGE 3

MASSACHUSETTS AVERTS POTENTIAL BUMP IN ROAD FOR UNIVERSAL CARE / PAGE 3

BATTLE OVER CAREMARK ENDS AS SHARERS AGREE TO

In Brief

Contraceptives policy not discriminatory: Court

Union Pacific Railroad's former policy of not paying for contraceptives did not discriminate against women and therefore did not violate the federal Civil Rights Act of 1964, a panel of judges with the 8th U.S. Circuit Court of Appeals ruled. The 2-to-1 ruling found that the policy was nondiscriminatory because Union Pacific Railroad also did not pay for male contraception, according to court documents. The court decision reverses a federal judge's 2005 opinion.

Spitzer signs comp reforms

New York Gov. Eliot Spitzer last week signed a workers compensation reform package recently passed by lawmakers. Among other things, the law calls

See **IN BRIEF** page 22

SECTOR BRIEFING

PROPERTY

Property managers in the Middle East enjoy booming market, low insurance rates;

wide range of liability risks available at shopping malls; loss control drive leads efforts to combat

sharp increases for cat exposed properties. **PAGE 11**

Mortgage woes spark D&O suits

Subprime troubles not expected to hike insurance rates

By **DAVE LENCKUS**

The securities litigation against subprime mortgage lenders and even lawsuits that some observers predict eventually will ensnare other organizations involved in risky home loans are not expected to tighten the competitive executive and professional liability insurance markets.

Subprime mortgage lenders, which extend home loans to buyers with subpar credit histories, have been credited for fueling the real estate market surge that began early this decade and ended abruptly in mid-2005.

But many of those risky loans have come back to haunt subprime lenders.

According to a report that the Washington-based Mortgage Bankers Assn. issued last week, foreclosures on subprime loans during the fourth quarter of 2006 outpaced foreclosures on other types of loans, jumping to 2% from 1.82% during

the third quarter. Among all types of loans, 1.19% were in foreclosure at year-end 2006, compared with 1.05% during the previous quarter and 0.99% at year-end 2005, according to the MBA.

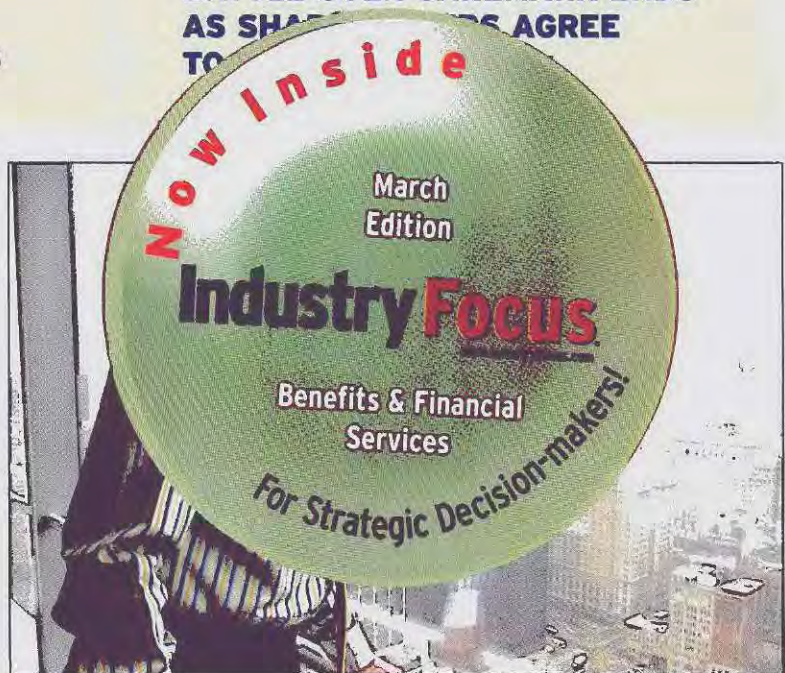
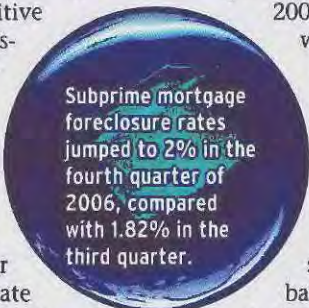
The foreclosures have forced numerous subprime lenders out of business and have caused financial problems for many others, the MBA noted in its report, which rattled the U.S. securities market last week.

Nationwide, there were 210 subprime lenders at year-end 2005, the latest date for which information is available, according to the U.S. Department of Housing and Urban Development. That number includes independent lenders as well as subprime units of banks and financial institutions.

One of the nation's largest subprime lenders, Irvine, Calif.-based New Century Financial, also faces investigations from state and federal authorities over its financial reporting (see story, page 22).

The industry's financial woes have angered investors, who have filed securities class action lawsuits against New Century and other sub-

See **LENDERS** page 21



Larry A. Silverstein views the site of the Twin Towers. The real estate developer's battle over insurance coverage for the destroyed buildings continues.

Silverstein, insurers continue claims battle

Allianz, RSA say policy provision limits payout

By **JUDY GREENWALD**

NEW YORK—Allianz A.G. said last week it is in mediation to determine how much it owes leaseholder Larry A. Silverstein in the latest round of the fight over insurance payments for the destroyed World Trade Center.

Silverstein Properties Inc. also announced last week that it has reached a \$12.5 million settlement with TIG Insurance Co., another one of its World Trade Center insurers (see story, page 21).

Meanwhile, Silverstein Proper-

ties, related affiliates and the Port Authority of New York and New Jersey are seeking more than \$1 billion from London-based Royal & Sun Alliance Group P.L.C. in connection with their WTC claim.

Silverstein Properties claims that Allianz Global Risks US Insurance Co., a unit of Allianz A.G. of Germany, is responsible for up to \$553 million in insurance proceeds.

Allianz contends its payments are current, no insurance money is currently due and no insurance money

See **WTC** page 21

UnitedHealth gets back on acquisition track

Health insurer moves on from backdating scandal with Sierra purchase

By **GLORIA GONZALEZ**

MINNETONKA, Minn.—UnitedHealth Group Inc.'s proposed acquisition

of Sierra Health Services Inc. is unlikely to have a significant impact on employers, although the American Medical Assn. is express-

ing concern about the deal's potential impact on the Las Vegas health insurance market.

The transaction, analysts say, sends a clear signal to the market that UnitedHealth is moving on from the stock options scandal that has hit the company over the past year. The acquisition, though, does not foreshadow an uptick in the consolidation trend that has dominated the health insurance market over the past four years, analysts say.

Minnetonka, Minn.-based Unit-

See **SIERRA** page 21

UNITEDHEALTH'S BUYING SPREE

- **DECEMBER 2005:** Cypress, Calif.-based PacifiCare Health Systems Inc., West Coast market
- **DECEMBER 2004:** Minneapolis-based Definity Health Corp., Consumer-driven health plans
- **JULY 2004:** Trumbull, Conn.-based Oxford Health Plans Inc., New York, New Jersey and Connecticut markets
- **FEBRUARY 2004:** Rockville, Md.-based Mid Atlantic Medical Services Inc., mid-Atlantic market

Source: UnitedHealth Group Inc.


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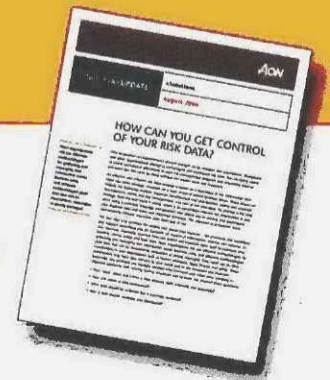


As your organization undergoes mergers, acquisitions, divestitures and other changes, your risk data may be unmanaged and underused. An effective and efficient risk data strategy helps you consolidate relevant risk information in one place using a common language and platform that allows you to analyze and understand your business exposures and lower your total cost of risk.

- Kathy Burns, CEO of Aon's eSolutions Group in Aon Risk Services - Americas

By incorporating common risk data tools, workflows and platforms to streamline processes you can begin to develop a risk data repository in a consistent format that results in comprehensive data analysis and meaningful business intelligence - in other words, information you can really use to make better decisions. Visit www.aon.com/ask to learn more.

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On the Web

SECTOR BRIEFING

Property risk profiles in Asia, Middle East vary

The Property Sector Briefing in this week's issue of *Business Insurance* offers analysis on property risks in the Middle East and Asia, as well as in shopping malls worldwide. A PDF version of the package that begins on page 11, along with PDFs of past sector briefings on energy and pharmaceuticals, is available at www.BusinessInsurance.com/sectorbriefings.

ENTERPRISE RISK MANAGEMENT

Tell a good story for greater ERM success

Business Insurance columnist John J. Hampton concludes his two-part series on creating a central risk program on page 18 of this issue with several recommendations. These and all of Mr. Hampton's columns and interviews can be accessed at www.BusinessInsurance.com/ERM.

BENEFIT MANAGER OF THE YEAR®

Nominate your favorite benefit manager for '07

Business Insurance salutes outstanding performance in the field of benefits management, and nominations for the 2007 Benefit Manager of the Year® award are now being accepted. The deadline for completed nominations is June 1. For a nomination form, go to www.BusinessInsurance.com/BMOY.

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Aquiline invests in new operation at Lloyd's

Former executives of Aspen, Wellington to manage syndicate

By SALLY ROBERTS

NEW YORK—New York-based private equity firm Aquiline Capital Partners L.L.C. is making another investment in the insurance industry, funding a new Lloyd's of London underwriting agency with some industry veterans at the helm.

Ark Syndicate Management Ltd., which will manage Lloyd's syndicate 4020, next month will begin underwriting marine, energy and some property/casualty insurance and reinsurance lines. The operation will have underwriting capacity of £114 million (\$220.2 million).

Aquiline, which is headed by former Marsh & McLennan Cos. Inc. Chairman Jeffrey Greenberg, is the lead investor in Ark. Other sponsors are Whittington Group, an international insurance investment firm; Swiss Reinsurance Co.; and private equity fund Lehman Brothers Co-Investment Partners.

Mr. Greenberg will become chairman of the holding company for the operation, Bermuda-based Group Ark Insurance Holdings Ltd.

Ian Beaton, former head of insurance at Aspen Insurance Holdings, will serve as chief executive of the syndicate, while Nick Bonnar, former head of specialty lines at Aspen, will be director of underwriting.

Messrs. Beaton and Bonnar simultaneously announced their resignations from Hamilton-Bermuda-based Aspen last September.



REUTERS

Aquiline's Jeffrey Greenberg will chair the holding company for Ark.

David Foreman, who retired last April as chief underwriting officer of Wellington Syndicate 2020, will

serve as Ark's chief underwriting officer. William Malloy, a former president of Marsh Inc. who left the brokerage at the end of last year, will serve as nonexecutive chairman.

Meanwhile, Aquiline announced last week that it had closed its initial fund, the Aquiline Financial Services Fund L.P., with \$1.1 billion in total capital commitments.

In addition to providing capital to Ark, Aquiline's fund also has invested in startups Validus Reinsurance Ltd., which is a Bermuda-based property catastrophe reinsurer, and Structured Credit Holdings, a Dublin, Ireland-based wholesale bank.

Although Aquiline's first three investments have all been startups,

See **AQUILINE** page 20

Webinar panel



Ms. Baratz



Mr. Dwyer



Mr. Savan



Mr. Snyder



Ms. Wojcik

Latest BI online forum to explore CDHP issues

Business Insurance is hosting a free Online Executive Forum™ webcast on March 20 on "Mapping Consumer-Driven Health Care: Strategies to Drive Enrollment and Employee Understanding."

Consumer-driven health plans are the newest weapon in employers' arsenal in the war against runaway health care costs, and their popularity with employees is growing. Join *Business Insurance* Senior Editor Joanne Wojcik for an in-depth discussion of how the various types of CDHPs operate and whether they are helping save money by making employees better health care consumers. Participants will hear expert viewpoints and can ask questions during this live event, March 20 at 11 a.m. EDT.

Panelists will include:

- Meredith Baratz, vp-market solutions in New York for Definity Health Inc., a pioneer in the devel-

opment of the consumer-driven health plan and now part of United-Health Group Inc.

- Jim Dwyer, vp of global benefits at New York-based American Express Corp., which also sponsors a type of CDHP.

- Jay Savan, a principal at Towers Perrin in St. Louis specializing in development of consumerism initiatives.

- Mark Snyder, director of benefits at Toledo, Ohio-based Owens Corning Corp., which has offered a CDHP since January 2004.

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

To register for the free *BI* Online Executive Forum™, please visit www.BusinessInsurance.com/webinars.

Massachusetts crafting universal cover rules

Change averts controversy over mandates

By JERRY GEISEL

BOSTON—Massachusetts regulators are moving to implement the next stage of the state's universal health care law after defusing a short but intense controversy over applying coverage mandates to self-funded plans.

This week, regulators are expected to propose for comment the minimum health insurance coverage state residents must have to avoid being hit with fines under the 2006 law, which is intended to help the Bay State achieve near-universal coverage within a few years.

While the criteria set by the Health Insurance Connector, the state agency that was created to implement

key provisions of the reform law, are relatively modest, an earlier memo detailing the criteria aroused enormous concern among employer groups and others.

That memo—which has since been corrected—suggested that all the criteria, including providing coverage for the state's mandated benefits, would apply to employees in self-funded plans.

Few, if any, self-funded plans are designed to cover all the state's dozens of benefit mandates, which include such benefit areas as infertility treatment, said Cathy Stamm, a consultant with Mercer Human Resource Consulting in Washington.

Indeed, employers with self-funded plans don't concern themselves with the mandates because pre-

emption provisions of the Employee Retirement Income Security Act prevent states imposing them on self-funded plans.

Had Massachusetts pressed ahead with the mandate provision, hundreds of thousands of state residents in self-funded plans would have been slapped with special taxes because their plans didn't meet the minimum coverage criteria.

"Employees would have been penalized to their great surprise," said Andy Anderson, of counsel with Morgan, Lewis & Bockius L.L.P. in Chicago.

"Health reform in Massachusetts was supposed to be about providing coverage to the relatively small percentage of residents without coverage,

not penalizing those with already good coverage," said Bill Vernon, state director of the National Federation of Independent Business in Boston.

But Connector officials said it never was their intent to require self-funded plans to provide state mandated benefits in order for employees to have creditable coverage.

"I believe that we do not have the authority, nor would I consider it wise, to try to enforce state mandates on ERISA-exempt (self-insured) plans," Connector Executive Director Jon Kingsdale said in a memo to the Connector's Board of Directors.

Mr. Kingsdale said the problem

See **HEALTH CARE** page 7

Business Insurance

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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Caremark shareholders approve \$27 billion CVS bid

By LOUISE ESOLA

NASHVILLE, Tenn.—Shareholders for pharmacy benefit manager Caremark Rx Inc. last week approved a \$27 billion buyout offer from drug giant CVS Corp., ending a months-long takeover battle with PBM Express Scripts Inc.

Woonsocket, R.I.-based CVS and Nashville, Tenn.-based Caremark first decided to join in November 2006, with CVS agreeing to pay \$21 billion in a deal that observers at the time said could result in lower prescription drug prices for employers due to the combined company's greater leverage in price negotiations with drug manufacturers (*BI*, Nov. 6, 2006).

Then, in early December, St. Louis-based Express Scripts put forth a \$26 billion proposal, saying a union with

Caremark would create an "industry-leading PBM."

That offer touched off a contentious takeover struggle that resulted in litigation by Express Scripts and in sweetened offers from both companies.

With the deal approved by shareholders, Caremark and CVS "now have an historic opportunity to define and lead the continuing evolution of the pharmaceutical services industry," said Mac Crawford, Caremark's chairman, chief executive officer and president, in a statement. The merger still faces regulatory approval.

Caremark buys directly from manufacturers and distributes drugs through 60,000 pharmacies and by mail order. CVS operates nearly 5,400 retail stores with pharmacies. The

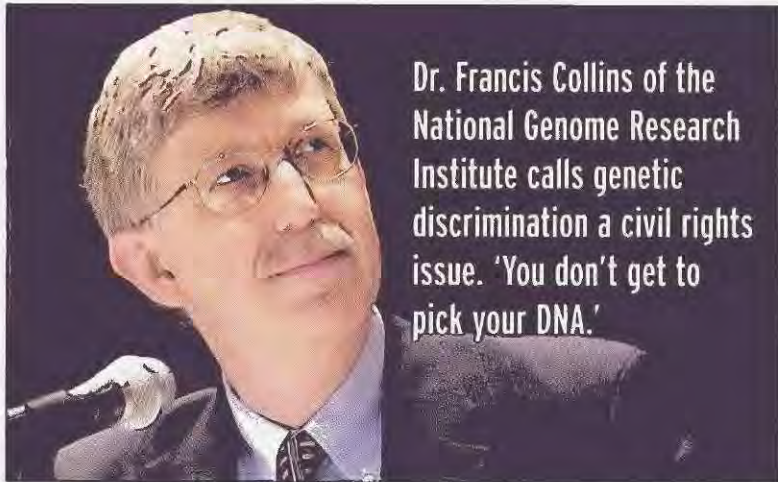
combined company would be called CVS/Caremark Corp. and will be based in Woonsocket, R.I.

"We have said from the beginning that this combination will transform the way pharmacy services are delivered, enabling consumers to benefit from enhanced health care services and improved outcomes, and for payors to benefit from more effective cost management tools," said Tom Ryan, CVS chairman, president and CEO, in a statement.

For more on issues affecting prescription drug benefits, see the archived *Business Insurance Online Executive Forum™* "Hard to Swallow: Why Drug Benefit Costs are So High" at www.BusinessInsurance.com/webinars.



After a months-long takeover battle between CVS and Express Scripts, last week Caremark shareholders backed a buyout offer from CVS.



Dr. Francis Collins of the National Genome Research Institute calls genetic discrimination a civil rights issue. 'You don't get to pick your DNA.'

ERNIE BRANSON, NIH

Genetic protection bill set to take fast track

Measure must guard family health history, expert warns

By MARK A. HOFMANN

WASHINGTON—Information regarding an individual's family health history must be considered protected genetic information if legislation designed to prohibit discrimination can work, according to the director of the federal government's National Human Genome Research Institute.

Dr. Francis Collins, who heads the institute at the National Institutes of Health in Bethesda, Md., offered that warning during a hearing on the Genetic Information Nondiscrimination Act before the House Ways and Means Committee's Health Subcommittee last week. The bipartisan bill would cre-

ate national standards to protect individuals against genetic discrimination in health insurance and employment. Earlier versions of the bill won Senate approval but never passed the House despite the White House's support for the measures. But the newest bill may be on a fast track in both chambers. The subcommittee's chairman—Rep. Fortney Stark, D-Calif.—said that he would like his panel to approve the bill by the end of the month.

Dr. Collins said that some people refuse to undergo genetic testing that could help tailor medical treatments for certain illness, including cancer, because they fear the information may be misused. "This is about all of us," he said. "There are no perfect genetic specimens."

He called genetic discrimination a civil rights issue. "You don't get to pick your DNA," he said.

See **GENETICS** page 20

Argonaut to gain Bermuda foothold through planned merger with PXRE

Deal expected to boost U.S. insurer's reinsurance business

By JUDY GREENWALD

HAMILTON, Bermuda—Argonaut Group Inc. last week announced plans to merge with embattled reinsurer PXRE Group Inc., giving the U.S. specialty insurer an operation in Bermuda.

Following completion of the deal, the combined entity will do business as Argo Group International Holdings Ltd. Argo will become the Bermuda holding company for Argonaut Group's U.S. operations; a new Bermuda reinsurer, Peleus Reinsurance Ltd.; and PXRE's existing insurance subsidiaries.

Argonaut Group President and Chief Executive Officer Mark E.



The deal 'provides a very robust platform for us to grow.'

Mark E. Watson III, Argonaut Group Inc.

Watson III will serve as president and CEO of the new company, which will be based in Hamilton, Bermuda. Barbara C. Bufkin will leave her post as Argonaut's senior vp-corporate business development to become Peleus Re's president.

PXRE President and CEO Jeffrey Radke will resign at the close of the transaction—expected in the third quarter—but will serve as a consultant for a period of time, said an Argonaut spokeswoman.

Under terms of the deal, which is subject to regulatory and shareholder approvals, each Argonaut share will be exchanged for 6.5 PXRE shares of common stock. Argonaut shareholders will also receive a one-time preclosing special cash dividend totaling about \$60 million.

At the deal's conclusion, Argonaut shareholders will own about

See **ARGONAUT** page 6

Employee buy-in viewed as vital for success of wellness programs

Middle managers pose greatest challenge to health efforts

By GLORIA GONZALEZ

ATLANTA—Getting employees at all levels of a company actively involved in wellness and disease management initiatives is critical to their success, employers say.

Communicating the importance of these programs to senior management is a priority for Hannaford Bros. Co., said Ellie Udeh, the Portland, Maine-based manager of wellness initiatives for the supermarket chain. The wellness staff meets with

senior management twice a year to review national health care trends and the company's past and future cost trends.

MORE NMHCC COVERAGE: Computer maker Dell offers online tools to employees to promote health care consumerism **PAGE 19.**

"We really try to paint a clear picture to them of what we're up against," Ms. Udeh told attendees at the 19th annual National Managed Health Care Congress held March 5-7 in Atlanta.

As much as possible, the wellness staff tries to demonstrate the results of their programs, although it is often difficult to show how individual initiatives contribute to the bot-

tom line, she said. Sometimes the best evidence of the effectiveness of these programs is anecdotes about how the programs affected the lives of individual employees as senior managers often show more interest in these stories, Ms. Udeh said.

The biggest challenge in getting buy-in for wellness programs, though, is with middle management rather than senior managers who understand the business case for wellness, she said. Middle managers need to understand the value of these programs for individuals, Ms. Udeh said. To this end, the wellness staff has meetings with managers to discuss how they can

See **WELLNESS** page 19

Errors & Omissions

- A chart in the March 12 issue, Largest Captive Managers Worldwide, contained an incorrect name for Aon Corp.'s captive unit. The correct name is Aon Global Insurance Managers.
- Also in the March 12 issue, the Largest Managers of Vermont Captives chart contained incorrect totals for the number of captives managed by Marsh Management Services Inc. and Aon Insurance Management (Vermont) Inc. in 2006. The correct totals are 194 for Marsh and 173 for Aon.

Argonaut: Insurer to merge with reinsurer

CONTINUED FROM PAGE 4

73% of the company and PXRE shareholders. 27%. The combined company will have \$1.66 billion in capital.

San Antonio-based Argonaut Group, a specialty insurer, reported \$106 million in net income for 2006—a 31.7% increase—and \$847 million in net premiums written, up 10.1%.

PXRE, whose primary focus has been property cat reinsurance and retrocessional coverage, reported profits of \$28.5 million for 2006, including a \$19.7 million net loss for the fourth quarter. This compares with a \$697.6 million net loss in 2005, when the reinsurer was hammered by hurricane losses.

PXRE, which is not writing new business, asked major rating agencies to withdraw their ratings last year after it faced downgrades following its 2005 loss.

Argonaut now operates in three areas, Mr. Watson said during a joint investor conference call to discuss the merger: excess and surplus lines—which accounts for about

two-thirds of its business—a retail-distributed admitted product segment, and a managing general agency that writes public entity business.

PXRE reported profits of \$28.5M in 2006, compared with a \$698M loss in 2005.

The transaction will boost the reinsurance portion of Argonaut's business mix to about 15% from the current 8%, he noted.

Peleus' focus will be on reinsuring medium and small commercial insurers on a pro rata and risk-excess basis; casualty reinsurance, initially a quota share of Argonaut's U.S. business; and property cat risk on a "controlled basis," according to the companies.

The deal "provides a very robust

platform for us to grow, from both in Bermuda and outside of Bermuda, particularly the U.S.," said Mr. Watson. "This gives us more flexibility on the underwriting side and the capital side," he said.

John L. Ward, chief executive officer of Cincinnati-based Cincinnati Partners L.L.C., an advisory firm that specializes in the insurance industry, said the deal is "on balance neutral" for current policyholders, although "there could be a benefit for new policyholders in the future as a result of the two companies being better positioned to offer their specialty insurance products."

Following the announcement, rating agency Standard & Poor's Corp. in New York revised its outlook on Argonaut Group to negative from stable, citing the property catastrophe reinsurance exposure it will assume from Peleus Re. It affirmed Argonaut's A- financial strength rating.

Oldwick, N.J.-based A.M. Best Co. Inc. kept Argonaut's A financial strength rating unchanged and assigned Peleus an A- rating.

Commentary

Some secrets too good to keep under wraps

Business Insurance is about to break a long-held tradition.

For each of the past 29 years, the magazine strove to keep secret the name of the Risk Manager of the Year from the time of the judges' selection until the issue profiling that person is published. The problem is, this has always been a very difficult task.

It's human nature to want to share exciting news with others, and this is especially true of the Risk Manager of the Year award. Often a significant number of people are involved in the nominating process, which makes it harder to keep things quiet for the weeks and months until our profile issue is published. Once the winner is informed, the good news travels like wildfire—to brokers, underwriters, advisers and anyone else who had a hand in the RMOY nomination.

Historically, *Business Insurance* has requested that all parties informed of a candidate's selection refrain from any public announcement until *BI* publishes its annual Risk Manager of the Year issue. I'm pleased to say that this perennial request has been honored, but once dozens or hundreds of people become aware of the news, it's impossible to keep it from spreading for long. And, as sometimes happens when news travels on a grapevine, the original message can get muddled. It would be unfortunate if facts got lost in the telling.

To avoid these problems, *Business Insurance* has decided to disclose the names of the 2007 Risk Manager of the Year and members of the Risk Management Honor Roll following the judges' selection of this year's honorees. The pool of candidates this year was among our largest and comprised many very impressive risk managers, making the job of the independent panel of judges even more challenging. The judges score candidates on a scale of 1 to 10 on each of 10 criteria, with the highest-scoring candidate named Risk Manager of the Year. The next-highest scoring candidates may be named to the Risk Management Honor Roll.

This year's panel has chosen a winner as well as three members of the honor roll.

The risk managers named to the 2007 Risk Management Honor Roll are Carol F. Arendall of OfficeMax Inc., Scott B. Clark of Miami-Dade County Public Schools and Warren C. Perkins Jr. of Boh Bros. Construction Co. L.L.C. The 2007 Risk Manager of the Year, the 30th person to receive this prestigious honor, is Lance J. Ewing of Harrah's Enter-



REGIS COCCIA

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

tainment Inc. These four are outstanding risk managers whose creativity, leadership and innovation help their organizations to achieve their goals.

Now that you know who the honorees are, you will want to learn about their risk management programs, the challenges they faced, the major problems they solved, their creative use of loss control and risk financing

It's very difficult to keep good news from spreading for very long.

strategies, how these risk managers got into the profession, how they handle the diverse demands of the job and more. Their stories are compelling, and you can read about them in detail in the April 30, 2007, issue of *Business Insurance* and online following publication.

To celebrate the 30th anniversary of the Risk Manager of the Year award, we're also preparing a special report on risk management best practices gleaned from decades of honoring the profession's best, with summary profiles of all 30 recipients and their programs. Readers will be able to see the report online at the *BI* Web site.

Business Insurance is proud of all the nominees for the Risk Manager of the Year award and salutes all risk managers who are working hard to protect their organizations' people, property and dreams. The importance of the risk manager cannot be overstated. There are many different approaches to identifying, mitigating and monitoring risk, as the profiles of the award winners attest. We hope that readers will gain insights that they can apply in their own organizations, on their way to becoming the future Risk Managers of the Year.

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State health care effort cited as model for wider reforms

By JERRY GEISEL

WASHINGTON—The drive that led to the passage of landmark universal health care coverage reform legislation last year could be a model for legislative efforts in other states and in Congress, a top Massachusetts hospital executive says.

Massachusetts legislators were successful because of a "common sense" approach in tackling the toughest issues, said Dr. James Mongan, president of Partners HealthCare System Inc. in Boston.

Speaking last week before the Senate Finance Committee, Dr. Mongan

said Massachusetts leaders honestly faced up to the issue of how to finance an expansion of coverage.

The guiding philosophy, Dr. Mongan said, was "everybody pays something." To that end, the expansion of coverage is being financed by federal and state funds, provider taxes, contributions by employers that do not offer coverage and by premium contributions from individuals.

The path to success, Dr. Mongan said, consisted of an honest appraisal of the problem and a "philosophy of sharing and fairness regarding revenue," he told the Senate panel.

"I commend this formula to your attention as you begin your important work on universal health care coverage," he said.

Another panel witness, Stuart Altman, a longtime health care scholar and now a professor at Brandeis University in Waltham, Mass., advised the panel to build on the current financing system as much as possible.

To do otherwise, Mr. Altman said, generates a tidal wave of opposition from interest groups that might lose out. Because they have a lot to lose, "they form alliances with other 'loser' groups to derail such legislative

initiatives," Mr. Altman said.

Indeed, Mr. Altman said it would be a "big mistake" for federal legislators to try to expand coverage and hold down costs simultaneously.

It is unlikely, he said, that combining the two initiatives would generate enough support to counter the "combined negative forces that will oppose the coverage and cost control legislation," he said.

Since it would be easier and more important to expand coverage, Mr. Altman advised the panel to start on the coverage issue first.

The lack of universal coverage in the United States hurts both the

uninsured and employers providing coverage. Because they lack insurance, the uninsured often delay in receiving treatment, waiting until they are very ill and require catastrophic intervention, Mr. Altman said.

The care then is delivered in hospital emergency rooms, the most expensive place for treatment. Providers, when it is possible, then shift the cost of treating those without coverage to insured patients, inflating their bills and ultimately increasing group health insurance premiums and making that coverage less affordable, Mr. Altman said.

Health care: New criteria expected

CONTINUED FROM PAGE 3

occurred because standards the staff had proposed for insurers to provide coverage to the uninsured through a Connector program were mistakenly included in the memo on what would constitute minimum creditable health insurance coverage for state residents.

Benefit experts say such a requirement surely would have triggered litigation, charging that such a requirement ran afoul of ERISA preemption. "You are going after the design of employer plans and that would be ripe for an ERISA challenge," said J.D. Piro, an attorney with Hewitt Associates Inc. in Norwalk, Conn.

Meanwhile, the proposal to be presented to the Connector Board next week strips out an earlier recommendation that, in order for enrollees not to be penalized, health plans have no lifetime limits on covered expenses. The change was made after state officials learned that more than 350,000 state residents are in plans with such limits.

Criteria that the board is expected to propose for minimum coverage include no annual limits on expenses covered, with a maximum deductible of \$2,000 for individual coverage or \$4,000 for family coverage, while the maximum out-of-pocket limit for services delivered in-network could not exceed \$5,000 for individual coverage and \$10,000 for family coverage.

Additionally, high-deductible health insurance plans linked to health savings accounts would automatically be considered to have met the minimum coverage standards.

Mr. Kingsdale said these requirements should comply with ERISA since they would apply to health plan enrollees and not to employers or the plans themselves.

Others aren't sure, but clearly the new criteria would have much less of an impact than if enrollees—to have creditable coverage—had to be in plans that offered all Massachusetts mandated benefits, said Rich Stover, a principal with Buck Consultants L.L.C. in Secaucus, N.J.

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STRAIGHT ANSWERS.

Business Insurance OPINIONS

'Supplementals' aren't in buyer's best interest

REVAMPING CONTINGENT commissions as "supplemental" commissions, as some insurers are doing, doesn't make the arrangements any less objectionable.

As we reported recently, insurers Chubb Corp. and Travelers Cos. Inc., have developed new supplemental commission arrangements that provide brokers fixed commissions based on brokers' prior performance with the insurers. The insurers are not providing more details.

From the still limited information that is available, the new commissions appear to be little more than contingent commissions with a few tweaks to help them pass muster with state officials.

The issue comes down to what is the fundamental role of a broker.

Advocates of the payments say that the crucial difference is that supplemental commissions will be based on historical profitability and volume rather than current and future figures. That's all well and good, but brokers will still be rewarded for serving the needs of insurers rather than the needs of their clients.

A second argument used in favor of the payments is that the commissions are fully disclosed. So what? Disclosing to a buyer that you're getting a bonus for placing their business with a particular company doesn't mean that you are doing your best to serve the needs of your client.

The whole issue comes down to what is the fundamental role of an insurance broker. If it is, as brokers say, to be a trusted adviser to risk managers, their compensation must come exclusively from the buyer.

Whatever they are called, the payment of extra commissions to brokers by insurers is not in the interests of buyers.

Goal for health reform? Universal coverage

IN PROVIDING a health care reform prescription, a panel of witnesses who testified last week before the Senate Finance Committee got it exactly right.

Their message to legislators was: agree on a package to achieve universal coverage, but do so without turning the current financing and delivery system upside down.

To do otherwise creates winners and losers, said one of the panelists, Stuart Altman, a professor at Brandeis University. Because they have a lot to lose, the losers form alliances with other "losers" to derail reform initiatives, he said.

For example, look back to the 1990s when President Clinton pushed for enactment of a major health care reform package that would have replaced the employment-based system of coverage delivered through commercial insurers with a government-controlled system.

In part, the plan failed due to opposition from insurers, which would have been frozen out, and employers, which believed they could do better than the government in holding down costs.

Now, policymakers are considering reform more realistically, looking to retain the current system, but eliminating its most pressing problem: the lack of universal coverage. Universal coverage can be achieved through a variety of relatively easy steps, including premium subsidies for lower-income, uninsured individuals.

The cost might not even be that great, considering that expanded coverage would mean people would receive treatment sooner—reducing the likelihood of minor medical problems mushrooming into conditions that are expensive to treat—and in lower-cost settings, such as doctors' offices rather than emergency rooms.

Policymakers should keep their eyes on one goal: universal coverage.



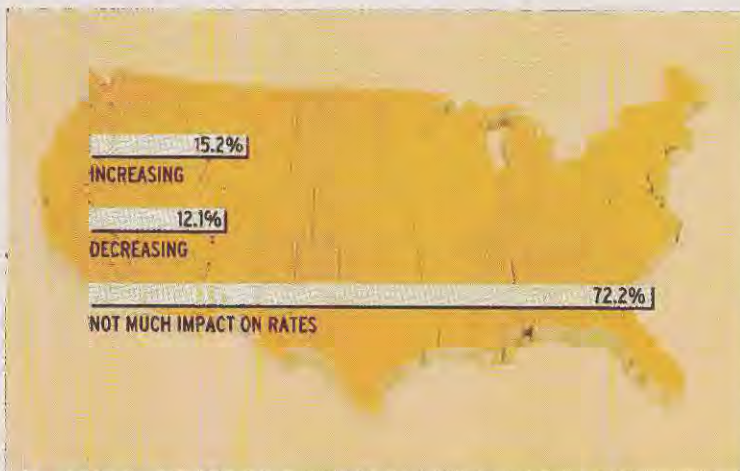
BI beats list

In an effort to ensure continuing timely coverage of risk management, insurance and benefit-related news, Business Insurance has formalized a list of its reporters' assigned beats. This list is not intended to be exclusive but rather to represent core subject areas of importance to BI readers. BI welcomes ideas and tips from readers on these and other areas. Following is a list of the beats and the principal reporters for each:

Agents/brokers: Sally Roberts.	legislation—benefits: Jerry Geisel.	cat risks: Mark A. Hofmann.
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Benefits—retirement savings/pensions: Jerry Geisel.	Health care industry operations: Gloria Gonzalez.	Reinsurance: Judy Greenwald.
Bermuda market: Rupal Parekh.	Industry Focus: Rodd Zolkos, Meg Fletcher.	Risk management profession: Dave Lenckus.
Canada—risk management and benefits: Gloria Gonzalez.	insurance coverage litigation: Douglas McLeod.	Runoffs/receiverships: Douglas McLeod.
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Online Poll at www.businessinsurance.com

If the McCarran-Ferguson Act is repealed, do you think that would result in commercial insurance rates



NEXT WEEK'S POLL: Are insurers' proposed payments of "supplemental performance commissions" an improvement over contingent commissions?

BI Online Poll tool sponsored by Wausau Insurance Cos.

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PROPERTY

Market soft for buyers in Middle East

*Investments, low cat profile
keeping coverage rates down*

By **ETTIE SCHMITT**

The Middle East, buoyed by the petrodollar and foreign investment, is booming. Gulf Coast countries, including Bahrain, Qatar, Saudi Arabia and United Arab Emirates states such as Dubai, have become hugely attractive to investors, international companies and property developers that are eager to ride the wave of money flowing into the region.

A combination of a relatively stable political scene, a low natural catastrophe profile and large amounts of investment have contributed to a soft insurance market for property managers and owners in the region.

But according to experts, there are some local factors that may raise challenges. "The region is economically strong, and relatively politically stable," said Hugo Gibbs, partner with London-based Oxygen Insurance Brokers Ltd. "Terrorism poses a minor threat in the region," he said. "Of the GCC, several countries have experienced some isolated incidents, yet only Saudi Arabia appears to have had any real problems. U.S. and British personnel and interests, if any, would appear to be the main focus of attacks."

And Robert Humphreys, executive director-natural resources and construction of Aon Ltd. in London, a unit of Chicago-based Aon Corp., agreed that political risk isn't really an issue for property owners, occupiers and managers: "Political risk? The locals don't buy that and it's certainly not an issue for them," he said.

However, Dubai-based Steve Bonyng, managing director of HSBC Insurance Brokers Middle East Ltd., warns that political risk exposures may become more of an issue, "as activity spreads throughout the Middle East into North Africa and Yemen."

The natural catastrophe profile also is relatively low. There is a fault line that runs through southern Iran (as well as Israel and southern Jordan), which has led to small tremors in Dubai.

But this fault line passes through parts of Ras Al Khaymah (part of the UAE) and Oman, where, as Mr. Bonyng pointed out, "a number of prestigious developments are planned, and therefore earthquake risks will need to be factored into any insurance project."

But "because there's increasing capital chasing the existing premiums for property, there has been a general softening of the market, so it's fairly competitive," said Mr. Gibbs.

Going up

But there are, of course, challenges for those buying insurance for construction projects and properties. And it is perhaps the pace and sophistication of property developments that is precipitating these risks. Perhaps the two greatest challenges are posed by the shortage of skilled laborers and contractors and technological problems arising from complex construction projects.

There is a consensus that there is no real shortage of basic laborers, but the lack of skilled contractors at the supervisory level has meant "a

See **MIDDLE EAST** next page

INSIDE

**PLENTY OF RISKS
AVAILABLE AT THE MALL**

PAGE 14

**PROPERTY MANAGERS PLACE
EMPHASIS ON LOSS CONTROL**

PAGE 15

At more than 1,000 feet, the Burj Al Arab hotel in Dubai, United Arab Emirates, is one of the world's tallest hotels.

Middle East: Low natural cat profile contributes to soft market

CONTINUED FROM PREVIOUS PAGE

general fallout in the quality of the building product, as people without the right skills are being tasked with jobs that are beyond them," said Nicholas Maclean, managing director for the Middle East at CB Richard Ellis Ltd.

With ambitious projects in the pipeline, HSBC's Mr. Bonyngé said,

"quality control and the employment of a skilled project management team are critical. And the shortage means that there is the possible adverse publicity and liability for death or injury to contractors working long shifts in difficult conditions. As projects become delayed and the pressure on contractors intensifies to complete projects on time, errors may result which could

have catastrophic consequences on build quality and accidents."

Mr. Gibbs noted that one of the reasons there is a dearth of skilled labor is the growth of the economy in India. "The issue is being exacerbated by the return of many Indian expatriates, who have traditionally filled the technical management jobs, to the improved working conditions and salaries of the subcontinent," he said.

The absence of skilled contractors is throwing the security of the ambitious construction projects into question. Messrs. Gibbs and Bonyngé both pointed to the dangers of building on reclaimed land as one of the biggest property risks.

"Building on reclaimed land or sand generally presents challenges in managing the design and structural risk during construction, particularly when you consider the high-rise nature of many of the projects. Typically, working and rating are dictated by the available capacity in the international reinsurance market," said Mr. Bonyngé. He added that high-rise buildings raise even more insurance challenges, as there are concerns about the ability of emergency services to respond in the event of a fire, for example.

Mr. Gibbs said that the reclamation projects, involving the extraction of sand and rock from inland

and dumping it in the Gulf, increase the risk of subsidence and flooding. "The majority of projects are office/retail, hotel and residential builds, which do not pose technical difficulties, but the well-publicized reclamation projects, however, can give rise to issues of subsidence and flooding. International insurers and reinsurers are aware of these risks and factor the exposures into the products on offer," he said.

Risks in buying habits

Another challenge for both developers and occupiers is where and how to buy insurance. Mr. Gibbs said that because of the size of the regional insurance market, there is capacity to insure most buildings. "The capacity locally in the GCC region is far more competitive than it is in Europe, for example," he said.

But there is a tendency among those insuring large construction projects, developments and buildings to cut costs by buying several single insurance packages rather than one combined program in the international market. "They demarcate deals into several small parts. It's cheaper to insure 20 \$100 million projects locally, than one \$2 billion project internationally. But there are potential risks through accumulation in this way—if there

is a sitewide catastrophe, for example," said Mr. Gibbs. "And with 20 different policies, no two policies are going to respond in exactly the same way."

And this tendency creates a challenge for the insurance industry itself. "Technical rates are low generally in the region and the practice of spreading risk among local insurers (is) common," said Mr. Bonyngé.

This practice may be driven, at least in part, by whether insurance can be bought on an "admitted or nonadmitted" basis. Darren Munday, a fellow of the Institute of Risk Management and risk manager for an international financial services group, says "sometimes local regulators restrict the basis on which insurance can be bought." And this can mean that limits are imposed on the level of indemnity by the local regulators or that the policies can be restrictive in terms of cover.

Beyond this, the challenges for those buying insurance to protect their buildings and their employees are much the same as would be experienced in Europe and the United States. Those involved in managing property risks in the Mideast Gulf Coast region need to be aware of how the ravenous appetite for growth may backfire, experts said.



A competitive regional insurance market in the Persian Gulf countries means ample capacity for most construction projects.



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Property exposures in Asia present a varied risk profile

Contingency planning key to managing property risks

By **ETTIE SCHMITT**

Asia is the home of two of the world's fastest-growing economies—China and India—and has seen its economy boom in recent years. But property risks inherent in the region present developers, owners and occupiers with a varied risk profile.

Natural catastrophes pose perhaps the greatest risks in the region. Much of the southeast of the continent is contained in the so-called "ring of fire," where earthquakes, volcanoes and tsunamis are a threat, particularly in coastal areas.

At least some of these natural catastrophe risks can be avoided. Marie-Gemma Dequae, group risk manager for Kortrijk, Belgium-based metals company N.V. Bekaert S.A., which employs around 3,500 people in China, India and Indonesia across nearly 20 plants, said that floods and tsunamis in particular can be avoided through careful research.

"The risk of nat cat is, of course, higher than it is, for example, in Europe. But we have plans which we use to examine the location of a potential plant carefully so that we can avoid these disasters," she said.

Hurricanes are more of a problem, Ms. Dequae said. "If strategically you have to be in the region, and if the whole region is subject to hurricanes, this is something you have to bear in mind when constructing your building," she said. Ms. Dequae explained that Bekaert has a technical manual that it follows when constructing buildings in such high-risk areas.

The speed of construction projects in Asia also brings its own risks. "In Europe, projects typically take 12 to 15 months. But in China, for example, the average time period is around three or four months," said Ms. Dequae, who attributes the speed to the large available workforce and the surfeit of contractors.

But it may also have an effect on the quality of the buildings being constructed. As David Ketley, insurance manager for Cargill Europe and Asia Pacific in Cobham, England, pointed out, most of the buildings are not high-value properties as might be found in Europe and the United States, for example.

In addition, there are some risks that can't be avoided, such as the threats posed by pandemics and political change.

Not quite unique to Asia but certainly characteristic of the region is the risk posed by pandemics. "Southeast Asia seems to be the home of potential and actual pandemic viruses. Asian influenza, severe acute respiratory syndrome and avian influenza being the most recent," said Mr. Ketley. While this is not strictly a risk to property, it is a risk to staff and can, therefore, affect business.

And though the political risk profile is relatively low, it does exist. Mr. Ketley points to the southern Philippines as potentially unstable, as Abu

Sayyaf, the militant Islamic group, seeks to establish a Muslim state in the region. But this does not pose a threat to international companies in Asia, as the Philippines has yet to emerge as a market that holds much interest for foreign investors.

While Asia is home to two of the remaining communist states—China and North Korea—only China, as one of the world's fastest-growing economies, is of particular interest. While it may be politically opaque and highly regulated, it is relatively stable, experts say. Moreover, the market is booming and increasingly open to foreign money.



'If the whole region is subject to hurricanes, this is something you have to bear in mind when constructing your building.'

Marie-Gemma Dequae, N.V. Bekaert S.A.

When faced with these challenges, property owners and managers can only ensure that they have adequate protection and business interruption procedures in

place. Businesses need to ensure that they not only have adequate security in place to protect their staff, but also have a workforce trained and aware of what to do in emergency situations, experts said.

Ms. Dequae said that Bekaert is growing rapidly in Asia and the company conducts a lot of training to ensure that employees are fully briefed according to the

safety manual.

Mr. Ketley said contingency planning is the key to managing these property risks, particularly those associated with pandemics and politics, in Asia. He argued that businesses should, for example, have evacuation plans for key personnel, and alternative locations lined up from which to operate in the event of having to close a plant.

"Businesses have no control over political or pandemic risks," Mr. Ketley said. "They can't stop them happening, so all they can do is prepare for such an event and have contingency plans ready."

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Carolyn shaved in honor of her son's friend George. George is 6 years old, in remission, and on maintenance chemotherapy treatment. Photo taken by Motaphoto, Louisville, Kentucky, by Jennifer Trujillo.

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Shopping malls have risks in store

Public liability a major exposure for retail centers

By ROSEANNE WHITE GEISEL

On any business day, shopping center owners and managers face liability risks that range from ordinary and manageable to horrifying and out of their control.

The ordinary exposures, primarily slips and falls, almost can be eliminated with a strong loss control program. But even the best risk management strategies can only lessen the potential liability from a natural disaster, violent crime or act of terrorism.

Shopping malls present the greatest source of public liability in the real estate industry, partly because of "the sheer volume of people" visiting them daily, said Brian Ruane, executive vp and director of the real estate and hotel group for Willis Group Holdings Ltd. in New York.

Stephen Bushnell, product director, real estate innovation team at Fireman's Fund Insurance Co. in Novato, Calif., said 80% of liability-related incidents at shopping malls are slips and falls, and 80% of those happen on the exterior of the property.

Inside shopping centers, typical liability risks include: wet or slippery floors, especially near entrances; beverage and food spills in the food court area; changes in level from one corridor or area to another; and entertainment features, such as an indoor play-

ground or amusement park rides for children.

Severe mall exposures include assault, fire and even unlawful imprisonment if a customer is incorrectly detained by mall security, said Scott Bayer, senior vp general liability division for Liberty International Underwriters in New York.

Security "has and will continue to be more of an issue," including not only crime but also the risk of a physical or biological terrorist attack, said Tim Bunt, vp and corporate risk officer for CB Richard Ellis Inc. in Stamford, Conn., which manages retail shopping centers around the world.

If business declines at a mall following an incident, tenants may bring an action against the property owner or manager, said Mr. Bushnell, who noted that real estate errors and omissions coverage would address that risk.

If there are security- or safety-related incidents, companies that brand mall complexes with their names also risk harm to their reputation, Mr. Ruane said.

A separate policy generally would have to be purchased to cover reputational risk.

Mary Pipino DeMaiolo, area president and niche managing director, shopping center insurance, for Arthur J. Gallagher Risk Management Services Inc. in Youngstown, Ohio, said, "As an industry, (owners and managers of retail centers) do an excellent job of making sure they provide a safe and comfortable shopping environment. But sometimes things happen that are beyond anyone's control, and they get blamed."

"One little piece of negative publicity overcomes all of the good things and is blown out of proportion," Ms. DeMaiolo said.

A major change in liability issues springs from mixed-use properties with residential components, said Steven Sachs, senior vp and managing director of the national real estate practice for broker Hilb Rogal & Hobbs Co. in Columbia, Md. Mixed use facilities require "everybody stepping back and looking through expected crises and issues," Mr. Sachs said. A determination must be made where mall security ends and residential security begins, which he said can be problematic if residential and shopping center parking are in the same lot.

From the perspective of many risk managers, brokers and insurers, overall U.S. mall claims frequency is stable or declining. But others say severity is increasing. Geography, demographics and the litigiousness of the region all affect the frequency and severity of claims against shopping malls, Mr. Sachs said.

And "as our society ages, the frequency of claims will increase," said Ms. DeMaiolo.

"We're anticipating claims costs to increase," said David Grinblat, director of middle market industry solutions for Hartford Insurance Co. in Hartford, Conn. Baby boomers moving into urban locations are luring retail centers to those busier areas that have a higher potential for large losses, he said.

"It's the less frequent stuff with the higher potential value that drives you to have excess coverage," said Eamonn Cunningham, chief risk officer for Sydney, Australia-



Slips and falls are still the largest liability-related incidents at shopping malls, and most of those happen on the exterior of the property.

based mall owner/operator Westfield Group.

Mr. Cunningham, who oversees a global risk management program followed by 121 branded malls worldwide, said the company aims to "engineer risks out of operations." Westfield's risk management culture is supported by large financial investments in loss control with hundreds of millions of dollars spent each year just on the security aspect, he said.

But, Mr. Cunningham said, "I don't see appropriate discrimination (by insurers) between insureds that live and breathe risk management and those that don't have a risk management culture. We don't get the value for the effort we put in."

And though the market is softening, policyholders are still accepting significant retentions (see related story).

Another part of Westfield's effort is training. "Our people are trained

to deal with incidents," Mr. Cunningham said. The company also operates with the philosophy that well-treated customers are less likely to sue for as much as possible, he said.

HRH's Mr. Sachs, who was a risk manager for Rouse Co., a shopping center owner and manager acquired by Chicago-based General Growth Properties Inc., said companies must determine a strategy to reduce risk; agree upon performance standards, such as how often inspections are conducted, and have someone accountable for meeting those standards; and develop metrics to evaluate how well processes are working. "If you have those three things, you can move the numbers" in terms of incidents and costs. "But what we're really talking about is people not getting hurt," Mr. Sachs said.

A regimen of inspection, documentation and correction can help reduce slips and falls from defects, Mr. Sachs said. The security force can be used for inspection, inspecting one zone daily for problems and then getting them fixed. "A five-year plan to resurface the parking lot doesn't take away the need to fix defects (such as potholes) when they occur," he said. "It's the same with cracks in the sidewalks."

Mr. Bunt of CB Richard Ellis agrees that a comprehensive risk assessment is the first line of defense against liability exposure. "Once you understand where the gaps are (in your loss control program), you can begin addressing those gaps," he said, whether the solution is more visible security, surveillance cameras or having a plan in place to shut down the ventilation system in an emergency.

In addition to managing the risks that the shopping center owner or manager must assume, "risk transfer (to contractors) has always been a cornerstone" of a program to limit liability, Mr. Bunt said.

Shopping center owners and managers must not jeopardize the risk transfer by appearing to have risk management oversight over contractors and their workers.

"The way you give direction is in the scope of the contract," Mr. Sachs said. "Benchmark a number of objectives" in the contract, he said.

What risk managers must do, he said, is provide the structure to achieve risk management objectives.

Rates low, but placing customized coverage can be difficult

Shopping center owners and managers are finding lower rates and readily available capacity in the U.S. liability insurance market, but that does not mean policyholders are getting all of their needs met.

Eamonn Cunningham, chief risk officer for the Westfield Group in Sydney, Australia, said he still hits roadblocks when he asks insurers to customize a policy to his company's needs—even though he's a large buyer of insurance.

The insurance Westfield buys is "reasonably formula-driven. It's really an actuarial exercise," Mr. Cunningham said.

"They don't understand how the business works," he said.

Westfield's corporate structure treats each of its 121 shopping malls worldwide as a separate profit center. So its insurance program must be set up so premiums and self-insured retentions are specific to each mall.

Shopping center owners or managers that are limited liability corporations or partnerships must be aware that the standard Insurance Services Office-based general

liability language does not, in some cases, address their specific needs, said David Grinblat, director of middle market industry solutions for Hartford Insurance Co. in Hartford, Conn.

Most insurers are not willing to write first-dollar liability coverage, said Brian Ruane, executive vp and director of the real estate and hotel group for Willis Group Holdings Ltd. in New York.

Though policyholders often must take a significant retention, many insurers are willing to provide more coverage above those retentions and to negotiate on terms and conditions, Mr. Ruane said. "As rates go down, coverage goes up," he said.

Rate trends depend upon several factors, said Mary Pipino DeMaiolo, area president and niche managing director, shopping center insurance, for Arthur J. Gallagher Risk Management Services Inc. in Youngstown, Ohio. The size of the individual retail center, the insured's portfolio of retail centers and geographic location all are reflected in the rate, Ms. DeMaiolo said.

"Attachment points have

shown a steady decline, which is typical of a soft market," said Scott Bayer, senior vp of the general liability division at Liberty International Underwriters in Boston. In addition, he said, policyholders with self-insured retentions are seeing smaller deductibles.

Novato, Calif.-based Fireman's Fund Insurance Co. prefers writing first-dollar coverage to have more control over claims, said Stephen Bushnell, the company's product director, real estate innovation team.

"With a quick response (to a claim), even serious losses can be handled without going to court," Mr. Bushnell said. He said rates have been going down, and plans that are experience-rated in particular can help lower premiums.

Fireman's Fund also offers a crisis management endorsement to property policies, a somewhat unusual cover that provides instant help by a public relations firm and also provides counseling services to victims. "These are stopgap measures that mitigate future losses," Mr. Bushnell said.

Tim Bunt, vp and corporate risk

officer for CB Richard Ellis Inc. in Stamford, Conn., said liability rates are flat to down 10% for the worldwide real estate services company that also manages shopping centers.

Brokers also say they are seeing decreases in shopping center clients' rates.

"We are seeing decreases in rates of 20% to 25%," said Kathleen Felderman, senior vp and director of real estate for brokerage Lockton Cos. L.L.C. in Denver.

Ms. Felderman noted that insurers "are much more interested in being creative" and flexible with limits, terms and conditions. For instance, she said, one insurer has loosened exclusions and broadened coverage on a policy that covers the liability of kiosk operators in malls.

Lockton likes to give the top executives of the client company the opportunity to "tell their story" directly to the underwriters, Ms. Felderman said. Insurers will be flexible "if your loss history backs up what you say you do" in risk management, she said.

—By Roseanne White Geisel

Property managers look to maximize leverage with insurers

Making risks more attractive may help reduce policy costs

By **DAVE KAISER**

Risk managers at property management firms across the United States are facing increasing challenges as they grapple with higher insurance rates and more natural catastrophes.

By placing more emphasis on loss control measures and striving to improve their negotiating powers with insurers, risk managers at the organizations can overcome some of the problems they face, but it can be a tough fight as property values have continued to climb, they say.

"Two of the things property managers have to deal with regularly in this business are increasing insurance rates and property taxes—they seem to go hand-in-hand," said Ben Cecchini, asset manager at Quest Property Management in Portland, Ore.

limits and taking higher retentions to try and soften the impact of the rate hikes. The commercial market remains the principal option for many property managers as capital requirements for establishing a captive are often too high, he said.

Property managers outside of traditional hurricane zones have also dealt with weather-related losses over the past year.

Quest Property Management made its first significant claim in several years after heavy wind and rain hit the Portland, Ore., region late last year, said Mr. Cecchini. The firm, which manages around

1 million square feet of property, routinely carries coverage for everything from mechanical failure to earthquake and flood damage, he said. Its primary insurer is Travelers.

But it's not just property managers with cat-exposed properties that are seeing substantial rates hikes, said Max Perlin, property manager for Signature Associates, a commercial real estate firm in Southfield, Mich.

Most of the properties managed by Signature are located in the Midwest and fall in the range of 50,000 to 100,000 square feet, though it

does manage much larger properties, Mr. Perlin said.

Since the Sept. 11, 2001, terrorist attacks, insurance rates for the properties managed by Signature have more than doubled, rising from around 10 cents per square foot to more than 20 cents, he said.

"In our opinion there were two factors that caused this," Mr. Perlin said. "First, the insurance industry was spreading its risk-loss ratio of terrorism...over its entire portfolio in an attempt to make up for some of those losses. Second, the insurance industry was spreading losses for natural disasters, floods and hur-

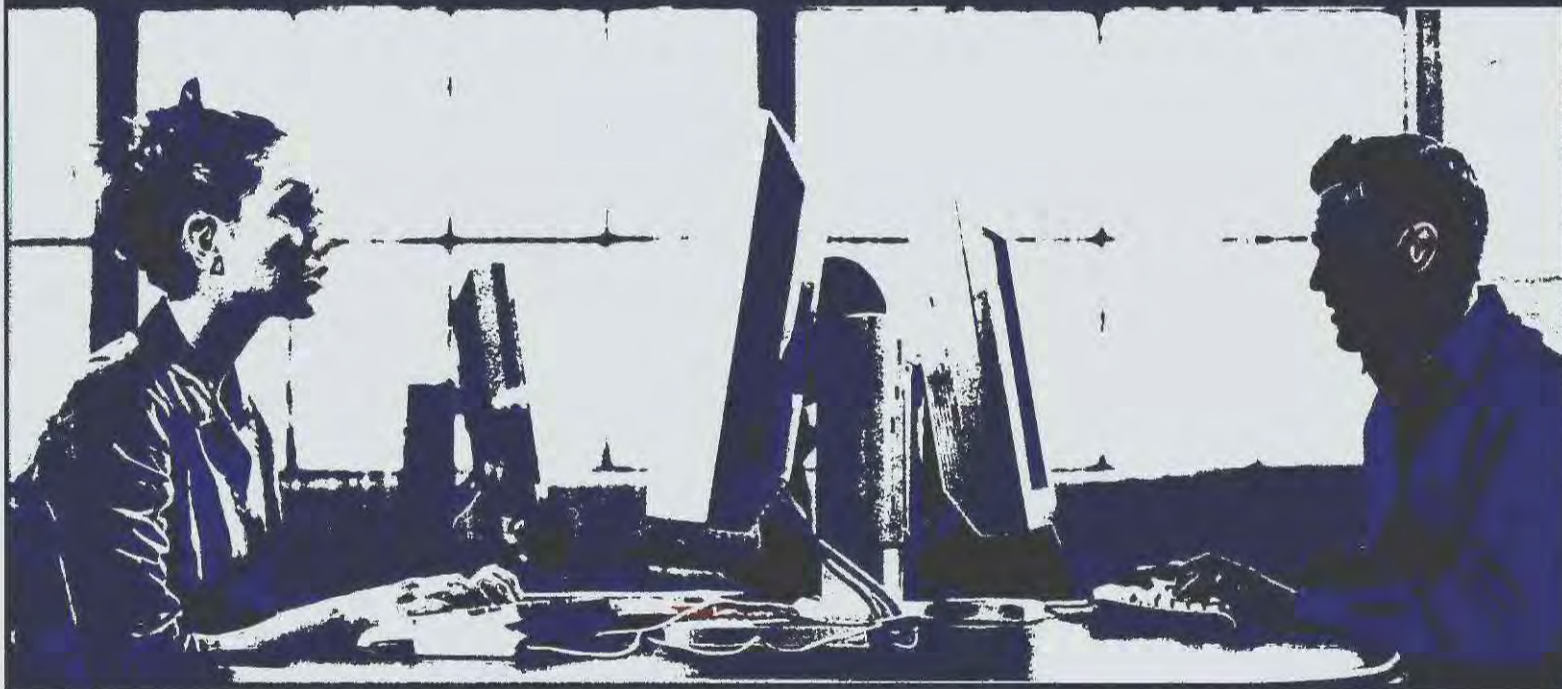
ricanes that were occurring," he said.

That sharp increase prompted the firm, like many other property managers to increase its loss control and safety measures, Mr. Perlin said.

Risk managers say that they start with the basics when trying to curb their property risks and insurance premiums, including making sure tenants are aware of city codes and safety requirements; in areas in which municipalities have safety and building requirements, property managers require their tenants to

See **PROPERTY** next page

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JOHN COLETTI/FOLIO INC.

Owners of property in hurricane-exposed areas such as Tampa, Fla., have had trouble buying wind cover.

And for catastrophe exposed properties, the higher insurance rates don't appear likely to ease substantially anytime soon.

"After the 2004 and 2005 hurricanes, insurance companies have only recouped reinsurance costs," said Steve Backman, Tampa, Fla.-based unit manager at Travelers of Florida, a unit of Travelers Cos. Inc.

And few insurers appear to be bucking the trend and tempting policyholders away with lower rates. "Retentions are now in the high 90% (range) and I doubt if anyone will change policies," he said.

Finding adequate capacity for properties in hurricane-exposed areas is difficult, said Robert P. Watson, vp at Watson Insurance, a Gastonia, N.C.-based brokerage.

"Finding wind insurance in New Orleans and Tampa has been difficult, to say the least," he said. "While we are seeing a little relaxation in the wind market, things are still tight."

Mr. Watson, who places coverage for several condominium and apartment buildings in the Southeast, said policyholders are buying lower

Property: Managers make efforts to reduce insurance rate increases

CONTINUED FROM PREVIOUS PAGE

closely adhere to those standards and some sponsor quarterly inspections to ensure compliance.

In addition, paying attention to basic safety measures, such as making sure stairways are well lighted and ensuring that tenants are informed about evacuation procedures, can help reduce insurance rate increases, Mr. Perlin said.

Quest also makes efforts to make its risks more attractive and reduce policy costs, said Mr. Cecchini.

"We have added things like sprinklers to our warehouses and have recalculated hydraulic factors in some of our older buildings to make sure they meet current code requirements," Mr. Cecchini said.

In addition, "we require tenants to determine what they are putting in their space, how high they are storing it, whether storage racks are permeable to water and if anything they are storing is haz-

ardous," he said. "Then we go to the city and have hydraulic summary calculations made to make sure there is enough water coverage to

Despite signs spelling out the importance of safety, sometimes people will find a way to be careless.

Ben Cecchini,
Quest Property Management

take care of any issue that might occur.

"Portland requires businesses to have racking permits which specify what can be placed on shelves, what types of storage boxes they have and how high products are stored off the ground," Mr. Cecchini explained.

"All our tenants have to obtain these permits," he said. "This can be a little bit of a pain for some of them, but in the long run it keeps our costs down."

Quest also periodically conducts inspections with its insurer to check on basic safety requirements that might have been overlooked, such as overloaded surge protectors and outlets in offices, and people using space heaters.

Although, some of the checks may seem obvious, even if you have signs spelling out the importance of safety measures, sometimes people will find a way to be careless, Mr. Cecchini said.

Once the risks are made more attractive, property managers can turn their attention to maximizing their leverage with insurers, Mr. Perlin of Signature said.

"I used the total square footage of the properties we managed as leverage," he said. "I went directly to large insurers, emphasized that we



Safety-conscious property managers inspect for overloaded surge protectors and other items on safety checklists.

manage more than 8 million square feet of commercial properties and obtained much more reasonable rates."

In addition, "our clients also appreciated our efforts to reduce their costs," Mr. Perlin said. "We made our efforts at no cost to our clients and gained client satisfac-

tion and tenant retention simply because we showed that we were looking out for their interests.

"When looking for new business, we also showcased this effort as a good example of how we attempt to keep costs down for the owners of the properties we manage," he said.

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AS OFFICIAL RECEIVER OF
ATERFORSÄKRING AB LUAP.
DEBTOR IN A FOREIGN PROCEEDING
CASE NO. 03-10945 (PCB)

NOTICE IS HEREBY GIVEN THAT ON MARCH 6, 2007, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON FEBRUARY 19, 2003. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED TO BE HELD ON SEPTEMBER 27, 2007 AT 11:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE PRUDENCE CARTER BEATTY, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE PRUDENCE CARTER BEATTY AND SERVED ON COUNSEL FOR THE OFFICIAL RECEIVER LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE OFFICIAL RECEIVER.

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
IN RE PETITION OF DAN YORAM SCHWARZMANN,
AS ADMINISTRATOR OF
**FOLKSAM INTERNATIONAL INSURANCE
COMPANY (UK) LIMITED.**
DEBTOR IN A FOREIGN PROCEEDING
CASE NO. 02-14070 (PCB)

NOTICE IS HEREBY GIVEN THAT ON MARCH 6, 2007, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON SEPTEMBER 9, 2002. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED TO BE HELD ON SEPTEMBER 27, 2007 AT 11:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE PRUDENCE CARTER BEATTY, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE PRUDENCE CARTER BEATTY AND SERVED ON COUNSEL FOR THE PETITIONER LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE PETITIONER.

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RFP 07-148A
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Proposals will be received at the City of Naperville, Procurement Services Team Office, 400 S. Eagle Street, Naperville, Illinois 60540 until 3:00 P.M., local time, on April 6, 2007, at which time they will be publicly opened.

Those desiring to submit proposals may obtain copies of the contract documents in the Procurement Services Team Office, City of Naperville, at the above address, between the hours of 8:00 A.M. and 5:00 P.M., Monday through Friday or download via the City's website (<http://www.naperville.il.us>). The City reserves the right to reject any or all proposals.

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International NEWS

Ozzie regulator ends Zurich finite probe

By SARAH VEYSEY

SYDNEY, Australia—The Australian Prudential Regulation Authority said that it has finished its investigation into Zurich Australian Insurance Ltd. over a series of allegedly improper financial reinsurance transactions undertaken by the company in 2000.

APRA, the Australian insurance regulator, said it is satisfied with all remedial actions taken by ZAIL, and that it will take no further action against the company.

The transactions, undertaken with General & Cologne Re Group Australia, in some cases involved no genuine risk transfer, APRA said in its statement. The deals, which APRA described as "a complex and opaque arrangement that involved multiple contracts spanning several legal jurisdictions," resulted in ZAIL's profits being overstated, the regulator said.

In its statement, APRA noted that it is still finalizing actions against

certain individuals but that no criminal actions will be pursued. In addition, it said that it is working to complete its investigation of GCRA.

During its investigation of the reinsurance transaction, APRA has taken action against several former Zurich employees, most recently disqualifying Alan Parsonson from acting as a director or senior manager of an insurer. Mr. Parsonson was regional manager of Australia/Pacific for Zurich Insurance Co. and a director of ZAIL and Zurich Financial Services Australia Ltd. during 2000 and 2001.

APRA said in a March 7 statement that Mr. Parsonson "knowingly procured ZIC's approval of ZAIL's entry into a reinsurance contract designed to give the false appearance that ZAIL had significantly improved its financial position and solvency in 2000" and that his conduct "enabled ZAIL to mislead APRA, ZAIL's auditors and ratings agencies."

Romania mandates D&O coverage

Demand surges as directors flock to buy compulsory protection

By RICHARD MILLER

BUCHAREST, Romania—A recent change in Romania's corporate law has made directors and officers insurance compulsory for companies and has sparked huge demand for the cover.

Romania is the first country in the European Union to make the purchase of D&O compulsory—and it could be the last, according to Nick Foord-Kelcey, European D&O practice leader for Marsh Inc. in London.

"It is certainly unique in my experience for a country to make it compulsory," said Mr. Foord-Kelcey. "I have never heard of another country taking that approach."

"Could it become a trend? I don't know," he continued. "I don't see the frequency of problems in Europe generally that would lead to it being a compulsory insurance, so I am not sure it is going to be followed widely."

Romania became a member of the European Union at the start of this year.

The legislation, passed by Romania's parliament late last year, makes the purchase of D&O coverage compulsory for all directors of joint stock companies. That includes public and private companies with Romanian registered shareholders, or subsidiaries that are incorporated in Romania whose



REUTERS

Legislation passed by Romania's parliament mandating D&O coverage for company directors replaces existing requirements for small cash guarantees.

shares are either completely or partially owned by a non-Romanian parent company, according to sources.

About 11,500 joint stock companies are registered and operational in Romania, of which 58 are listed on the Bucharest Stock Exchange and about 1,000 on the RASDAQ Electronic Exchange, Marsh said.

Romanian companies generally are reacting positively to the change, particularly large companies and those with foreign investors, said Tiberiu Csaki, managing counsel in the Bucharest office of international law firm Salans.

"The companies are run by the board of directors, so the members of the board seem more comfortable having D&O," Mr. Csaki said.

Before the law passed, board members of Romanian joint stock companies were required to put up a nominal cash guarantee amounting to the value of 10 company shares, Mr. Csaki explained.

The amounts were so low—sometimes less than €100 (\$131)—that it was "clearly obsolete," according to Mr. Csaki. He said he believes the Ministry of Justice included the insurance requirement among the

See ROMANIA next page

French regulator slams companies' efforts to detail risks

Urges corporations to strengthen efforts to identify exposures

By RICK MITCHELL

Most French listed companies included a chapter on risk factors in their shareholder reference documents in 2006, but these were often inadequate for understanding the risks faced by companies and the measures taken to confront them, according to France's stock market watchdog.

Noting that many companies had continued to offer only summary descriptions of risk factors in their reference documents, the Paris-based Autorité des Marchés Financiers said it "insists in particular on the fact that simply adding a chapter (on risk) is not enough. The

chapter must precisely target risks or categories of risks taken into account by internal control procedures," it said.

The agency's assessment appears in its third annual report on listed companies' corporate governance and internal control, which examined 109 companies' reference documents for 2006.

The AMF also recently released an application guide to supplement its reference framework for the internal control system.

Since 2001, the AMF has required listed companies to include a chapter on risk factors in reference documents to improve comparability of information available to shareholders. In 2003 and 2004, it issued recommendations specifying risks that chapters should address, including financial and legal risks, industrial risks linked to the environment, and insurance and coverage of risks.

It updated recommendations last year to take into account the European directive on shareholder prospectuses.

In its 32-page report, the AMF found that two-thirds of (surveyed) companies identified major risks they faced—about the same as in 2005—and that about half had used some form of risk mapping.

However, it added that, "although descriptions cover a very wide range of diverse risks, from operational risks to financial risks, the level of detail was disparate."

Limited action

The AMF said most companies that had employed risk mapping had "at best" simply indicated how roles were assigned within the company. It noted that fewer companies reported "the methods used to map risks, the number of macroeconomic risks considered and the param-

eters for ranking them, such as nature, frequency, criticality, hierarchical and or geographical level affected."

"AMF renews its recommendation that companies make a link between risks, particularly those described in the reference document, and the procedures put in place. This link should allow a better comprehension of the way that the enterprise apprehends the risks, formalizes and ranks them, and then manages them," said the AMF.

The AMF's new guide was developed with help from external and internal auditors and security issuers, said Louis Vaurs, chief executive officer at the Institut Français de l'Audit et du Contrôle Internes, who served as secretary for the project.

"The reference framework is focused on internal control, not on risks. You could say it corresponds

more to COSO 1 than to COSO 2, which specifically addressed enterprise risks," said Mr. Vaurs, referring to internal control frameworks written by the Committee of Sponsoring Organizations of the Treadway Commission, a private sector initiative sponsored by five major American associations and institutes for accountants, executives and auditors.

Nevertheless, Mr. Vaurs continued: "One of the components of the (IFACI) framework addresses risks, because companies are asked to have a system for inventorying and analyzing the main identifiable risks with regard to their objectives, and to insure they have risk management procedures. It also includes a questionnaire on analysis and management of risks, aimed at making administrators more conscious of their enterprise's risks," he said.

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Emerging Risk STRATEGIES

Successful ERM tells a good story

By John J. Hampton

My Feb. 19 column in *Business Insurance* identified three problems with ERM. Two were:

Problem 1. Various ERM definitions focus on processes that become complex. Solution: ERM simply is an effort to coordinate management of the risks facing an organization. Problem 2. Most efforts to categorize risk do not align the risk areas with the organizational business model. Solution: Match the categories with areas such as production, marketing, finance, technology and administration; recognize the role of major business units; and include key initiatives as individual risk categories.

The third problem and solution are the focus of this column.

Problem: Not telling a good story

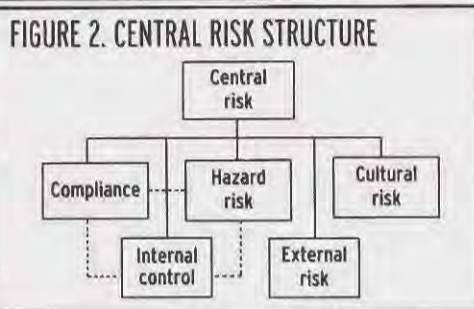
Most stories are complex, building on traditional risk management and the benefit of coordinating all risks across an enterprise. Then, they encourage a process with five to seven steps, typically: identify risks, evaluate risks, develop a plan to manage each risk, implement a program and monitor results. This works nicely for traditional risk but falls short in the perspective of ERM. We need a different story. We need to tell about a new risk structure that will work with the existing business model. That story should identify the structures where goals are pursued and risk is managed. It also should show the benefit of adding a centralized risk function to augment business goals and risk management efforts.

Solution: Telling a good story

Let's illustrate a story of ERM. Assume a company has a CEO, COO, chief production officer, chief marketing officer, CFO, chief technology officer, European division president, Asian division president and chief legal counsel. Each manages risk in a specific area, while the CEO is responsible and accountable for all entity risk. If the entity is successful, each must do a good job of risk management. What's the need for ERM?

We start by identifying exposures that cross unit and functional boundaries. In addition to exposures in specific operational processes, the organization faces exposures that affect everyone. These are:

- Compliance, arising from legal or regulatory requirements.
- Internal controls, when the entity fails to implement effective, efficient processes for conducting business.
- Hazard risk, or events that disrupt operations, harm individuals, or cause monetary or other losses.
- External risk, or changes or activities in the economic, political, environmental, or other areas outside the entity that



need to be identified today to avoid unwanted future consequences.

• Cultural risk, or behaviors of individuals or units inside the entity that must be identified today so operating units can avoid negative future impacts.

Prior to identifying risks, consider a risk structure as shown in Figure 1. Reporting would be determined by various factors, and this is just one structure. In our approach, production, marketing and technology report to a COO who is also responsible for administration risk. The COO, CFO, chief legal counsel and division presidents report to the CEO.

"Central Risk" is an area to coordinate the targeted risks shown in Figure 2. The compliance function ensures Sarbanes-Oxley and other requirements are met. The company has continuous review of internal controls. A risk manager works on insurance buying, loss control and claims management. The two remaining boxes show the essence and value of ERM. We create a function to scan the horizon for exposures and opportunities and identify and assess internal cultural risks. External risk arises when an organization is not looking for external developments and trends. Examples are vision, resources and competition. Cultural risk reflects exposures arising from an entity's values, structure and employment practices. It arises from internal factors that are unlikely to be managed in separate units. Sub-categories include: subculture, life cycle

and human resources risks.

Continuing the Story

An organization really does not have ERM if it lacks a centralized program to identify external and cultural risks. Two industry examples are automakers, which failed to foresee the impact of defined benefit plans and lifetime health care for retirees; and airlines, which failed to be competitive in the event of low-cost carriers and rising oil prices.

We can hardly blame these industries' CEOs, though. Their watch is often as little as three years. Instead, we could ask the board to insist on centralized risk identification. General Motors shows the need clearly.

Roger Smith was named CEO of GM in 1981, when it was losing market share and facing lawsuits over faulty products. He led GM into joint ventures with Asian automakers, created a semi-autonomous Saturn division, invested in technology and changed key managers. In the process, he fought with GM's largest shareholder and biggest critic. Those efforts produced inconsistent profits but CEO magazine named him CEO of the Year in 1986.

Would it have helped if the board had a centralized risk identification function? Would someone have noticed the problems of an underfunded pension plan? Would it have seen the impact of expensive retiree health care? Would it have seen the shrinking pool of active employees, market share drop, and obsolescence of business practices and assets? GM's problems were indeed deep, but Mr. Smith still became CEO of the Year.

GM's story shows the consequences of failing to identify and make changes. This is a board's fiduciary responsibility. Figure 3 shows one way for directors to exercise a role in ERM. The CEO, external auditors and compensation committee already report to the board. How about a central risk function? It is common for internal auditors to have direct links to a board member or committee. Is risk identification and coordination less important than internal audit?

Concluding the story

We conclude our story with the recommendations: Don't spend too much time on ERM definitions. Align risk categories with the business model, recognizing functional areas, major operating units and key initiatives. Some risks should be managed as part of a central risk function. These are exposures in compliance, internal control and hazard risk. A major component of ERM should be centralized risk identification. Tell a good story. Help key managers and stakeholders understand how an effective ERM program increases the likelihood of identifying emerging exposures and opportunities that threaten or ensure long-term sustainability.

Romania: D&O cover on the rise

CONTINUED FROM PREVIOUS PAGE

recent amendments to corporate law because Romania joined the European Union on Jan. 1.

"After having Romania join the European Union, maybe they thought that something like this may be necessary in the near future," he said.

Even though coverage is required, Mr. Csaki noted that there is "no clear sanction under the law" for violators, making enforcement difficult. However, it is likely that companies will have to show proof of coverage to authorities when registering board members.

Interest soars

In response to the law, insurers and brokers say they are fielding many inquiries from companies that seek cover.

"D&O used to be a niche line in Romania," said Eduard Simionescu, financial and professional services practice leader for Marsh in Romania. "After December we received a lot of requests for information: What is the law? What does it mean for administrators?"

Marsh expects "a rush of companies" that previously did not have D&O to purchase policies, he added.

While the coverage can be purchased either from a local insurance company or from an international insurer, only a few insurers are currently writing D&O policies in Romania. However, that appears to be changing, said Dacian Cernestean, account manager at EOS RISQ Romania, part of the EOS RISQ network of independent brokers.

"A lot of insurers which did not (write) D&O insurance before have introduced—or are ready to introduce in the (near) future—this product in their portfolio," he said.

Some insurers on the market are able to underwrite up to €20 million (\$26.2 million) in limits, Mr. Cernestean said.

Omniasig, a local insurer in Bucharest that is part of Wiener Städtische Versicherung A.G., offered directors and officers insurance before the legal requirement. Catalina Grecu, head of liability insurance at Omnisig, said that because of the law, gross premiums likely will at least double this year.

"There is capacity to buy the cover through domestic insurers," she said.

Because legal costs in Romania currently are lower than in some other European member states, such as the United Kingdom, Mr. Foord-Kelcey said he believed limits of between €1 million and €5 million (\$1.3 million and \$6.6 million) would be an "adequate limit for meeting domestic exposure."

However, "we would have to adjust that based on experience, because the very existence of insurance can create an increase in litigation," he noted.



John J. Hampton is the KPMG Professor of Business and Dean of the School of Professional and Continuing Studies and Graduate Business Programs at Saint Peter's College in New Jersey. He specializes in business ethics, legal liability and enterprise risk management. He is a former executive director of RIMS. To read Mr. Hampton's columns and interviews, visit www.BusinessInsurance.com/ERM.

Wellness: Involvement is critical to success

CONTINUED FROM PAGE 4

support wellness initiatives and encourage employees to take concrete action to improve their health. The company also has health educators, usually registered nurses, at all of its facilities, she said.

Hannaford Bros. has implemented "Health Huddles," impromptu meetings where various health topics are discussed. One recent meeting involved educating employees about their typical daily salt intake and how that could impact their health. The meetings are effective because they are interactive and employees can compare results and challenge each other to change, she said.

The incentives have been extremely effective at encouraging participation in the company's wellness programs.

Ellie Udeh,
Hannaford Bros. Co.

Offering financial incentives to employees is still the most effective way to encourage participation in wellness and disease management initiatives, according to employers.

Hannaford Bros. provides a \$20 per week financial incentive for employees who complete a health risk assessment, are tobacco-free or enter a tobacco cessation program, and participate in disease management initiatives.

The company provides a \$5 per week incentive for completing a health risk assessment and participating in a disease management program for employees who do not want to quit smoking.

The incentives have been extremely effective at encouraging participation in the company's

wellness programs, Ms. Udeh said. For example, almost 90% of employees and their spouses now complete health risk appraisals, she said. In addition, 95% of people participating in disease management programs accepted calls from the wellness coaches, so the company has taken the financial incentive away from only 5% of those who signed up for the program, she said.

Hannaford Bros. has seen a noticeable impact from its wellness programs. Health risk appraisal data showed a decrease in the number of employees identified as being at risk for stress conditions from 27% in 2005 to 16% in 2006, while the number of employees at-risk for heart disease dropped from 21% to 16%. Identifying these and other risk factors serves as a "wake-up call, an opportunity for (employees) to learn more about themselves," Ms. Udeh said.

In another effort, Daimler-Chrysler Corp. boosted participation in health risk appraisals and health screenings among its non-unionized employee population by 88% after offering a \$240 financial incentive to those who participated in both initiatives, said Thomas Hadrych, vp, compensation, benefits and corporate services for the Auburn Hills, Mich.-based automaker. "We thought that was pretty good," he said.

The company, which will spend about \$2.3 billion to provide health care to its active and retired employees and their dependents in 2007, has focused on identifying the top five risk factors for employees at each of its facilities, screening for risks such as high blood pressure, cholesterol and glucose levels and mental health issues.

Last year, the company conducted 37,000 health risk screenings.

Once the risk factors are identified, the automaker develops targeted programs for these facilities, such as onsite fitness centers, stress and depression management programs and smoking-cessation programs, he said.

When Lowe's Cos. Inc. instituted a maternity management program six years ago, participation in the program was at 17%, so the company decided to encourage participation by covering their employees' \$350 deductible if they completed the program, said Bob Ihrle, vp, compensation and benefits for the Mooresville, N.C.-based home improvement store chain.

Even though the incentive program boosted participation to about 50%, Mr. Ihrle said he still considered that level "pathetic."

For Lowe's, the key barrier to participation in disease management and wellness initiatives is turnover, which is about 45% per year. Virtually all turnover, though, occurs in the first six months of employment so wellness programs do have value, he said. For example, Lowe's has provided free onsite clinics, which have gotten tremendous feedback and usage by employees, Mr. Ihrle said.

Computer maker launches online tools to promote health care consumerism

More than half of Dell's employees use health manager

By GLORIA GONZALEZ

ATLANTA—Providing tools that empower employees to become better health care consumers is critical to promoting consumerism.

In an effort to promote consumerism, Dell Inc. launched a variety of online tools to educate its employees on the true costs of health care and allow them to better manage their health, said Richard Felice, area vp, Dell Healthcare West, based in Chandler, Ariz.

The computer company provides, for example, a health care cost summary that details what employees pay for medical, prescription drugs and dental services. The summary outlines the employee's per pay-check contribution, the amount paid toward the deductible, and their copayment or coinsurance costs for the year.

"People really do see what health care costs at Dell," Mr. Felice said during the 19th annual National Managed Health Care Congress in Atlanta.

The summary also provides tips on how employees can more efficiently manage health care costs, such as taking advantage of a health care spending account to pay some out-of-pocket costs on a



Dell Inc.'s online tools provide tips on how to manage health care costs and allow employees to see in detail how much medical procedures cost.

tax-free basis.

The company provides a Personal Health Manager tool to empower Dell employees and their families to make the best health care decisions, he said. The tool imports records from doctors, health plans, hospitals, laboratories and pharmacies. It translates procedure codes into common and easily understood terms, replacing unintelligible benefits statements, he said. "We take them and convert them into English," Mr. Felice said.

For example, the medications page in the Personal Health Manager tool lists the name and dosage of every drug prescribed to the employee and family members, who can also check for any potentially dangerous drug interactions by simply clicking a button.

The tool also allows participation in live nurse chats in which employees can describe their symptoms and ask questions about health care concerns.

"Dell has enabled me to have resources and that's what companies need to do," Mr. Felice said.

More than 50% of Dell's employees use the Personal Health Manager tool, he said. "If people didn't do it, it was because of inertia," he said.

Dell also provides a "Click 'n Learn" library where employees and their families can access information on getting the right health care at the right price, getting the most benefit from medication and getting answers to urgent health questions. The library provides information in both video and printable format.

400 attend conference

ATLANTA—About 400 people attended the 19th annual National Managed Health Care Congress—Total Health Management conference held March 5-7 in Atlanta.

The conference featured sessions on engaging health care consumers, controlling health care costs and building better access to quality health care.

Plans for next year's conference have not been finalized.

—By Gloria Gonzalez



Rewalk the red carpet.

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Comings & Goings

BROKERS:

The Haake Cos. in Overland Park, Kan., has named **Joe Erickson** chief operating officer and executive vp of property and casualty operations. Previously, he was a commercial insurance manager for Thomas McGee L.C. in Kansas City, Mo.



Mr. Erickson

David O'Keeffe has been named president of the newly formed Camford National Insurance Brokers L.L.C., a Lebanon, N.J.-based specialty lines wholesale insurance brokerage. Previously, he was vp/partner of Oxbridge Insurance Associates Inc.

Atlanta-based Beecher Carlson has named **Ida D. Havens** as senior vp in its national health care practice. Previously, she was a managing director for health care in the southwest for Aon Corp.

TO SUBMIT ITEMS

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 360 N. Michigan Ave., Chicago, Ill. 60601-3806; kbarnes@businessinsurance.com.

Jim Sybert has been named president of Hylant Group's Tennessee office in Nashville. Before joining Hylant, he was managing director of the central region loss management services division for Willis



Mr. Sybert

Group Holdings Ltd.

Also at Hylant, **Janice Hackett** has been named executive vp of the Tennessee office. Previously, she was a senior vp at Willis.



Ms. Hackett

Aon Corp. has named **John Barrett** as resident managing director for Los Angeles. Previously, he was a managing director for Marsh & McLennan Cos. Inc.

Integro Ltd. has named **James E. Dunn** as a principal in the property practice in New York. He joins Integro from Marsh, where he served as a senior property claim consultant.

Lockton Cos. L.L.C. has expanded its New York team with the addition of **Ray Beegle** as senior vp and property practice leader. Previously, he was an executive vp and northeast regional marketing officer for Willis.

INSURERS:



Mr. O'Donnell

Arch Insurance Group in New York, a subsidiary of Arch Capital Group Ltd., has promoted **Joseph C. O'Donnell** to executive vp responsible for Arch

Insurance Group's executive assurance division. Previously, he was a senior vp.

George Town, Grand Cayman-based United America Indemnity Ltd. has appointed **Saul A. Fox** as chief executive officer. Previously, he was chairman of the UAI Board.

Also at UAI, **Robert M. Fishman**, has been named CEO and president of United America Insurance Group. Previously, he was CEO of UAI.

REINSURANCE:

New York-based Guy Carpenter & Co. L.L.C. has made several senior-level promotions.

David Priebe has been named head of Guy Carpenter's global specialty operations in New York, where he will oversee the firm's 16 specialty practices, Instat modeling and actuarial unit, and the business development unit. Previously, he was president and CEO of Guy Carpenter & Co. Ltd.

Assuming Mr. Priebe's former duties are **Nick Frankland**, who has been appointed chief executive officer of U.K. operations, and **Andrew Marcell**, who has been named CEO of Continental European operations and head of business development and specialty practices within the United Kingdom and Continental European regions. Most recently, Mr. Frankland was deputy CEO of the United Kingdom and Mr. Marcell was leader of the firm's worldwide casualty specialty practices.

Hamilton, Bermuda-based Max Re Capital Ltd. has named **Walker Rainey** as executive vp and chief financial officer of Max Europe Holdings Ltd., the Dublin-based holding company for Max Re Capital's European operating entities. Previously, he was senior vp and CFO of Max Europe Holdings.

OTHER PROVIDERS:



Ms. McMahon

Chicago-based law firm Kerns, Pitrof, Frost & Pearlman L.L.C. has promoted **Kristin D. McMahon** and **Michael L. Brooks** from special

counsel to partner. **Kai Petersen** has joined the Los Angeles office of Buck Consultants L.L.C. office as principal and western



Mr. Brooks



UP CLOSE

Brian Evans

NEW JOB TITLE: Senior vp in the insurance services division of Mesirow Financial Holdings Inc., Carmel, Ind.

START DATE: Feb. 11

PREVIOUS POSITION: Before coming to Mesirow Financial, I played professional basketball in the NBA, as well as in Italy and Japan.

REASON FOR THE CHANGE: As the end of my basketball career was nearing, I began to search for the best place to begin my second profession. For many reasons, Mesirow Financial proved to be that place. Not only was I drawn to how diversified we are as a firm, but also to the amount of infrastructure that was put into place to ultimately enhance personal success. I think the fact that we are employee-owned contributes to the amount of ongoing support from upper management. **Jim Tyree** (Mesirow's chairman and chief executive officer) truly invests in an employee when they are hired and I think that makes Mesirow Financial special.

VITAL STATISTICS: I received a bachelor's degree in sports management and marketing from Indiana University in 1996.

GOALS FOR NEW POSITION: My main objective is to introduce

Mesirow Financial's many capabilities to the state of Indiana, with a concentration on corporations as well as the public sector.

FIRST TIME IN THE JOB MARKET: My first-ever job was the same one I am leaving, playing professional basketball.

TOP ADVICE: After I was drafted by the Orlando Magic and was leaving college to play in the NBA, my college coach, **Bob Knight**, told me "Be the first person there every day. Be the last person to leave every day. And do not, under any circumstances, let anyone outwork you!"

OUTSIDE THE INDUSTRY, A DREAM JOB: Because of my passion for the game of golf, I'd have to say my dream job would be as the commissioner of the PGA Tour.

Genetics: Anti-bias bill appears to be on fast track

CONTINUED FROM PAGE 4

Rep. Sam Johnson, R-Texas, asked Dr. Collins about the inclusion of family history in the category of protected information under the bill. "Essentially, this bill would be toothless" without extending its protections to family history, he said. Employers and insurers could use family history in assessing a person for coverage or employment and say that they did not base their ultimate decision on genetic information, he said.

Dr. Collins later pointed out that while there is "no bright line," determining how broad the net of protected family history should be cast, he noted that the current bill extends "four degrees" from the individual in question to include first cousins once removed.

Rep. Stark, who supports the bill, said that some observers think that

the measure is unnecessary because genetic testing is not currently widespread. But "it's only a matter of time, a short period of time" before testing becomes common, Dr. Collins replied.

"Why would we want to wait to fix this?" he said.

No witnesses spoke against the bill.

"We do not oppose the bill and agree with its intent," said Dr. William Corwin, medical director-clinical policy for Harvard Pilgrim Health Care in Wellesley, Mass. He spoke on behalf of Washington-based America's Health Insurance Plans.

But Dr. Corwin urged subcommittee members to clarify some of the bill's language to ensure that it would not block gathering of information that would help determine the best course of treatment for patients.

Aquiline: Equity fund invests in Lloyd's

CONTINUED FROM PAGE 3

Matt Grayson, a senior principal with the firm said its investment strategy includes buyouts, startups and companies where it can provide growth capital.

"We're eager to back good management teams with existing companies or in building companies around strong management teams," he said.

While Mr. Grayson noted that insurance will make up only a portion of Aquiline's broader financial services portfolio, he does not rule

out the future possibility of Aquiline investing in the insurance brokerage business—a sector to which Aquiline Managing Partner Mr. Greenberg is no stranger.

Mr. Greenberg headed MMC, the parent company of the world's largest brokerage, from 1999 to late 2004, when he resigned amid then-New York Attorney General Eliot Spitzer's fraud and bid-rigging suit against the firm.

"We see a significant amount of change in insurance brokerage and are closely studying it to see if there are opportunities where we could

add value," Mr. Grayson said.

Private equity firms recently have been eyeing the retail brokerage sector, in part to time the insurance pricing cycle and make a large return.

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Lenders: Investors angered over industry's financial problems

CONTINUED FROM PAGE 1

prime lenders. Investors claim the lenders issued misleading financial statements and failed to exercise internal controls that would have minimized lenders' losses.

Among others, leading class action plaintiffs attorney firms Lerach Coughlin Stoia Geller Rudman & Robbins L.L.P. of San Diego and

Milberg Weiss & Bershad L.L.P. of New York have filed lawsuits against the lenders.

Making a case

D&O insurer defense attorney Dan A. Bailey said plaintiffs could face a stiffer challenge recovering losses against subprime lenders than they have met in cases against companies in less volatile indus-

tries.

Subprime lenders are involved in a risky business, and the securities market understands that, noted Mr. Bailey, a partner with Bailey Cavalieri L.L.C. of Columbus, Ohio. As a result, investor losses in such businesses are not easily recoverable under securities law, Mr. Bailey said.

For that reason, investors might

concentrate on allegations that the lenders used business models that not only failed to protect them from the riskiest loans but also may have encouraged the lender to accept them, Mr. Bailey said.

While expensive, such claims typically are less costly than those that allege the defendants filed misleading financial statements.

But plaintiffs attorney Gerald H.

Silk said a defense that investors knew that the subprime lending business is risky "kind of misses the point."

"When you know facts that render other statements inaccurate, you need to alert investors," said Mr. Silk, a partner with Bernstein Litowitz Berger & Grossman L.L.P.

See **LENDERS** next page

WTC: Silverstein pursues delayed payments from two insurers

CONTINUED FROM PAGE 1

is now needed.

According to Allianz, the insurer has already paid Mr. Silverstein and the Port Authority almost \$550 million, including \$313 million to Mr. Silverstein's businesses and \$236 million to the Port Authority.

In a separate but related matter,

Allianz has said that under an anti-transfer provision in its policy, modified rebuilding plans for the WTC site limits its obligation to pay claims for the complex's Sept. 11, 2001, destruction (*BI*, Aug. 14, 2006).

RSA has also taken this position. Five other insurers that have chosen not to invoke the anti-transfer pro-

vision in their policies have been dropped from a suit filed last year by Silverstein Properties, The Port Authority and WTC Retail L.L.C. over the issue. The insurers are: Zurich American Insurance Co.; Employers Insurance Co. of Wausau; Industrial Risk Insurers, formerly owned by GE Insurance Solutions and now a unit of Swiss

Reinsurance Co., the WTC's lead insurer; Travelers Indemnity Co., part of Travelers Cos. Inc; and Gulf Insurance Co., a Travelers affiliate.

Meanwhile, a World Trade Center Properties suit that seeks more than \$1 billion from RSA was filed Feb. 23, three days after Delaware Insurance Commissioner Matthew Denn conditionally approved RSA's disputed sale of its U.S. operations, Royal & SunAlliance USA Inc., to a management group, Charlotte, N.C.-based Arrowpoint Capital Corp.

The suit says RSA USA has paid only \$5.6 million of a total coverage obligation of \$255.6 million, and charges that its sale to Arrowpoint "is a fraudulent device that is intended to shield the RSA Group from the consequences of the liabilities incurred by its long-time U.S. insurance operations."

In addition to the \$250 million claim, the suit seeks \$750 million in punitive damages plus interest, costs and attorney's fees.

An RSA spokesman said, "It's the same old allegations. I think they are completely without foundation."

An Arrowpoint spokesman said

, "This case is without merit.... We have paid every cent we currently owe Silverstein Properties and intend to pay any future claims amounts if and when they become due."

Separately, Auburn Hill, Mich.-based DaimlerChrysler Corp. reached a settlement with RSA USA in connection with its \$33 million claim.

DaimlerChrysler had unsuccessfully attempted to stay the approval of the sale of RSA USA in Delaware's Superior Court. But on appeal it won a stay by the Delaware Supreme Court, which granted the automaker's request March 2.

The two sides then embarked on their ultimately successful negotiations, said a DaimlerChrysler spokesman, who did not provide additional details of the settlement agreement.

With that hurdle overcome, RSA officially announced completion of RSA USA's sale to Arrowpoint on March 5.

Major policyholders, including World Trade Center Properties and DaimlerChrysler, had contended the deal would leave the U.S. operations with insufficient capital.

TIG Insurance settles claim with WTC leaseholder

By JUDY GREENWALD

NEW YORK—World Trade Center developer Larry A. Silverstein said his organization has reached a \$12.5 million settlement with TIG Insurance Co., one of its World Trade Center insurers.

Silverstein Properties said the settlement by TIG, a unit of Toronto-based Fairfax Financial Holdings Ltd. that is in runoff, is in addition to a prior \$9.1 million payment.

In 2004, a federal jury found that TIG, along with eight other insurers, could be held liable for two occurrences in the World

Trade Center attacks.

The U.S. Court of Appeals for the 2nd Circuit in New York upheld that verdict in October 2006.

The settlement requires TIG to pay a full second-occurrence payment of \$9.1 million, plus an additional \$3.4 million of pre-judgment interest, which represents 90% of Silverstein's pre-judgment interest demand, according to Silverstein Properties.

Mr. Silverstein said in a statement, "This agreement is important because it will help to assure that we have all the money necessary to rebuild the

World Trade Center on the super-accelerated timetable everyone wants.

"And this deal clearly demonstrates that we at Silverstein and our partners at the Port Authority are ready to settle our outstanding insurance claims on fair terms, as necessary, to keep the rebuilding on track and on schedule."

"From TIG's perspective, it's really a nonissue," a TIG spokesman said. "We disputed whether there were two occurrences, we lost that issue on appeal, and so we paid our limit" and therefore settled for the final amount.

Sierra: Acquisition unlikely to spark a trend in major M&A activity

CONTINUED FROM PAGE 1

UnitedHealth announced last week that it would acquire Las Vegas-based Sierra for about \$2.6 billion in an all-cash transaction that is "a testament to their strength," said Bradley Ellis, director at Fitch Ratings in Chicago.

Sierra is the latest in a series of acquisitions for UnitedHealth as the company strengthens its presence in key regions (see box, page 1). The acquisition represents an opportunity for UnitedHealth to improve its position in the second fastest-growing state in the country, analysts say.

The Las Vegas health insurance market is "one of the few markets that has been growing commercially," said Sally Rosen, a senior financial analyst with Oldwick, N.J.-based A.M. Best Co. Inc.

Sierra provides employer-sponsored benefits to about 310,000 members in Nevada, while UnitedHealth has about 47,600 commercial health plan members in the state. "I think it makes strategic sense," Mr. Ellis said. "United didn't have much of a hold at all in the Nevada market. This is a whole new ballgame for them. Sierra has a superior market share."

Sierra is the second largest insurer

in Nevada, with a total market share of 29%, while UnitedHealth has a 14% market share, according to the Chicago-based American Medical Assn.

Sierra has a dominant position in the Las Vegas-Paradise metropolitan area health maintenance organization market, with an 81% market share, while UnitedHealth has a 13% share, which is a cause of concern for providers and patients in the region, said Dr. James Rohack, a Temple, Texas-based trustee of the AMA. "They would be able to literally dictate whatever premiums they want."

Despite the AMA's comments, a UnitedHealth spokesman said company officials have not heard any concerns from Nevada providers. "I think the AMA is not understanding that the physicians that are doing a great job for Sierra are actual employees and are excited about this proposition," the spokesman said.

The transaction, which is expected to close by the end of 2007, is subject to state and federal regulatory approvals. The AMA hopes that the U.S. Department of Justice and state regulatory officials take a careful look at the proposed deal—considering the transaction's impact on pricing, the uninsured population and access

to care—and take steps to either prevent the acquisition or force divestiture of certain assets, Dr. Rohack said.

When UnitedHealth acquired PacifiCare Health Systems Inc. in 2005, it was required to divest por-

UnitedHealth "would be able to literally dictate whatever premiums they want."

Dr. James Rohack, American Medical Assn.

tions of the Cypress, Calif.-based insurer's commercial health insurance businesses in Tucson, Ariz. and Boulder, Colo., due to concerns that the proposed deal would result in higher prices and lower-quality commercial health plans. The Sierra deal, however, is unlikely to encounter similar resistance from regulators, analysts say.

"With the size of United, they have to be careful where they do transactions because of antitrust con-

cerns, but this is a situation where they didn't have a very strong market share," Mr. Ellis said.

Despite the merger, it is unlikely that employers will be negatively impacted from a pricing standpoint because of UnitedHealth's lack of a sizable market position in Nevada, analysts say. "I don't see why there should be any change in pricing," said Stephen Zaharuk, vp and senior analyst for Moody's Investors Service Inc. in New York.

Sierra historically had some of the best premiums rates in the health insurance business despite its large market share, said Joseph Marinucci, credit analyst with New York-based Standard & Poor's Corp.

Employers are likely to benefit from the deal because it gives multi-state employers with operations in Nevada another national health plan option and will allow Nevada employers to access UnitedHealth's large provider network and suite of products, analysts say.

In the deal, UnitedHealth also will acquire Sierra's provider network, Southwest Medical Associates. The provider network is a key component to Sierra's profitable business model because the doctors work directly for the insurer, Ms. Rosen said.

The timing of the acquisition is interesting, analysts say, because it closely followed UnitedHealth's completion of a \$1.5 billion earnings restatement as the company tries to move past its stock-option backdating problems. "I think it's a statement to the marketplace," Mr. Zaharuk said.

It does not, though, signal a trend of major merger and acquisition activity in the health insurance market, analysts say. "I don't think (the Sierra deal is) an indication of an upturn," Mr. Ellis said.

While insurers are always exploring potential acquisitions, the largest insurers—UnitedHealth and Indianapolis-based WellPoint Inc.—now have limited properties they can acquire due to their dominant positions, he said.

Other insurers such as Hartford, Conn.-based Aetna Inc. and Philadelphia-based CIGNA Corp. have the resources to acquire sizeable properties, but they do not appear eager to engage in such transactions, focusing instead on small companies that enhance their product and technological capabilities, Mr. Zaharuk said.

Sierra's stock closed last Friday at \$41.32 a share, up 15.1% for the week.

News In Brief

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for increasing weekly benefits for injured workers and capping the length of time they are eligible to receive permanent partial disability benefits. The governor has said the reforms will reduce workers comp costs in New York by more than 10%.

Hub to purchase Arizona broker

Hub International Ltd. plans to acquire BNCCORP Inc.'s insurance agency operations for about \$37 million. Phoenix-based BNC Insurance Services, which does business as Milne & BNC Insurance Services, generates about \$19 million in revenues through its 85 employees in Arizona, North Dakota and Colorado, Hub said. Milne & BNC Insurance will become a regional platform for Hub and will operate as Hub International Milne.

C.V. Starr forms stop-loss unit

C.V. Starr & Co. Inc. has organized an accident and health subsidiary and is introducing an employer stop-loss product in partnership with Chubb Corp. Newly formed Starr Global Accident & Health Insurance Agency L.L.C., based in Greenwich, Conn., will be managed by industry professionals with experience in both domestic and international accident and health lines, New York-based C.V. Starr said.

Flagstone plans \$159 million IPO

Property catastrophe reinsurer Flagstone Reinsurance Holdings Ltd., which opened in December 2005, expects to raise about \$159.2 million with its initial public offering of 13 million shares, the company said in a Securities and Exchange Commission filing last week. The reinsurer said in its filing that it expects the stock to sell for between \$12.50 and \$14.50 per share, or \$162.5 million to \$188.5 million. The estimate assumes underwriters exercise a 1.2 million-share overallotment option. Proceeds will be used to increase the underwriting capacity of Flagstone's reinsurance operations.

Lenders: Woes won't turn D&O market

CONTINUED FROM PREVIOUS PAGE

of New York.

He said executives for subprime lenders issued financial statements that failed to disclose that loan defaults were increasing and that their earnings-sapping bad debt reserves would have to be boosted.

"Just because you're in a risky business, that's not an excuse for not telling the truth," Mr. Silk said.

He said clients plan to file securities claims against at least four subprime lenders and will take "a hard look" at filing claims against the auditors that signed off on those defendants' financial statements.

But Mr. Bailey said claims against auditors would be even tougher, because securities law would require plaintiffs to show the auditors had issued a misleading statement to investors or were directly involved in a scheme to defraud them.

Still, Mr. Bailey and insurance market experts said they would not be surprised to see plaintiffs of various stripes file litigation against numerous other types of organizations involved in subprime loans.

For example, investors in subprime mortgage-backed securities sold in the secondary market might file suit against investment banks that packaged the securities or stock brokers that marketed them, said Gary Dubois, a New York-based senior executive with Bermuda-based Ariel Reinsurance Co. Ltd.

In addition, real estate brokers involved in arranging the loans may face lawsuits, said Mr. Dubois, who is working on setting up a U.S. operation for Ariel.

In any of those cases, Mr. Dubois said he would expect the defendants to file cross-claims against the subprime lenders.

As a result, the professional liability insurance market likely will be in play far more than the D&O market, he said.

Market impact

But even if professional liability losses are substantially greater than D&O losses, they would be spread among far more insurers, Mr. Dubois said.

"So the net effect will be about the same" in the professional liability and D&O markets, he predicted. "I hope it will scare people enough to bring back at least some degree of stability" in pricing in both markets, he said.

The D&O market would be affected only "moderately" because of the relatively limited number of D&O defendants that likely will

'Just because you're in a risky business, that's not an excuse for not telling the truth.'

Gerald H. Silk, Bernstein Litowitz Berger & Grossman L.L.P.

be drawn into the litigation, he said. In addition, some of those lenders are units of large banks and financial institutions, so their subprime loan losses likely will not hurt their share prices materially, he said.

Mr. Dubois predicted that any market reaction to the lawsuits would dissipate within six months and will not be evident by the January 2008 renewal season.

Jacqueline Urban, a senior v-legal and claims with Aon Corp. unit Aon Financial Services Group in Chicago, said she expects that only the industry segments that are pulled into the subprime lending litigation would see rates affected this year. Those segments would likely experience a smaller reduction in rates than they had anticipated, she said.

How the rates of the defendants might be affected is "too early to tell," Ms. Urban said.

A spokesman for New York-based American International Group Inc. said "it is premature for us to decide what, if any, impact this could have" in the D&O and professional liability markets.

Restatements, practices prompt subprime probes

Some subprime lenders are facing investigations from state or federal authorities.

A spokeswoman for Irvine, Calif.-based New Century Financial, one of the nation's largest subprime lenders, confirmed that the company is being investigated by federal officials but declined to provide details beyond those provided in a recent 8-K filing.

That report, dated March 13, states that the company received a letter from the United States Attorney's Office for the Central District of California on Feb. 28 indicating that it was conducting a criminal inquiry under the federal securities laws in connection with trading in the company's securities, as well as accounting errors regarding the company's allowance for repurchase losses.

New Century reported that it later received a grand jury subpoena requesting certain documents.

The report also notes that the company had received a letter from the Securities and Exchange Commission stating that it was conducting a preliminary investigation and request-

ing documents. The 8-K report also stated that the SEC had previously sought a meeting with company officials to discuss the events leading up to New Century's announcement of the need to restate its historical financial statements.

A spokesman for the SEC declined to comment.

On a separate front, Massachusetts's Secretary of Commonwealth William Galvin announced March 13 that the securities division of his office has subpoenaed documents from UBS Securities L.L.C. and Bear, Stearns & Co. Inc. concerning their possible role in the demise of subprime lenders, including but not limited to New Century. A spokesman in Mr. Galvin's office said both investment firms are being targeted because analysts for each firm issued financial reporting upgrades to New Century at a time when the company's business began to turn sour.

UBS declined to comment on the subpoena; representatives of Bear, Stearns could not be reached.

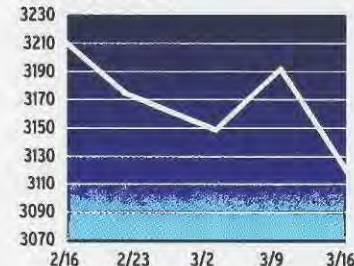
—By Louise Esola

Stock Index

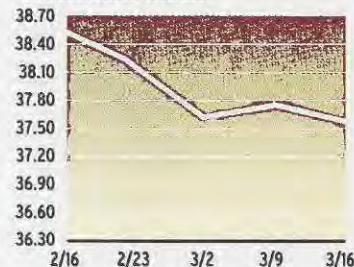
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Up-to-the-minute data for all 82 companies that comprise the BI Stock Index can be found at www.BusinessInsurance.com.

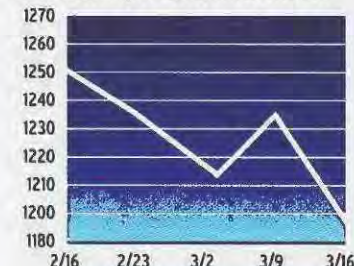
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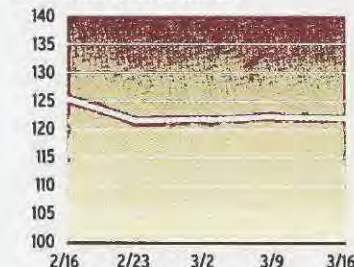
BI BROKERS INDEX



BI INSURER/REINSURERS INDEX



BI MANAGED CARE ORGANIZATIONS INDEX



Percentage change of BI Stock Index vs. key indicators

BI STOCK INDEX	3124.01	↓ -2.97%
DOW JONES	12110.41	↓ -1.35%
S&P 500	1386.95	↓ -1.13%

LARGEST GAINS

Sierra Health Services Inc.	15.10%
Fairfax Financial Holdings	8.53%
PXRE Group Ltd.	7.32%
EMC Insurance Group Inc.	3.19%
Hilb, Rogal & Hobbs	3.09%

LARGEST LOSSES

SCPIE Holdings Inc.	-8.27%
NYMAGIC Inc.	-5.45%
AXA	-5.24%
Tower Group Inc.	-4.76%
ING Group N.V.	-4.53%

Source: Financial Content Inc. <http://financialcontent.com>



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Business Insurance END PAGE

Contributing: Roberto Cenicerros,
Sally Roberts, Joanne Węjick

Chubb to back PBS program about unsolved Boston heist

In its own version of "Unsolved Mysteries," Chubb Corp. is sponsoring a documentary about the infamous 1990 art heist at Boston's Isabella Stewart Gardner Museum.

The documentary, titled "Stolen," will be featured on the Public Broadcast System's "Independent Lens" program from March 20 to April 8.

The \$500 million heist is one of the largest fine arts thefts ever, Warren, N.J.-based Chubb said in a statement. Thieves posing as police officers cut 13 canvases from their frames and walked off with such masterpieces as Rembrandt's "Christ in the Storm on the Sea of Galilee" and Vermeer's "The Concert."

The documentary, directed by independent filmmaker Rebecca Dreyfus, explores the unsolved crime "through the colorful cast of characters surrounding the search for the masterpieces and the culprits," Chubb said.

"Unfortunately, the works were not



FBI ART THEFT PROGRAM

Among the works stolen in the 1990 heist at Boston's Isabella Stewart Gardner Museum were (from top): Vermeer's "The Concert," and Rembrandt's "A Lady and Gentleman in Black" and "Christ in the Storm on the Sea of Galilee."

insured and 17 years later, the art world still holds out hope that they will be returned to their frames," said Dorit Straus, vp of Chubb & Son and worldwide fine arts manager of Chubb Personal Insurance.



ICON SMI

When he's not embroiled in legal disputes with basketball fans, Indiana Pacers mascot Boomer thrills spectators at Conseco Fieldhouse with high-flying dunks and other antics.

Mascot attacks; injured fan cries flagrant foul

Oversized sports team mascots are supposed to entertain fans with wacky antics, but they can become a risk management concern when those antics become misguided.

That allegedly happened when Boomer, the Indiana Pacers' mascot, tackled a fan after the man participated in a free-throw shooting competition during a March 2005 game with Golden State.

The fan, Nathaniel Jackson, was recovering from back surgery and wasn't amused by the 6-foot blue feline knocking him to the ground.

Earlier this month, he sued Boomer and the Pacers and sought compensation, claiming that the mascot caused unspecified permanent damage, the Marion County, Ind., suit reportedly contends.

The fan, citing his back surgery, initially declined to participate in the competition, according to published reports, but was assured there was no chance of injury.

As he was leaving the basketball court, the twentysomething man was tackled by the mascot. When an employee who knew about the fan's bad back told Boomer about it, the mascot kicked at the fan's legs, the lawsuit reportedly claims.

In general, there is growing awareness that sports mascots can be a source of liability, says Lowery Robinson, president of Marketing ETC., a Duluth, Ga.-based sports and entertainment underwriter.

"There definitely is a risk factor for them" when they interact with the fans, he said.

Test kits weed out unwanted job applicants

Marijuana and amphetamine users may be avoiding employers that test for illegal drugs like vampires avoid silver crosses.

An index released last week by Quest Diagnostics Inc., which manufactures workplace test kits, shows that drug use by U.S. employees and job applicants has dropped to its lowest level since 1998, when Quest began keeping score.

Of 9 million workplace urine drug tests performed by Lyndhurst, N.J.-based Quest during 2006, only 3.8% uncovered positive results. That is down from 4.1% in 2005 and 13.6% in 1988.

Quest's 2006 Drug Testing Index showed amphetamine use dropped 20%

during the past year to a new low of 0.28% among safety-sensitive workers who must be routinely tested for drugs according to federal mandates.

Of those tested in the general workforce, use of the stimulants dropped 12.5% to 0.42% last year, Quest said.

A federal agency pegged the U.S. workforce at about 146 million people in January of this year.

Additionally, positive tests for marijuana, as a percent of all Quest tests for

the drug, dropped 6.3% to 2.38% of the general workforce.

In a statement, Quest said it believes the drop in drug "positivity" has two main causes:

"increased employer vigilance about the impact of workplace drug abuse on liability and the cost of decreased productivity, and the possibility that those who abuse drugs may tend to avoid employment at companies that actively conduct drug testing."



'Ugly Betty' actress lands role as wife in Executive Life insurance saga

Some policyholders of the failed Executive Life Insurance Co. might call the impending union of sexy siren Salma Hayek and French businessman Francois-Henri Pinault a marriage of "beauty and the beast."

If the name "Pinault" doesn't ring a bell, think back to 1999 when the California Insurance Department was looking for someone to blame for the botched sale of the now-defunct Executive Life Insurance Co., which was seized in 1991 after regulators determined the insurer's assets had been invested mostly in virtually worthless junk bonds.

In a lawsuit filed in 1999, regulators claimed the sale of ELIC to a consortium of French investors led by Altus Finance was illegal because Altus was controlled by Credit Lyonnais, a French government-owned bank. Under both California and U.S. law, foreign governments are not allowed to own U.S. insurance companies.

The French billionaire and his holding company, Artemis S.A., were added to the lawsuit in 2000 once insurance department investigators discovered they had been involved in the transaction since 1992, when Artemis purchased the insurance business and ELIC's rebounding junk bond portfolio from Altus.

A jury agreed that the French billionaire and Artemis were parties to the alleged scam, and a federal judge in November 2005 ordered Artemis to pay restitution of \$190 million, plus interest.

Ms. Hayek produces and acts in the TV hit "Ugly Betty" and was the Oscar-nominated star of the 2002 movie "Frida." She recently revealed she was engaged to Mr. Pinault, whose PPR S.A. owns luxury clothiers Gucci and Yves Saint Laurent, and is expecting the couple's first child.



REUTERS

The wedding of Salma Hayek and French billionaire Francois-Henri Pinault will unite the actress with a businessman linked to the notorious Executive Life affair.

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