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Business Insurance

March 26, 2007

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In Brief

CastlePoint IPO raises $111.4M

CastlePoint Holdings Ltd. said Friday that its initial public offering of about 7.7 million shares was priced at $14.50 per share, which would generate gross proceeds of $111.4 million. The reinsurer said 7.6 million shares were being sold by CastlePoint and 119,500 shares by existing shareholders. The shares, which trade on the Nasdaq, closed Friday at $16.15.

Equity firms sweeten offer for broker Hub

Apax Partners and Morgan Stanley Principal Investments have upped the ante to purchase Hub International Ltd. following bids from other suitors wanting to purchase the publicly held Chicago brokerage. The private equity firms offered Hub shareholders $41.50 in cash per

See **IN BRIEF** page 30

SPOTLIGHT

CHINA: RISKS & REWARDS

Western firms expanding operations in China face new risks; taking care of intellectual property a major concern; businesses' demand outstrips supply of managers; huge earthquake exposure looms.

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Jumbo jet's arrival off insurers' radar

Capacity available despite increase in liability exposure

By DAVE LENCKUS

The fanfare surrounding the maiden U.S. flights last week of the world's largest passenger jet contrasted markedly with the minimal disquiet that the jet's long-anticipated arrival has stirred in the global commercial airline insurance market.

Contrary to concerns expressed by market executives two years ago, when the Airbus A380 was expected to be delivered much sooner than it ultimately will be, airlines that have ordered the double-decker jumbo jet have not clamored for liability limits that have strained the market's capacity, market executives say.

But some executives say they have seen some subdued limit building.

Among the 15 airlines worldwide that have ordered the jumbo jet, manufactured by Toulouse, France-based Airbus S.A.S., Singapore Airlines is scheduled to be the first to take delivery. The current delivery date is October, nearly two years behind schedule.

No U.S. commercial airlines have ordered the jet, and U.S. freight carriers FedEx Corp. and United Parcel Service of America Inc. have canceled their orders for the cargo version of the jet because of the long production delays.

But last week, in conjunction with Airbus, German airline Deutsche Lufthansa A.G. and Australian airline Qantas Airways flew two A380s to airports in New York, Los Angeles and Chicago. Throngs of onlookers—including aircraft fanciers, journalists and the curious

See **AIRBUS** page 29

AIRBUS

Birth control ruling won't curb cover

Cost, recruiting factors seen as reasons to pay for contraceptives

By LOUISE ESOLA

ST. LOUIS—A recent federal appeals court ruling that employers do not have to provide coverage for female contraceptives in their prescription drug plans is unlikely to result in employers dropping the coverage, experts say.

Denial of coverage does not violate federal pregnancy or civil rights laws, the 8th U.S. Circuit Court of Appeals ruled this month in reversing a lower court ruling.

The appeals court, which ruled in favor of Union Pacific Railroad Co. of Omaha, Neb., said the Pregnancy Discrimination Act, which bars health care plan coverage discrimination on the basis of pregnancy, does not apply to contraceptives.

Additionally, the appeals court ruled, the Union Pacific policy did not discriminate against women. Since the railroad's health plans did not provide coverage for any contraceptives, such as birth control pills used by women or condoms used by men, "The coverage provided to women is not less favorable than that provided to men."

As a result, the court concluded, there is no violation of the federal civil rights law that, among other things, bans discrimination on the basis of sex.

The decision—the first time an appeals court has ruled on the issue—is unlikely for several reasons to trigger a wave of employers dropping coverage for prescription contraceptives.

First, coverage for prescription contraceptives has become largely a given—except for organizations with religious objections—with few employers seeing the need to treat prescription contraceptives differently.

"I can't imagine that someone on the basis of this (ruling) would be making any decisions," said Helen Darling, president of the Washington-based National Business Group

See **CONTRACEPTIVES** page 29

Insurer profits high despite soft pricing

Buyers' market expected to last through 2007

By JUDY GREENWALD

Commercial property/casualty insurers are reporting record results despite the softening market.

"In terms of reported results, it's the best of times," said Andrew Colannino, vp in Oldwick, N.J.-based A.M. Best Co. Inc.'s P/C division.

The trend is expected to continue this year, with insurers still posting strong results—although not as strong as 2006—while overall rates continue to decline, observers say.

Boosted by low catastrophe activity last year and the continuing momentum of past rate hikes, the 14 major U.S. commercial property/casualty insurers surveyed by *Business Insurance* reported a 51.4% increase in net income, which rose to $31.76 billion in 2006.

Among other survey results:

- Net premiums written increased 4.4% over 2005 to $139.39 billion at year-end 2006.
- Insurers' combined ratio improved to 90.3% from 100.6%.
- Policyholder surplus increased 6.1% to $77.27 billion.

"It certainly was a very good ending to an exceptional year," said John Iten, director at rating agency

See **PC RESULTS** page 28

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– Bryon Ehrhart, *president and CEO of Aon Re Services*

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On the Web

CHINA: RISKS & REWARDS

Online exclusives focus on Chinese market

Business is booming in China, and companies are clamoring to get into the market. But the risks are unique. *Business Insurance* and *BusinessInsurance.com* shine a light on the pitfalls, but they also highlight the benefits the market offers. Exclusive online offerings include a photo gallery of Beijing, a podcast interview of AIG CEO Martin J. Sullivan, additional stories by *BI*'s sister publication, *Business Insurance Europe*, and more. Go to *www.BusinessInsurance.com/China.*

CONFERENCE EXTRA

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Business Insurance.

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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Probe launched after Calif. comp fund firings

State lawmakers voice concerns over SCIF management

By SALLY ROBERTS

SACRAMENTO—California state lawmakers will hold a hearing this week to explore possible financial improprieties at the State Compensation Insurance Fund, following the abrupt firing last week of two SCIF officials, including its president.

The state's Senate Banking, Finance and Insurance Committee will examine the state-run workers compensation insurer's problems in a hearing Wednesday, Senate President Pro Tem Don Perata, D-Oakland, said in a statement.

The move came just days after San Francisco-based SCIF—the state's largest provider of workers comp coverage—terminated President, James C. Tudor and Vp Renee Koren, following an internal review of its operations for undisclosed reasons.

"The board took the action after receiving the results of an internal review, which had been commissioned by the board," SCIF Board Chair Jeanne Cain said in a statement. "Those results convinced the board that a leadership change was in the best interest of the organization and, most importantly, State Fund's policyholders."

Mr. Tudor

Ms. Cain would provide no further details, but a spokeswoman for the chair confirmed that the internal review included SCIF's group insurance programs, which provide discounted workers comp insurance for members of trade associations, and that Ms. Koren, whose appointment was terminated, was in charge of SCIF's group insurance programs.

SCIF's group insurance programs came under fire late last year following the departure of two of SCIF's board members, who resigned amid conflict of interest concerns raised by California Gov. Arnold Schwarzenegger's office.

Frank DelRe, president of Western Insurance Administrators Inc., and Kent Dagg, chief executive officer of the Shasta Builders Exchange, resigned from SCIF's board after concerns were raised over their roles in placing and administering some group business with SCIF for which their companies received fees, a source close to the matter confirmed.

Long Beach, Calif.-based WIA administers eight SCIF workers comp safety associations and is its largest group program manager, with more than 25,000 employers participating in various groups, according to its Web site.

Redding, Calif.-based Shasta Builders, a nonprofit association of building contractors and related businesses, offers a group workers comp program through SCIF, according to its Web site.

In their respective resignation letters, Messrs. DelRe and Dagg cited personal reasons for their departure. Neither could be reached for comment last week.

Gov. Schwarzenegger has not yet

See **SCIF** page 30

AP PHOTOS

During a recent news conference, Massachusetts Gov. Deval Patrick examined the cost of health care coverage for the typical uninsured state resident.

Universal care provision moves ahead in Mass.

Observers welcome changes made to ease implementation

By JERRY GEISEL

BOSTON—Moving ahead on the road to implementing Massachusetts' universal health care coverage law, regulators last week proposed new rules to make it easier for employers and employees to comply with the landmark statute.

The most significant proposal approved by the board of the Massachusetts Health Insurance Connector Authority—the state agency charged with implementing key portions of the law—delays by 18 months, until Jan. 1, 2009, the deadline for most state residents to be enrolled in health care plans that meet state design requirements. Individuals not in such plans will face financial penalties.

Board officials say the delay is needed to give employers more time to analyze the coverage requirements and make any necessary changes to prevent employees from being hit with tax penalties.

Benefit experts welcome the delay, saying it would have been difficult, if not impossible, for employers to redesign their plans in such a short period of time.

"There would have been no way for employers to come up with something so quickly," said Cathy Stamm, a consultant with Mercer Human Resource Consulting in Washington.

"This will be very helpful to employers," agreed Rich Stover, a principal with Buck Consultants L.L.C. in Secaucus, N.J.

At the same time, board officials decided against requiring plans to scrap lifetime dollar limits on health care expenses they cover. Such a requirement had been considered earlier by the board's staff.

Scrapping lifetime dollar limits would have been too disruptive, board officials said, noting that more than 350,000 state residents are in plans that impose such limits.

The board, though, did propose

See **HEALTH CARE** page 28

Pooling design aims to cut stop-loss costs

Setup helps groups leverage buying clout, eliminate fronts

By DAVE LENCKUS

TUCSON, Ariz.—Health plan sponsors that are having problems finding affordable medical stop-loss insurance should pool their plan funding and reinsurance risks through a newly designed arrangement that promises a plethora of cost-saving and plan flexibility advantages, a consultant says.

The arrangement would allow groups of plan sponsors or an association—on behalf of its members—to set up a risk retention group that would cover a portion of the sponsors' assets that are dedicated to paying health claims and then purchase commercial excess-of-loss reinsurance for the remainder, said Stace C. Bondar, managing member of Exlman Re L.L.C. of Baltimore.

Among other things, the pooling design would allow plan sponsors to leverage their large group buying power, eliminate fronting insurers, legally avoid state-mandated benefits and avoid having to obtain U.S. Department of Labor approval, Mr. Bondar said during a session at the Captive Insurance Cos. Assn.'s International Conference in Tucson, Ariz.

Mr. Bondar is seeking approval for the first two arrangements of this kind in Montana and the District of Columbia and is in the process of developing it for nine others in six domiciles. Montana regulators said the facility has been tentatively approved. The facility, ADCOMP MED RRG Inc., is owned by 271 automobile dealership franchises in California, Mr. Bondar said. He declined to identify the District of Columbia facility's owners.

Need for the arrangement has intensified significantly in the past five years, he said, during which U.S.-based medical reinsurance sources have dwindled from about 300 to fewer than 50.

Among remaining reinsurance markets, many have long "ineligible industry" lists, and others charge certain industries "significantly higher rates" than they charge others, he said. Industries having the most trouble finding coverage are hospitals, law firms and trucking companies, he said.

Under the arrangement that Mr. Bondar is seeking approval for in the District of Columbia, a group of self-funded health plan sponsors with core businesses in the same industry banded together to form a risk retention group without any involvement from an association.

FULL CONFERENCE COVERAGE of the Captive Insurance Cos. Assn.'s International Conference can be found at *www.BusinessInsurance.com/Extra*

Each sponsor designed its own plan, including its own benefit design and its own deductible or retention level. Under the Employee Retirement Income Security Act, each self-funded plan is exempt from state laws relating to benefits, including mandated health benefits.

Still, in that kind of arrangement, each plan sponsor has a contractual obligation to participants to fund the plan with the sponsor's assets.

That is where the RRG comes in. The facility's members/owners

See **POOLING** page 27

Compensable harm appeal rejected

By SALLY ROBERTS

WASHINGTON—The Supreme Court has refused to consider an appeal of a case in which a Muslim immigrant from Afghanistan was found to have been subjected to an offensive and hostile work environment, but received no compensatory or punitive damages.

Abdul Azimi asked the high court to consider his case after the 1st U.S. Circuit Court of Appeals declined to award him any damages despite the fact that a district court jury found that he suffered racial, religious or ethnic harassment at his former employer, Jordan Meats Inc., in violation of the Civil Rights Act of 1964.

The jury for the U.S. District Court for the District of Maine, however, found Mr. Azimi did not suffer any compensable harm as a result of the discrimination and therefore did not award him any compensatory damages.

Mr. Azimi provided no evidence of out-of-pocket costs for medical or psychological treatment or lost wages, court papers say.

Mr. Azimi appealed the ruling on several counts, including that the jury was required to award compensatory damages either as a matter of law or because the evidence compelled it.

In denying the appeal, the appeals court ruled last August that the Supreme Court "long ago" rejected the argument that a finding of a hostile work environment requires that there be an award of compensatory damages.

Abdul Azimi vs. Jordan's Meats Inc., 1st U.S. Court of Appeals; No. 05-2602

Mistakes: Medical providers focus efforts on avoidance

CONTINUED FROM PAGE 4

made at hospitals and clinics.

Pennsylvania, for example, has a system that documents up to 16,000 mistakes and near misses per month, Ms. Soloman said, with most incidents being near misses. Pennsylvania, she said, is the only state that requires hospitals to record potential errors—information that becomes invaluable when trying to enhance patient safety.

For example, one report filed by a nurse noted that packages for different sizes of syringes looked nearly identical, which could cause a practitioner or nurse to give someone a tenfold overdose of insulin. In another instance, one report found that color-coded wrist bands given to patients to alert medical staff of an anomaly, allergy or special need meant different things at different hospitals. For example, a blue wristband alerts medical staff at one hospital that a patient has a pacemaker; at another hospital, the blue wristband on the patient denotes "allergic to latex."

While states are on the forefront of documenting medical confusion and errors, hospitals also are taking steps to prevent mistakes.

Alexian Bros. Hospital Network in Arlington Heights, Ill., is one medical system that has created a focus on patient safety. More information is being shared among workers at the system's eight facilities northwest of Chicago and more attention is being paid to practices or issues that could lead to major errors, said Diana Woytko, vp of patient safety and quality.

The system has a number of committees that meet several times a month to go over reports that document mistakes and near misses. Ms. Woytko said the data on near misses has played a large role in enhancing patient safety.

"We can react to instances as they occur but patient safety is much more than that," she said. "Here, we're saying let's fix it before it actually happens."

One report noted that packages for different sizes of syringes looked nearly identical, which could cause a practitioner or nurse to give someone a tenfold overdose of insulin.

550 attend PLUS symposium

CHICAGO—About 550 medical malpractice underwriters, brokers and risk managers attended the Professional Liability Underwriting Society's seventh annual Medical Professional Liability Symposium held March 13-14 in Chicago.

The two-day symposium featured presentations and discussions that included nearly three dozen experts in the fields of medical malpractice and the future of health care liability.

A variety of topics were covered, including a surge in the number of health care captives, the role and liabilities associated with technology in the medical arena, and upcoming improvements to medical risk management.

Information about next year's symposium will be available later this year at the society's Web site located at *www.plusweb.org.*

—By Louise Esola

New circulation manager joins *Business Insurance*

NEW YORK—William O'Driscoll has joined *Business Insurance* as circulation manager. He is based in New York.

Mr. O'Driscoll

Mr. O'Driscoll's responsibilities include managing the circulation marketing efforts for *Business Insurance,* coordinating with the production department on print runs, and working with *Business Insurance Europe* and *www.businessinsurance* on various projects.

Before joining *BI,* Mr. O'Driscoll was a project manager with Citigroup overseeing printing and direct mail efforts for Citigroup's diverse client base.

Prior to Citigroup, he worked as circulation marketing manager at both Working Mother Media Inc. and Primedia Inc.

His career in media began as a research analyst for Katz Media Group Inc.

He is a graduate of St. John's University with a bachelor's degree in communications and a master's degree in finance.

He can be reached at 212-210-0425 and at *wodriscoll@businessinsurance.com.*

Business Insurance OPINIONS

Slow approach needed for Mass. cover rules

WHEN SOMETHING IS SO BIG and hasn't been tried before, it makes sense to go slowly.

Fortunately, that is the approach being taken by Massachusetts regulators as they move to implement the state's universal health care reform law.

As we report on page 3, the state agency that is playing a key role in implementing the 2006 law has proposed putting off by 18 months a requirement that residents, including those in employer-sponsored plans, be covered in health plans that offer a minimum level of coverage and benefits.

State residents who do not comply with that requirement—now with a proposed effective date of Jan. 1, 2009—would face financial penalties.

State regulators have given employers and others ample time to comment on the proposed rules.

By delaying the effective date of the minimum coverage requirements, employers have the time to make the necessary fixes to their plans to prevent their employees from facing penalties.

Similarly, we welcome the decision to ease an earlier proposed requirement that employers offer to virtually all of their part-time employees the ability to make pretax contributions to a health insurance plan.

Such a requirement hardly would have been practical, as the contributions for health insurance coverage for employees working only a few hours a month would likely have exceeded their incomes, making it unlikely those individuals would opt for the coverage.

The most important point is that state regulators have given employers and others ample time to comment on the proposed rules. To their credit, Massachusetts health regulators have been open to the views of the business community in fashioning rules in the past, and we are confident that this will again be the case.

Congress should build on catastrophe bills

FLORIDA'S TWO SENATORS deserve thanks for their legislative package, unveiled last week, addressing the growing exposure of natural catastrophes.

We say that even though that we don't agree with everything that Sens. Bill Nelson, D-Fla., and Mel Martinez, R-Fla., have included in their proposals.

For one, we're still skeptical about the need for government to get directly involved in catastrophe funds—there's always the temptation to view rates and conditions with more of a political eye than an actuarial one. But, that said, we understand why the senators would choose to address that issue.

Their ideas concerning encouraging mitigation and exploring the use of the tax codes to allow insurers to build up precatastrophe reserves strike us as worthwhile.

Reforming the regulation of reinsurers and surplus lines insurers also makes sense, although we hope that any Senate bill that emerges—whether as part of a catastrophe-response package or as a stand-alone measure—will reflect changes made by House sponsors this year to liberalize the definition of a "qualified risk manager" able to take advantage of some of the bill's provisions.

Florida's senators have no illusions that their bills will all be enacted, but hope instead that their efforts will lead to national debate and consensus over how best to meet the challenge of protecting businesses and homes alike from catastrophic losses, both through mitigation and insurance.

We can only wish them well in that effort.

Letters

Contraceptives ruling validates bad policy

TO THE EDITOR: While the 8th Circuit U.S. Court of Appeals may have ruled that it was not discriminatory for Union Pacific Railroad to exclude contraceptive coverage in its health plan, it is clearly fiscally irresponsible ("Contraceptives Policy Not Biased: Court," *BI*, March 19).

Recent published research shows that the direct medical costs of unintended pregnancies in the United States were estimated to be $5 billion a year, while direct medical cost savings due to contraceptive use were estimated to be $19 billion. Union Pacific would have spent significantly more for unintended pregnancies than it would have spent on contraceptive coverage.

Fiscally irresponsible, indeed. Shareholders, are you listening?

James Trussell
Director, Princeton University's
Office of Population Research
Member, Assn. of Reproductive
Health Professionals

Wayne Shields
President and CEO,
Assn. of Reproductive
Health Professionals

Write us

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Online Poll at www.businessinsurance.com

Are insurers' proposed payments of "supplemental performance commissions" an improvement over contingent commissions?

NEXT WEEK'S POLL: *Should employee benefit plans pay for contraceptives?*

***BI* Online Poll tool sponsored by Wausau**

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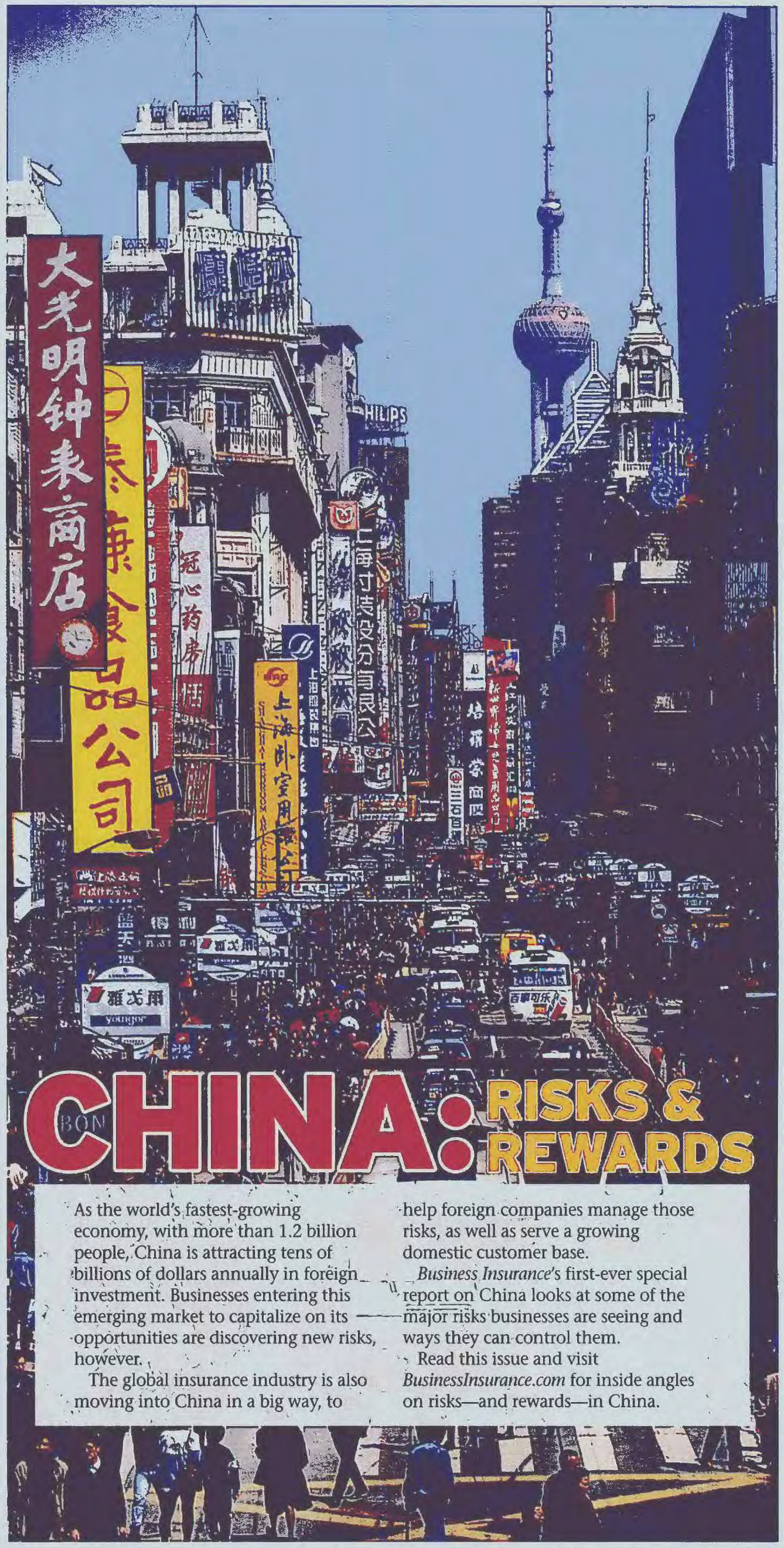
中国

SPOTLIGHT



CHINA: RISKS & REWARDS

As the world's fastest-growing economy, with more than 1.2 billion people, China is attracting tens of billions of dollars annually in foreign investment. Businesses entering this emerging market to capitalize on its opportunities are discovering new risks, however.

The global insurance industry is also moving into China in a big way, to help foreign companies manage those risks, as well as serve a growing domestic customer base.

Business Insurance's first-ever special report on China looks at some of the major risks businesses are seeing and ways they can control them.

Read this issue and visit *BusinessInsurance.com* for inside angles on risks—and rewards—in China.

On the Web

Visitors to our Web site, *BusinessInsurance.com*, can view our entire special report on China, as well as see exclusive online features including:

- A photo gallery of scenes in Beijing
- *BI* ranking of China's 50 largest insurance brokers
- An audio interview with AIG's CEO Martin Sullivan
- Flight information between major U.S. and European cities and China

Commentary

Business opportunity driven by relationships

By Kevin Edison

Kevin
EDISON

Research Director Kevin Edison reflects on his recent trip to China. He can be reached at: kedison@businessinsurance.com

On a recent visit to Beijing for the Spring Festival, I was surprised by what I found: a Starbucks coffee shop. The Forbidden City, built during the 14th century Ming Dynasty, got its name from those executed simply for being in the city if they were not members of the imperial court. Allowing a symbol of Western indulgence to locate there made me think of China's economic progress and the effect it's having on the insurance business.

Insurers and brokers, like most outside companies, see China as an emerging market with endless possibilities. While China welcomes Western consumer goods, few citizens and businesses perceive the need for insurance. The market has been dominated by a handful of large insurers: China Reinsurance Group for reinsurance, People's Insurance Co. of China for property/casualty and China Life Insurance Co. for life insurance. Ping An Insurance (Group) Co. of China Ltd. is another major player, writing life and P/C insurance.

Outside insurers' and brokers' must first open a representative office to form business relationships but may not write or sell coverage. After two years, foreign companies may form joint ventures with existing Chinese firms. The China Insurance Regulatory Commission says outside insurers and brokers currently have more than 200 representative offices.

Aon Corp. formed the first licensed international joint venture insurance and reinsurance brokerage, Aon-COFCO Insurance Brokers Co. Ltd., in 2003.

Willis Group Holdings Ltd. formed a joint venture with Shanghai Pudong Insurance Brokers in 2004 to become the first foreign company the CIRC allowed to hold a majority stake in a Chinese broker. Willis took a 51% share in the venture, now called Willis Pudong Insurance Brokers Co. Ltd.

Marsh Inc. opened a representative office in 1982 and recently became the first foreign broker to obtain a license to open a wholly owned insurance brokerage. Marsh (Beijing) Insurance Brokers Co. Ltd. opened in January.

Eric Yang Yingshun, vice general manager at brokerage HDTT Insurance Consulting (Beijing) Co. Ltd., said China's brokerage business only began in 2001. Most domestic brokers do not produce a profit and agencies close every year, said Mr. Yang, who noted brokers face two major concerns: lack of resources and Chinese businesses' lack of interest in purchasing insurance.

CIRC has done little to help local brokers develop, some market observers say. As a result, the world's three largest brokers—Marsh, Aon and Willis—place most of China's large risks, including aviation, satellite, marine and oil drilling.

China's domestic brokerages tend to fall into three groups, said Janet Zhang, account director at brokerage Beijing New World Insurance Services Ltd.

On the Web: See a photo gallery of Beijing at www.BusinessInsurance.com/CHINA

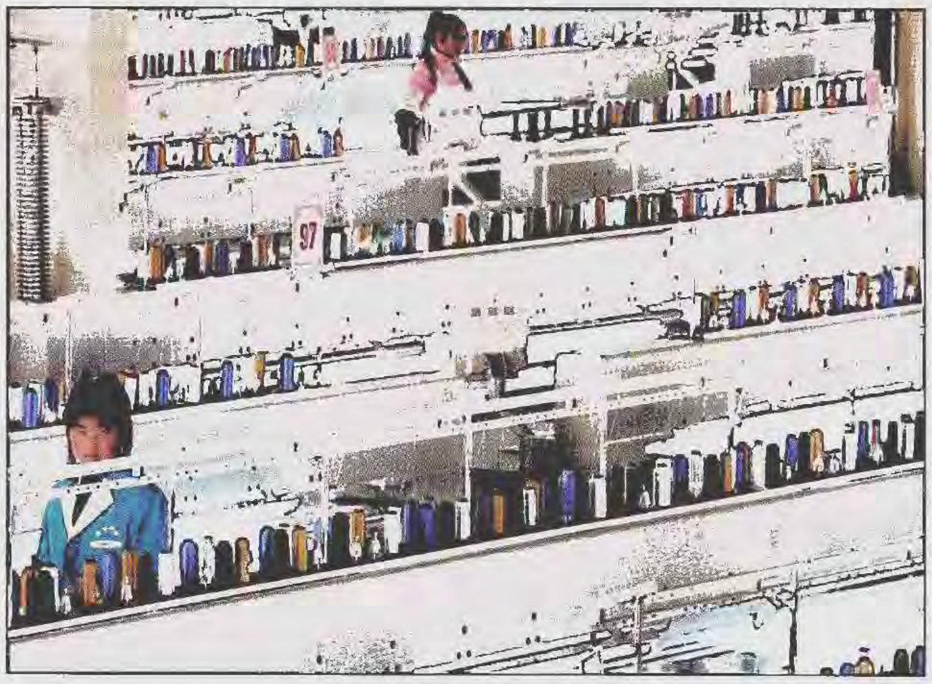
The first group is brokers that have a large business volume supported by wealthy client shareholders but that lack the professional staff and knowledge to prepare comprehensive proposals. The second group has formed strong relationships with governmental agencies, enabling them to place large project business and attract talented people. Most local brokers fall into the third category, however, with neither professional staff nor relationships to effectively compete, Ms. Zhang said.

Chinese law generally does not require insurance, except third-party liability insurance for automobiles and social insurance—basic health cover—for workers.

Chinese companies are most interested in property all-risk insurance, machinery breakdown and business interruption cover, Mr. Yang said. Terrorism risk is excluded in China, and few insurers offer this coverage. The most requested liability lines are public liability insurance and, increasingly, employers liability.

While insurance is a relationship business worldwide, personal relationships are especially important in China, he said.

Western insurers and brokers hoping to serve local clients in China will have to earn their trust and demonstrate the value of buying insurance. Like the Starbucks in the Forbidden City, it's hard to sell coffee to a country that has a long tradition of drinking tea.



Workers create and assemble costumes at a factory in northwest China's Xunhua county. Overall, China expected cotton production to jump 10% last year, the Xinhua News Agency reported.

REUTERS

Westward push in China carries risks and challenges assumptions

Region's infrastructure and talent pool not as developed as in east

By SALLY ROBERTS

While U.S. investment in China is concentrated mainly in the eastern provinces, more U.S. companies are eyeing western expansion in the increasingly liberalized Chinese economy.

Whether to expand market reach, be near a specific partner or facility, or reduce costs, the western region of China presents a host of opportunities for foreign investors.

But there are risks associated with such expansion, experts say. Unlike the more developed and sophisticated eastern cities, such as Beijing and Shanghai, China's western provinces lack the same infrastructure and business savvy, experts say.

As such, business interruption and transportation exposures remain high and qualified employees are hard to obtain, they say. Corruption also remains an issue in China, experts say (see story, page 14).

Due diligence is a "huge deal" when it comes to expanding operations in China, said Frank Hawke, chairman of greater China for consultant Kroll Inc. in Beijing.

"China is a very different culture from the West...and so they approach problems in a different way," he said. "You just can't simply take your assumptions from doing business in Des Moines and apply them in Hubei Province and feel like you'd be successful."

"You're also dealing with a system, which for the past 56 years has been a communist/socialist system," Mr. Hawke added. "So layered on top of the cultural issue is a system that is different, and the way the economy runs is very different. And when you're talking about the western part of China, you're talking about a part of China that hasn't emerged from that system to the extent the eastern seaboard has."

But U.S. investors—especially those that have had a presence in China's eastern provinces for several years—are increasingly venturing out to new locations. In many instances, they are looking to expand their market base in the world's most populous country or are following suppliers and other business partners, experts say. In other cases, they are taking advantage of cheaper land, labor costs or other incentives that the government might offer, such as tax breaks and cheaper utilities, to spur development in the Chinese west.

In addition, the western provinces tend to have a more stable workforce, compared with the eastern provinces where there is "tremendous" competition for talent and a 40% turnover rate among workers, said Cy Quadland, a New York-based managing director and leader of Marsh Inc.'s private equity, mergers and acquisition practice in Asia.

Western China "may not have as sophisticated an infrastructure from an accounting and legal standpoint, but it has a lot of advantages in that there is not as competitive of a work environment," Mr. Quadland said.

'Second-tier' investment

According to the American Chamber of Commerce in Shanghai, 45% of the 274 members it surveyed last year remain focused on their established commercial operations and investments in the more traditional strongholds of China including Beijing, Shanghai and Guangdong. But more than 15% of the AmCham members said they are putting more than 75% of their investment in second-tier locations and 10% said they have their entire investment in second-tier cities.

With this expansion comes a variety of risks, experts say.

For example, while China has invested a lot of money in building power stations and some areas have abundant electricity, in other western areas of China the supply of electricity is "very unstable," said Howard Tsang, executive director of Willis Risk Solutions China, based in New York. As a result, "you might have increased business interruption exposure caused by lack of supply of electricity."

Indeed, business interruption is "one of the major issues" foreign investors have to consider, said Mr. Quadland. In addition to frequent brownouts and blackouts, "some of the supplier plants are not up to spec as far as fire conditions go. It's critically important to have—for both suppliers and large customers—really top-flight business interruption coverage," he said.

Logistical issues related to transporting products to and from western China also could create risk, experts say.

The huge territory in western China is still "not as well-served" when it comes to the availability of train cars, which could cause issues when it comes to shipping or receiving in materials or products, Kroll's Mr. Hawke said.

It's also very expensive to ship products from the west, Mr. Quadland added.

"It costs as much to ship cargo from Chengdu to Shanghai as it does to ship from Shanghai to the United States," he said.

Finding qualified workers, including locals with senior management skills, also remains a key challenge and a risk for companies seeking to expand operations west (see story, page 21).

"The infrastructure is probably less well-developed outside of Shanghai and the greater Hong Kong area, so it's difficult to get talented people," said Bill Milaschewski, director of risk management at Cabot Corp., a Boston-based global specialty chemical and

See EXPANSION page 14

Expansion: Westward push

CONTINUED FROM PAGE 12

materials manufacturer that operates in several cities in China's eastern provinces and is looking to expand.

Cabot requires an educated workforce, which could prove difficult should operations expand west, he said. "We operate chemical facilities so it's important that we operate them efficiently and in an effort that pays high degrees of attention to the safety of our employees and our neighbors and to environmental controls to ensure that we follow all the environmental regulations," which are "stringent" in China.

At the same time, China has a "different way of looking at construction standards," Mr. Milaschewski said. "So the infrastructure isn't really there yet in some of those areas outside of Shanghai."

Although Cabot is looking for other opportunities to expand in China, which Mr. Milaschewski said has an "insatiable demand" for its products, it's unclear whether the company will expand its existing sites in China or whether it will move into new areas.

"We've had chit chat" about moving into western China, but it's "still just in the discussion phase," he said.

Take great care in choosing partners

Corruption rampant, but lately it's drawing government attention

By SALLY ROBERTS

Corruption remains a big issue in China and U.S. companies seeking to expand in the region need to be wary of its ramifications, including Foreign Corrupt Practices Act violations, experts say.

Whether it's self-dealing, phantom suppliers, kickbacks, intellectual property theft or inappropriate dealings with governmental officials, crime and corruption are risks companies face when operating in China, they say.

"Corruption is a huge issue. It's systemic," said Donald Forest, a managing director of Sierra Asia Partners, a Washington-based consulting firm that assists companies wanting to invest globally. China has "a relationship-based society and culture...and certain influences are going to be asked for and expected."

Indeed, in western China in particular, "the hand of the state tends to be heavier," making it difficult sometimes "to tell where the state ends and the enterprise begins," which "obviously raises FCPA sensitivities," said Frank Hawke, chairman of greater China for Kroll Inc. in Beijing. He was referring to the 1977 U.S. federal law, which bars bribery of foreign officials, requires companies to maintain records that accurately and fairly represent the company's transactions.

"You really have to be very careful who you're getting in bed with," said Cy Quadland, a New York-based managing director and leader of Marsh Inc.'s private equity, mergers and acquisition practice in Asia. "You're liable to set up a (Chinese) company and find your partner is taking your intellectual property and setting up a company five miles down the road and doing the same thing you are and buying supplies from your own supplier."

Mr. Forest said he has seen "disasters" in which U.S. companies have used Chinese intermediaries to conduct general business negotiations and, unbeknownst to the U.S. company, various payments are being made under the table. "And that's completely outside of what's allowed under the Foreign Corrupt Practices Act," he said.

According to the 2006 corruption perception index by anti-corruption coalition Transparency International, China received a CPI of 3.3; that compares with 9.6 for Finland, which had the lowest level of perceived corruption among the 163 countries surveyed, and 1.8 for Haiti, which had the highest.

"A lot of companies get into trouble in China. You've got to understand that if (U.S. companies) have, and invariably they will have, local Chinese professionals representing them—the company's credo, the company's standard operating procedures, the company's code of conduct, corporate governance, best practices—all of that needs to be ingrained and it needs to be accepted. There has to be constant training and constant reminding" to the local Chinese staff, Mr. Forest said.

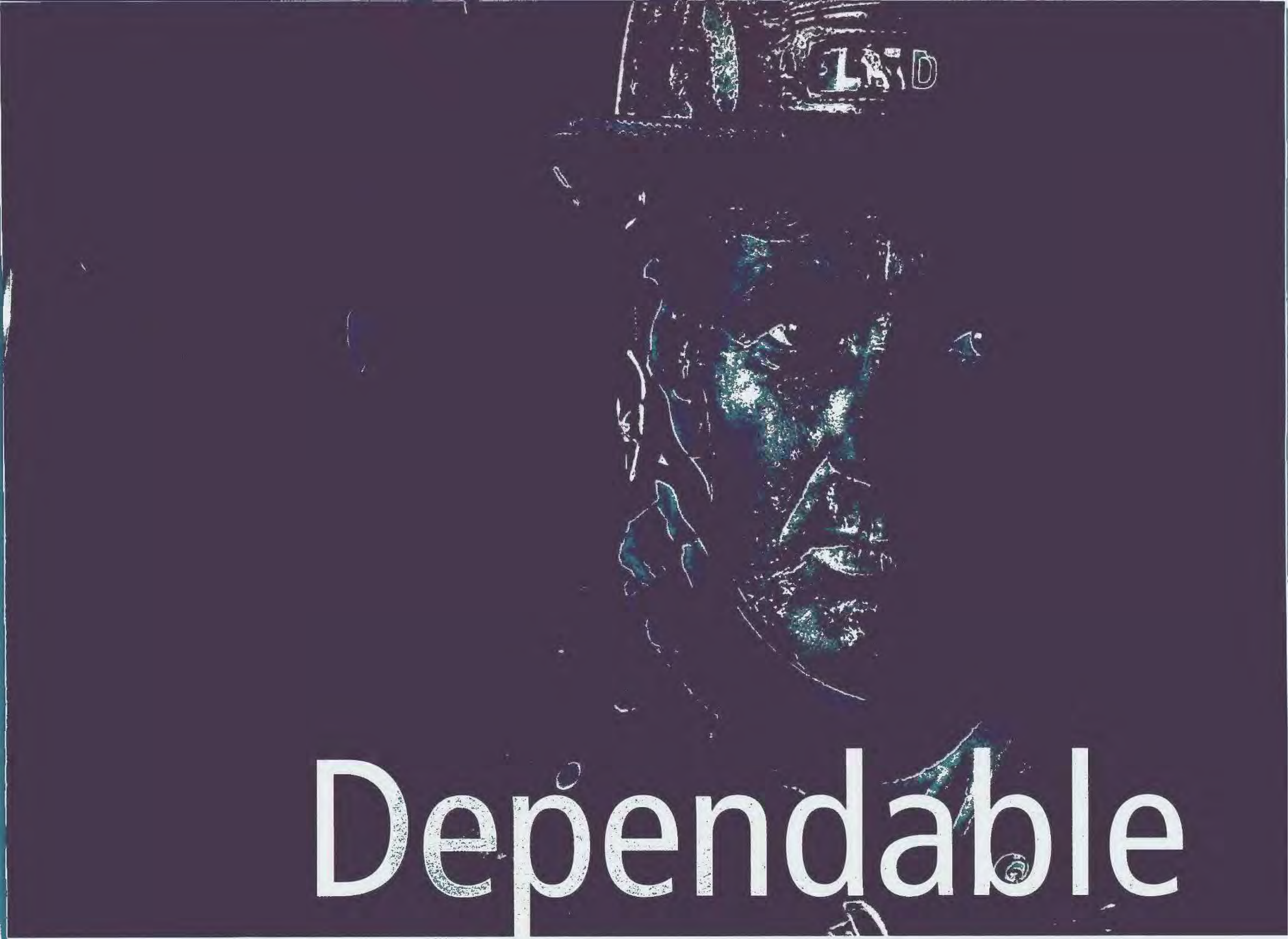
"You have hidden liability, and I've seen some horror stories where it all boiled down to corporate governance and not paying attention to the code of conduct," he said.

Mr. Hawke, though, warns that Chinese culture in many respects is "very different" from Western culture. As such, "a U.S. company cannot simply translate its compliance policies and procedures into Chinese and expect them to have the same effect as in the U.S. The entire approach must be tailored to the Chinese environment."

In addition, internal and external audits must be "active and independent," Mr. Hawke recommends. Unfortunately "smart fraudsters know how to manipulate audit trails, so a strong and active security function is also vital," he said.

But China is making progress on corruption, Mr. Forest said.

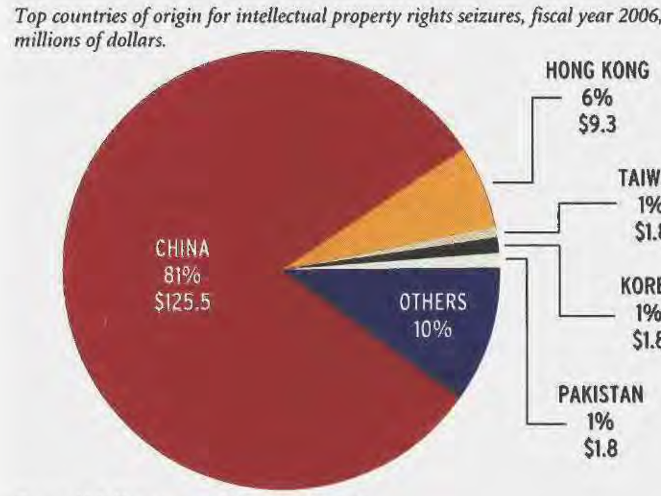
"I think the Communist party is a lot more attuned to how pervasive it is. They realize that it robs the economy and undermines more legitimate business environment. And that's progress to me," he said.


Dependable

Intellectual property theft is top risk for firms with operations in China

WHO'S SENDING COUNTERFEIT PRODUCTS TO THE UNITED STATES?

Top countries of origin for intellectual property rights seizures, fiscal year 2006, in millions of dollars.



Source: U.S. Department of Homeland Security

International pressure placed on China to effectively enforce laws

By GLORIA GONZALEZ

Foreign companies expanding into China face a boundless and potentially costly risk—the theft of their intellectual property.

China is widely considered to be the most problematic country in the world with regard to violating intellectual property rights. Among U.S. trading partners, China was the No. 1 source of counterfeit products seized at U.S. borders, accounting for 81% of the total value of seized products, according to the U.S. Customs & Border Protection agency (see chart).

Intellectual property risks are among the top three operating issues currently facing multinational companies with operations in China, according to a survey by a committee of the Beijing-based China Assn. of Enterprises with Foreign Investment, a coalition of multinational companies that have invested more than $60 billion in China. About 10% of surveyed members estimated revenue losses due to intellectual property violations of more than 20%.

"In China, (intellectual property theft) is prevalent and troublesome," said Paul Clifford, a New York-based director of Marsh Inc. and Mercer Management Consulting who heads the companies' China client services practices.

As part of its 2001 entry into the World Trade Organization, the Chinese government revised its patent, copyright and trademark laws to comply with an agreement among WTO member countries known as the Trade-Related Aspects of Intellectual Property Rights, which requires WTO members to take certain steps to protect the intellectual property rights of foreign companies (see box).

Companies whose intellectual property rights are violated in China have several options. The most common and quickest approach is to try to stop infringement through administrative proceedings, but punishment for intellectual property violations usually is limited to

See **RIGHTS** page 19

WALKING THE WTO LINE

The World Trade Organization's agreement on Trade-Related Aspects of Intellectual Property Rights established minimum levels of protection on issues that WTO signatories agree to observe.

- **COPYRIGHT:** Computer programs are protected as literary works; program authors can prohibit rental of their work; performers and producers can bar bootlegging of their work.
- **TRADEMARKS:** Any sign capable of distinguishing goods and services from those of other undertakings, must be eligible for registration as a trademark; service marks must be protected in the same way as trademarks for goods.
- **GEOGRAPHICAL INDICATIONS:** Place names that are used to identify a product, such as "Champagne" and "Scotch," are protected and goods produced elsewhere are not allowed to use those names.
- **INDUSTRIAL DESIGNS:** Industrial designs are protected for at least 10 years.
- **PATENTS:** Patent protection must be available for inventions for at least 20 years and should be available for products and processes, with certain exceptions.
- **INTEGRATED CIRCUITS:** Layout designs are protected for at least 10 years, among other things.
- **UNDISCLOSED INFORMATION:** Trade secrets that have commercial value are protected against breach of confidence.

Source: WTO's TRIPS accord

China facts & figures

FOREIGN NONLIFE INSURERS AND REINSURERS IN CHINA

About 40 foreign-based insurers are licensed to write non-life risks in China through single or multiple branch offices. Among the largest are:

COMPANY	INITIAL LICENSE
American International Group	1992
Allianz Insurance Co.	2003
Chubb Group	2000
General Re Corp.	2004
Groupama S.A.	2003
Liberty Mutual Group	2003
Lloyd's Reinsurance Co. (China) Ltd.	2007
Mitsui Sumitomo Insurance Group	2003
Munich Re Group	2003
Royal & SunAlliance Group	1998
Samsung Fire & Marine	2001
Sompo Japan Insurance Inc.	2005
Swiss Re Group	2002
Tokio Marine & Fire	1994
Winterthur Insurance (Asia) Ltd.	1997
Zurich Financial Services Group	2001

Source: CIRC, company reports

CHINA POPULATION

Total number, in billions

1.29

ECONOMIC GROWTH

Real change in GDP 2005 vs 2004

9.9%

TOTAL PREMIUM VOLUME

World market share in 2005

1.76%

($60.13 billion of $3.425 trillion)

CHINA INSURANCE DENSITY

All premiums per capita in 2005

$46

Source: Swiss Re/sigma

China's largest brokers

Ranked by startup capital in U.S. dollars

Company name	Start date	Initial capitalization U.S. dollars*	City or province
Chang An Insurance Broker Co. Ltd.	5/2001	$25,860,000	Beijing
Xing An Insurance Brokers Co. Ltd.	1/2005	7,758,000	Shenzhen
Heng Tai Insurance Brokers Co. Ltd.	6/2001	6,982,200	Nanjing
Air Union Insurance Brokers Co. Ltd.	8/2004	6,465,000	Beijing
An Yuan Insurance Brokers Co. Ltd.	6/2005	6,465,000	Qinghai
Houlder Insurance Broker Co. Ltd.	9/2001	6,465,000	Shenzhen
Hua Sheng Insurance Brokers Co. Ltd.	3/2003	6,465,000	Beijing
Hua Xin Insurance Brokers Co. Ltd.	9/2003	6,465,000	Beijing
Jia An Insurance Brokers Co. Ltd.	5/2003	6,465,000	Beijing
Jing Sheng Insurance Brokers Co. Ltd.	9/2003	6,465,000	Beijing
Kang Qiao Insurance Brokers Co. Ltd.	8/2003	6,465,000	Beijing
Min Sheng Insurance Broker Co. Ltd.	4/2002	6,465,000	Beijing
Tian Si Insurance Brokers Co. Ltd.	7/2003	6,465,000	Dalian
Xin Hua Insurance Brokers Co. Ltd.	9/2003	6,465,000	Beijing
Ya Tai Insurance Brokers Co. Ltd.	5/2004	6,465,000	Heilongjiang
Yangtze River Insurance Brokers Co. Ltd.	10/2003	6,465,000	Beijing
Yin Da Insurance Brokers Co. Ltd.	7/2003	6,465,000	Shanghai
Zhong Sheng International Insurance Brokers Co. Ltd.	5/2005	6,465,000	Beijing
Galaxy Insurance Brokers Co. Ltd.	6/2004	4,008,300	Beijing
Aon Insurance Brokers Co. Ltd.	10/2003	3,879,000	Shanghai
Chang Cheng Insurance Broker Co. Ltd.	6/2000	3,879,000	Guangzhou
Dong Fang Shi Dai Insurance Brokers Co. Ltd.	7/2004	3,879,000	Beijing
Hua Tai Insurance Agent & Consultant Ltd.	3/1993	3,879,000	Beijing
Jiang Tai Insurance Broker Co. Ltd.	6/2000	3,879,000	Beijing
Jin Cheng International Insurance Brokers Co. Ltd.	8/2005	3,879,000	Beijing
Willis Pudong Insurance Brokers Co. Ltd.	8/2001	3,879,000	Shanghai
Xiang Yi Insurance Brokers Co. Ltd.	12/2003	3,879,000	Ningbo
Yuan Tong (Beijing) Insurance Brokers Co. Ltd.	12/2004	3,879,000	Beijing
Bei Xin Insurance Brokers Co. Ltd.	6/2003	2,728,230	Tianjin
Tai An Fu Insurance Brokers Co. Ltd.	5/2004	2,689,440	Hubei
Asian Insurance Brokers Co. Ltd.	3/2004	2,586,000	Shanghai
Beijing Concern Insurance Broker Co. Ltd.	8/2003	2,586,000	Beijing
Champs Elysees Insurance Brokers Co. Ltd.	9/2003	2,586,000	Shenzhen
China Education Insurance Brokers Co. Ltd.	5/2004	2,586,000	Beijing
China Railway Insurance Brokers Co. Ltd.	8/2004	2,586,000	Beijing
Ding An Insurance Brokers Co. Ltd.	7/2003	2,586,000	Hunan
Dong Fang Da Di (Wuhan) Insurance Brokers Co. Ltd.	7/2004	2,586,000	Wuhan
Hong Run Insurance Brokers Co. Ltd.	6/2004	2,586,000	Gansu
Hua Iv (Beijing) Insurance Brokers Co. Ltd.	10/2003	2,586,000	Beijing
Jia Tai Insurance Brokers Co. Ltd.	5/2003	2,586,000	Sichuan
Jin An Insurance Brokers Co. Ltd.	9/2003	2,586,000	Beijing
New Era Insurance Broker Co. Ltd.	1/2003	2,586,000	Beijing
Orient Fortune Insurance Brokers Co. Ltd.	2/2004	2,586,000	Beijing
Shanghai Dong Da Insurance Broker Co. Ltd.	7/2000	2,586,000	Shanghai
Success Insurance Broker Co. Ltd.	5/2002	2,586,000	Guangdong
Yi An Insurance Brokers Co. Ltd.	9/2004	2,586,000	Beijing
Zhen Fu Insurance Brokers Co. Ltd.	3/2004	2,586,000	Heilongjiang
Zhong Ren Insurance Brokers Co. Ltd.	12/2004	2,586,000	Guangdong
Zhong Xu Insurance Brokers Co. Ltd.	10/2004	2,586,000	Beijing
Zhong Yuan Insurance Brokers Co. Ltd.	5/2005	2,586,000	Shanghai

**Conversion to U.S. dollars using 3/16/2007 international bank numbers*
Source: CIRC China Insurance Regulatory Commission Research by Kevin Edison, translation by Lu Cai

Broad risk management strategy needed to protect intellectual property

Foreign companies should implement an extensive risk management strategy to guard their intellectual property in China, experts say.

Registering patents, trademarks and copyrights with intellectual property offices in China as soon as possible is the most important step. Fighting infringement without registering is virtually impossible, intellectual property lawyers say.

Registering intellectual property before entering into partnerships with Chinese companies is critical since business relationships can disintegrate and lead to infringement.

One client of Thelen Reid Brown Raysman & Steiner L.L.P. lost its intellectual property after terminating a relationship with a Chinese manufacturer over production quality issues because the manufacturer registered for a Chinese patent before the client did, said Meg Utterback, a partner with the firm's China practice based in Shanghai.

"You wouldn't think that the manufacturer you work with and trust would steal your product, but it happens," Ms. Utterback said.

Companies should perform intensive due diligence on their outsourcing partners before they sign deals with them, examining whether they have been guilty of intellectual property violations in the past and scrutinizing their internal procedures for intellectual property protection.

When DarwinSuzsoft was looking into potential acquisitions in China, the information technology service provider eliminated several companies from consideration because it was uncomfortable with their understanding and appreciation of the intellectual property issue, said Bob Kramich, executive vp, business development and corporate marketing in Wakefield, Mass.

Contracts with Chinese outsourcing partners should have provisions enabling the foreign company to do onsite audits, mandating the purchase of liability insurance and dictating penalties for the unauthorized release of protected information.

"The contracts have to be written in such a way that if somebody wants to manufacture for you, they have to be accountable," said Vincent Volpi, chief executive officer of PICA Corp., a Columbus, Ohio-based security, risk management and loss prevention company.

A critical step in intellectual property protection is to share only the minimum information that is necessary for outsourcing partners to produce the goods or conduct research and development activities. "Keep the IP crown jewels at home," said Harry Rubin, co-chair of the intellectual property transaction practice group at Heller Ehrman L.L.P. based in San Diego.

—By Gloria Gonzalez

Rights: Poor enforcement

CONTINUED FROM PAGE 16

confiscation of the counterfeit products or a monetary fine, experts say.

Foreign companies can also file civil lawsuits against infringers, but this process is more time-consuming than the administrative process and the damages awarded in civil proceedings generally do not adequately compensate for the infringement, lawyers say.

Although criminal prosecutions are still fairly limited in China, foreign entities are beginning to press for them in an effort to deter intellectual property theft. "That's what many brand owners are seeking these days...because that's really the only way to get serious impact on the problem," said Bill Thompson, managing director of Thompson Market Services (Shanghai) Ltd., an intellectual property investigation and enforcement firm.

The legal regime for intellectual property protection in China is generally viewed by lawyers as adequate, but enforcement of the laws is a challenge. "The availability of law is not the problem, it's the remedies," said Peter Bullock, a Hong Kong-based partner with law firm Pinsent Masons. "The problem is that enforcement is patchy and the penalties awarded as damages negligible." In one recent case, for example, a court awarded five brand owners about $2,500 each in damages for intellectual property infringement.

The Chinese government historically has not placed a high value on the protection of intellectual property rights, but this is starting to change amid intense international pressure to comply with the WTO's TRIPS provisions. Over the past year, various enforcement arms of the Chinese government have stepped-up enforcement of intellectual property rights, increasing convictions for infractions by 52% and seizures of goods by nearly 100%, although the value of these seizures was about $25 million, according to a report by the Washington-based International AntiCounterfeiting Coalition Inc.

In 2005, the value of copyrighted material alone that was pirated in

See **RIGHTS** next page

Media companies in China say rewards outweigh censorship threat

Advertisers have interest in developing brand recognition

By GLORIA GONZALEZ

The growing appetite of Chinese consumers for news and entertainment provides tremendous growth opportunities for foreign media companies, but they have to contend with the efforts of Chinese government officials to control the release of sensitive information.

Although censorship is a crucial ethical concern for media companies, the rewards of expanding into the world's most populous nation outweigh the obstacles involved in publishing or operating in China, media executives and experts say.

Expanding into China became a high priority for publisher International Data Group after a visit in the late 1970s showed founder and Chairman Patrick McGovern that China was a "publisher's paradise" due to the enormous interest shown by Chinese consumers in books and magazines. After forming a partnership with a Chinese governmental entity, IDG launched China Computerworld in 1980 and now has 42 publications in China.

"Obviously, China has been a target country for anyone who wants to participate in the fastest-growing economy in the world," Mr. McGovern said.

More recently, Internet companies such as Google Inc. and Yahoo! Inc. have started or expanded operations in China to access the country's rapidly growing market of more than 100 million Internet users, up from 4.5 million in 1999.

The financial rewards of expanding into China are tremendous, publishers say. Boston-based IDG invested $250,000 in starting China Computerworld and has earned $52 million in royalties and dividends from the publication, Mr. McGovern said. In 2005, revenue of IDG's publishing, research, training, investment and event activities in China was $275 million and the company forecasts its total revenue in China will reach $8 billion by 2020, he said.

Unlike the struggling U.S. environment for magazine publishing, advertising revenue is showing strong double-digit growth in China, publishers say.

"Advertisers have interest in developing their brand recognition in China," said George Green, the New York-based president and chief executive officer of Hearst Magazines International, which publishes six of its consumer magazines—including Cosmopolitan—as part of a joint venture with IDG and the Chinese government.

Since China's government forbids direct foreign ownership of media, publishers form joint ventures with governmental entities. Media companies operating in China, though, have to contend with possible censorship of their editorial content as the government retains the right to restrict information when it deems it necessary.

"Media companies are in a strange place because it's one of the few industries that's still tightly regulated," said Stan Abrams, a Shanghai, China-based partner with Lehman, Lee & Xu. He specializes in intellectual property, media and entertainment issues.

For publishers such as IDG and Hearst that do not address economic or political issues, the threat of censorship is less significant. IDG does not receive comment from Chinese officials on its editorial content because its magazines do not address those issues, Mr. McGovern said.

For Internet companies, though, censorship is more complicated because search engines do contain information on economic and political issues. During a U.S. congressional hearing last year on Internet issues in China, a Google official acknowledged that the Mountain View, Calif.-based company agreed to censor its content.

NEWSCOM

Despite a threat of censorship of their services, Internet companies such as Yahoo! Inc. are expanding in China, which has more than 100 million Internet users.

"Understandably, many are puzzled or upset by our decision," Elliot Schrage, Google's vp, global communications and public affairs, said during the hearing. "But our decision was based on a judgment that Google.cn will make a meaningful, though imperfect, contribution to the overall expansion of access to information in China."

Although Google's decision to self-censor content was widely criti-

See **MEDIA** next page

Questions Answers

Martin J. Sullivan this month marked his second year as president and chief executive officer of American International Group Inc., a company that has a unique history: Founded by Cornelius Vander Starr, it began in 1919 as an insurance agency in Shanghai, China. Today, AIG is the world's largest insurer and one of the major foreign businesses operating in China. Last Monday, Mr. Sullivan received the Marco Polo Award in Beijing for promoting economic and cultural communication between the United States and China. He spoke recently with BI Editor Regis Coccia about the outlook for insurance and risk management in China.

Opportunities abound within China's market

Q: What are the major risks foreign businesses face when they set up in China, and how is AIG helping them?

I wouldn't necessarily call them risks but more opportunities. From our perspective, we have a number of operations in the country both on the life and nonlife side.

Up until January 2004, nonlife business was only allowed to distribute and sell products to foreign enterprises. That's been expanded since. But what we can bring is new product innovation to the marketplace, expanded distribution opportunities, and really respond to the needs of the Chinese consumer and commercial enterprise as the economy develops and grows. And, as more people have net disposable income, they're clearly looking to protect their assets and purchase savings and life products. It's like any startup operation. You want to have a new product development and a broad-based distribution platform.

Q: Western companies operating in China already are using insurance, but how do Chinese businesses view commercial insurance?

The trend we see is the initial focus is on asset protection, either bricks-and-mortar and business interruption-type exposures, but clearly when they're an exporting company and they see the risks that are being taken outside of China, in particular, we're seeing more demand for products liability coverage. And as companies go for IPOs and they have external shareholders, there's a growing demand for D&O insurance. For aviation, accident and health, there's clearly a strong demand.

Other lines of business will emerge over time in China, there's no doubt about that. At the present moment, the key focus is on asset protection, products liability and marine.

Q: Nonlife business in China is much smaller than life business at the moment. How does AIG foresee commercial nonlife business developing there?

A key component of that was our ability to write Chinese companies post-January 2004. That allows us to pursue a broader customer base. We're developing that by bringing new products to that customer base. Obviously, a lot of focus is on insuring the assets in China and providing property insurance. But also, with the amount of exports leaving China, there's a continuing growing demand for products liability coverage.

As you're seeing some of the IPOs emerge, there's a growing demand for D&O insurance. There's clearly a demand for marine insurance. Over time, other coverages will be introduced. From our standpoint, it's (about) getting distribution, getting to the customer, and providing them with the products and services that they want. That's the challenge, not only in China, but elsewhere.

Q: How many times a year do you personally visit China?

Since I've taken office, I've been there five or six times. So I average three a year....When I'm there, not only do I want to meet with our regulators, I want to meet with our customers, with our employees, review our strategies. Every time I go to China, you can't help but be amazed at how much progress the country continues to make. Whether it's Beijing or Shanghai, every time I'm there I continue to see different things being constructed, improvements appearing, and the country continues to develop.

A PODCAST with Martin Sullivan on the history of AIG in China and the unabridged version of this Q&A are at www.BusinessInsurance.com/CHINA

Rights: Intellectual property theft costly

CONTINUED FROM PREVIOUS PAGE

China exceeded $23 billion, according to testimony by Chris Israel, U.S. coordinator for international intellectual property enforcement.

Despite the enforcement actions, intellectual property theft remains prevalent in China, mainly because government officials in different regions place different priorities on enforcement of intellectual property laws, observers say.

"The best (intellectual property) protection you're going to get is in the area between Beijing and Shanghai and when you go south or west, it gets murky," said Stan Abrams, a Shanghai-based partner and head of the intellectual property department of Lehman, Lee & Xu.

Regardless of the risk of infringement, the Chinese market provides tremendous potential in terms of a low-cost labor force and an enormous market, experts say.

"I don't see people running away from the Chinese market," said Joseph Simone, a partner with Baker & McKenzie in Hong Kong and a member of the IACC.

Rather than avoiding the Chinese market, companies should focus on risk management initiatives to curtail or prevent intellectual property theft, observers say (see story, page 19).

Unlike in the United States, companies in China have limited insurance options to guard against violations of intellectual property rights. The most common practice is to bundle intellectual property coverage with professional indemnity policies, which would respond if a Chinese company commits an inadvertent breach of intellectual property rights, said Aruno Rajaratnam, the Singapore-based managing director of Willis Group's Financial and Executive Risks Practice Asia.

Stand-alone insurance policies are available from Lloyd's of London syndicates, but the limits are less than £5 million ($9.67 million), and Ms. Rajaratnam estimates only five to 10 stand-alone intellectual property policies have been purchased in the region.

"In Asia, they find the insurance very expensive," Ms. Rajaratnam said.

Media: Censorship questions

CONTINUED FROM PREVIOUS PAGE

cized, media companies can and should strike a fair balance between following Chinese laws and allowing access to information because they can't afford to stay out of the growing Chinese market, said Donald Forest, managing director for Sierra Asia Partners, a San Francisco-based investment consulting and advisory firm that assists multinational companies in China.

The decision by ISPs to acquiesce to the demands of Chinese officials came under intense scrutiny when it was discovered that personal user information furnished to Chinese officials by Yahoo! China helped lead to the identification and arrest of a Chinese citizen for allegedly using his e-mail account to disseminate information about restrictions on news reporting. Michael Callahan, the Santa Clara, Calif.-based company's senior vp and general counsel, told legislators that Yahoo! had to comply with the law enforcement demand or the company and its employees could have been subjected to criminal charges in China.

China spurs U.S. legislation

The situations with Google and Yahoo! spurred introduction of a bill in Congress that would prohibit U.S. Internet companies from cooperating with "repressive regimes" that restrict information about human rights and democracy on the Internet. The bill, known as the Global Online Freedom Act of 2007, would make it a crime for Internet companies to turn over personal information to governments that use that information to suppress dissent.

The bill, though, has drawn criticism as an unnecessary and possibly damaging attempt to interfere with the business decisions of media companies and the still-fragile economic and political relationship between the United States and China.

"I really detest the Congress coming up with legislation to dictate to companies," Mr. Forest said.

A key risk that media companies in the United States and other countries contend with—the possibility of being sued for defamation, libel or slander—is not a major exposure for media companies operating in China. "There's very little activity there right now and I'm not sure I see any trend in that area," Mr. Abramsfc

y said. "That being the case, it's always good to be conservative with these things."

Although laws governing these infractions similar to U.S. statutes do exist in China, cultural differences and the absence of significant damage awards limit litigation in

China's pool of managerial talent growing but still lags business need

Additional, intensive training recommended

By STEVE TOLOKEN

Companies might see China as a vast pool of plentiful and inexpensive employees, with universities churning out graduates ready to work for global firms. But the reality isn't so rosy when hiring.

The shortage of Chinese managers with local and international experience is so severe, for example, that experienced managers are commanding higher salaries, which is driving some of the pay packages for top managers to global levels, according to "Bridging China's Talent Gap," a January report from New York-based business research group The Conference Board.

"Right now you have an acute shortage of talented senior- and middle-level people," said Judith Banister, a report co-author and the Beijing-based director of global demographics for the board. "The demand is still expanding rapidly. The supply is expanding, but never fast enough for the demand."

While China has a lot of raw, hardworking talent, employees who lack the necessary skill set is one of the key bottlenecks to growth for most multinationals there, said Guo Xin, managing director of Greater China for Mercer Human Resource Consulting in Beijing.

Just 10% of Chinese engineers are suitable for work at non-Chinese companies, mainly because of language issues, vs. 25% in India and 50% in Poland and Hungary, according to a 2005 McKinsey Global Institute report.

The result is rising turnover.

A 2006 Mercer study found the average tenure in China for young professionals 25 to 35 years old in production, engineering and sales jobs was one or two years—less than half of just a year earlier.

Part of the problem, Mr. Guo said, is that China's economy is large and still growing at 10% a year. In addition, Chinese firms such as computer maker Lenovo Group Ltd. are building their own global brands, further tapping the talent pool, he said.

To cope, experts say businesses should work more to develop staff.

Beijing-based auto parts manufacturer ASIMCO Technologies Ltd., for example, started an intensive leadership development program in 2002. The company, which earned a spot on Hewitt Associates Inc.'s list of the top 10 places to work in China in 2005, began it as a year-long program for 25 senior managers, with four one-week periods of classwork and guided projects. It has since expanded to lower managers.

Jack Perkowski, chairman and chief executive officer of ASIMCO, said the U.S.-owned firm wanted to refine a strong but inexperienced talent base and show key employees they are valued.

"People in China want to believe the company they work for is giving them opportunity," he said.

The staff programs, along with locating its 18 factories away from major cities, have helped ASIMCO keep turnover at less than 3% in its operating units and less than 5% at its headquarters, he said.

ASIMCO now hires mainly from within for key jobs, but it's been a bumpy ride getting there. In the late 1990s, for example, it replaced about 50 top managers, largely holdovers from Chinese firms ASIMCO had acquired, with Chinese managers it hired from firms

See WORKFORCE next page

Quake: Construction is key exposure

CONTINUED FROM PAGE 22

estimated economic losses in Beijing of about 445 billion renminbi ($57.5 billion) with insured losses of 25 billion renminbi ($3.2 billion).

The insurance industry, while growing rapidly, is not fully developed in China, so insurance risk related to earthquakes would be vastly different from pure risk, Mr. Guin noted. "As more insurers are going in, the risk profile in China is going to evolve more rapidly than stable, developed countries like the U.S. and Japan," he said.

Insurers in China are seeking catastrophic modeling tools to evaluate and quantify their earthquake risk. Beijing-based PICC Property & Casualty Co. Ltd., which has a property portfolio that represents 50% of the Chinese insurance market, last year became the first insurer to license AIR's earthquake model.

Earthquake models for China must go beyond major metropolitan areas such as Beijing to assess risk in other regions that are likely to be sources of future development, said Domenico del Re, Asia Pacific senior model manager for RMS in London. "We are definitely seeing a trend in China of companies setting up further and further inland as the cost of land and the cost of living is increasing in coastal areas," Mr. del Re said.

Engineering and construction risk is a key exposure as China's economic expansion accelerates and insurers have to factor in the vulnerability of projects as they are being built, which will be different than for already completed buildings, Mr. Guin said. AIR engineers analyzed construction at each phase for a wide range of buildings to properly model this risk. "It's a major risk for the large buildup of property and infrastructure," he said.

AP PHOTO

A magnitude 5.1 earthquake killed at least 19 people when it struck the mountainous Yunnan province in southwestern China in 2006. In 1556, the biggest temblor on record hit central China's Shaanxi province, killing some 830,000.

78% of commercial buildings in the northeast China municipality.

ness center, but has lower earthquake risk being in the southern

See **QUAKE** page 24

The AIR model of China's earthquake risks shows fault lines running throughout the country.

International NEWS

U.K. regulator taps firm to examine broker pay

FSA to intervene if analysis turns up problems

By ETTIE SCHMITT

LONDON—The United Kingdom's insurance supervisor, the Financial Services Authority, has appointed an independent consultant to look into the issue of producer commission transparency.

While reiterating his commitment to a lighter-touch, "principle-based" insurance regulation, John Tiner, chief executive of the FSA, signaled that the supervisor is moving toward taking action on broker commissions.

In a speech at the FSA's Annual Insurance Sector Conference in London last week, Mr. Tiner's said that consultant CRA International has been appointed to carry out an analysis of commission disclosure in the wholesale and commercial general insurance market.

The move followed Mr. Tiner's warning last October that the FSA would mandate disclosure of commissions if the sector failed to come up with its own solution.

In a statement, the FSA said that, "the independent consultants will gather detailed and balanced evidence of the extent to which a lack of transparency is disadvantaging commercial customers, and whether mandating commission disclosure will lead to benefits that outweigh the costs of introducing it."

The FSA also said it would consider regulatory intervention only if CRA found that there had been market failure in this area. CRA's analysis is expected toward the end of 2007.

The Assn. of Insurance & Risk Managers has been unequivocal in its support of commission transparency, but equally clear that it does not want to see regulators interfering in the market.

But David Gamble, executive director of AIRMIC, said that, "there are undoubtedly concerns (about commission transparency). The whole market is not playing by the same rules, which leads to tensions and problems, and eventually to people accepting commissions. Some practices need investigating."

Speaking as part of a panel discussion at the FSA conference, Dane Douetil, chief executive officer of Brit Insurance Holdings P.L.C., noted that the insurance sector had avoided direct regulatory intervention over contract certainty through a successful industrywide initiative. But he said that transparency and broker disclosure has been a more divisive issue and might therefore require regulatory intervention.

"It's a fact that business goes to those paying higher commissions, and sometimes it's very blatant. People who have it won't want to give it up and there are others who want to get into it," said Mr. Douetil.

LANDOV

FSA Chief Executive John Tiner says the regulator may require brokers to disclose their compensation.

Spain to mandate pollution cover

Rule seeks to ensure polluters can fund cleanup efforts

By ADRIAN LADBURY

MADRID, Spain—Spain's government has unveiled plans to require many companies to purchase insurance coverage for environmental liabilities.

Spain is going beyond the minimum requirements of the European Union's environmental liability directive, EC/2004/35, and has proposed a compulsory insurance system—targeting the largest potential polluters—to protect the nation's natural resources.

Some fear the proposal could lead to coverage gaps as local and international insurance companies struggle to meet the sharply increased demands of buyers and deal with complex areas such as liability for historic contamination to public sites.

The E.U. environmental liability directive was introduced to protect Europe's natural resources such as air, water and coastlines and to make polluters pay for cleanup should damage occur.

Requirements

The liability directive requires that those companies that deliberately or unwittingly damage the public environment must pay to restore its original state under a strict liability system. All E.U. member states must introduce legislation to comply with the directive by April 30.

The Spanish government approved its draft bill on March 9 and has handed it over to Congress for debate and approval. In its current form, the government says that the bill would affect some 5,000 of Spain's largest industrial companies, 30,000 transportation companies and almost a million agricultural operations.

A spokesman for Associaciòn Española de Gerencia de Riesgos y Seguros, the Spanish risk management association, said that liability will initially be unlimited under the planned new regime.

According to the spokesman, the conditions of the law will be tougher on those organizations with a higher risk profile, based on a sliding scale.

He said that those companies that are only thought likely to cause damage valued up to €300,000 ($398,700) will not be required to take out any kind of coverage or guarantee. Companies that could potentially cause damage valued at between €300,000 and €2 million ($2.66 million) must either take out coverage or adhere to a new system of environmental management and audit.

Those companies that have the potential to cause serious damage to the environment valued at over €2 million will be required to obtain insurance, a financial guarantee or set up a form of internal technical reserve from April 30, 2010, the AGERS spokesman said.

Spain has an association of insurers of environmental risks, the Pool Española de Riesgos Medioambientales, that is backed by the main Spanish industrial risks companies. Experts say that the coverage provided by this pool is inadequate to cover the new law, although PERM is developing new wordings.

Some say that, as the compulsory coverage will not be required until 2010, the local and international insurance and wider financial markets should have plenty of time to develop adequate solutions for Spanish insurance buyers.

But others are not so sure that the standard insurance markets in particular will be able to meet the substantially expanded and often uncertain exposures faced by many companies after the April deadline and could leave companies struggling to find cover and balance sheets exposed in the short term at least.

"I'm confident in the capacity of the financial and insurance markets to react, but to fully satisfy the needs (of) the new legislation will be difficult," said Eduardo Romero, chairman of AGER.

Luis Alfonso Fernandez Manzano, lawyer with the Madrid arm of London-based law firm Lovells, said: "The deadline is wide enough to let the companies be prepared to offer those coverages. I believe that the Spanish insurance market is mature enough to offer that kind of guarantee and to cover companies' needs."

Miguel Angel Macias Perez, director of insurance at Fomento de Construcciones y Contratas S.A., the Madrid-based construction giant, said that there is clearly insufficient local capacity to meet the needs of buyers and that it will be necessary for Spanish companies to seek alternatives in the international market.

Companies in Spain could face environmental liability rules that go beyond the scope of a recent E.U. directive.

He said that he is hopeful, however, that sufficient capacity would be gathered in time for the 2010 deadline and that it would be offered at a "competitive premium."

José Luis Ibànez Götzens, director at Spain's leading insurance group Corporacion MAPFRE, said that the work is already underway to provide solutions for buyers and reassured them that the market would be ready in time for the 2010 deadline.

New wordings

He said that PERM is developing new wordings to cover the new exposures and said that a "limited number" of insurance companies already offer coverage, albeit with "limited capacity."

Luis Basabe y Suàrez de Tangil, managing director of risk management at Marsh, S.A., the Spanish arm of New York-based Marsh Inc., said that he believed that sufficient capacity will arrive by 2010. He believes that the trickier part will be working out what the rules actually mean.

"We understand that there will be no problems regarding market capacity. The main issues to be clarified are the procedures for the environmental damage appraisal and the risks evaluation," he said.

SCOR's hostile bid for Converium faces E.C. competition review

By RICK MITCHELL

BRUSSELS, Belgium—The European Commission said it plans to examine French reinsurer SCOR S.A.'s 3 billion Swiss franc ($2.49 billion) hostile buyout bid for Swiss rival, Converium Holding Ltd.

Paris-based SCOR announced March 19 that it would hold an extraordinary shareholders' meeting on April 26 to discuss its buyout offer and get approval for financing its plans to merge with Zug, Switzerland-based Converium to create the world's fifth-largest reinsurer, focused on Europe and Asia.

Analysts said Commission approval of the merger would likely be only a speed bump on SCOR's drive to acquire Converium and that more formidable hurdles remain. Converium has categorically rejected SCOR's offer, but in February SCOR acquired 32.9% of Converium shares.

A Commission spokesperson said the Commission would examine the proposed merger to decide whether it would hurt competition in the European reinsurance sector.

The Commission set a provisional April 20 deadline for a decision, when it could approve a merger, block it, or open an investigation that could take as along as three months.

An investigation could potentially derail SCOR's offer, because the French company has set a very tight time schedule for its buyout offer, analysts said.

"Their timing is extremely ambitious, and so far this is based only on their board's decision. They have not even had an extraordinary general shareholders' meeting to get approval," said a Converium spokesman.

"Swiss authorities are a bigger concern for SCOR (than the Commission). The Federal Office of Private Insurance also has to approve their offer. FOPI has not yet even approved the package (of Converium shares" that SCOR bought last month.

Mr. Werder said Converium's position is that SCOR's offer "is not representative of the value of the company."

He added that Converium is in talks with other potential suitors but noted that "there has been no formal offer."

News In Brief

CONTINUED FROM PAGE 1

common share, up from the firms' original offer of $40, Hub said Thursday. "The increased consideration followed receipt by Hub of competing proposals," Hub said in a statement.

Oil Insurance boosts limits

Oil Insurance Ltd. will increase its aggregation limit for all risks to $750 million effective June 1. The move came during the Hamilton, Bermuda-based energy mutual insurer's annual meeting on Thursday. In addition, shareholders voted to add two new sectors–onshore and offshore Atlantic Named Windstorm, or ANWS–to the company's rating and premium plan, effective June 1.

Government restates number of uninsured

The number of people in the United States without health insurance coverage is lower than previously reported, according to revised estimates released Friday by the U.S. Census Bureau. In 2005, the Census Bureau now estimates that 44.8 million people, or 15.3% of the population, lacked health insurance. In an earlier report, the Census Bureau estimated that 46.6 million people, or 15.9% of the population, lacked coverage. The Census Bureau revised the figures for 2005 and other years after finding mistakes in the tabulation process.

Reinsurer results greatly improve

U.S. reinsurers reported a 94.9% combined ratio for 2006, compared with the 129.4% combined ratio reported by a comparable group for storm-beset 2005, according to a survey by the Washington-based Reinsurance Assn. of America. The 23 U.S. reinsurers included in the 2006 RAA survey reported $25.83 billion in net premiums written, a 2% increase from the total reported by a comparable group in 2005.

Senators unveil catastrophe bills

Sens. Bill Nelson, D-Fla., and Mel Martinez, R-Fla., last week unveiled several bills designed to deal with natural disasters–particularly hurricanes–by steps such as creating a national backstop for state natural catastrophe insurance programs and allowing the use of pretax natural catastrophe reserves by insurers. In addition, they introduced a bill to reform the regulation of nonadmitted insurers and reinsurers.

ICHEIC concludes claims process

The International Commission on Holocaust Era Insurance Claims concluded its claims and appeals processes last week after having distributed $306.2 million to 48,263 Holocaust survivors and heirs. ICHEIC was established in 1998 by the National Assn. of Insurance Commissioners in conjunction with several European insurance companies, European governments, representatives of several Jewish and survivor organizations and the State of Israel to ensure the payment of valid insurance claims issued to victims of the Holocaust.

Cross-border Rx declines in 2006

Cross-border prescription drug sales from Internet pharmacies in Canada to the United States dropped nearly 50% last year, a study concludes. While 2005 sales by Canadian Internet pharmacies to the United States reached $420 million Canadian ($361.4 million), 2006 sales declined to $211 million Canadian ($181.1 million), according to pharmaceutical and health care industry researcher IMS Health Canada in Montreal.

Noted

H. Elizabeth Mitchell has been named the 2007 **Insurance Woman of the Year** by the Assn. of Professional Insurance Women. Ms. Mitchell is president of Platinum Underwriters Reinsurance Inc.…The American Medical Assn. has asked the U.S. Department of Justice to block **UnitedHealth Group Inc.**'s proposed acquisition of Sierra Health Services Inc. The Chicago-based provider organization wrote to U.S. Attorney General Alberto Gonzales to express its strong opposition to the acquisition, claiming that UnitedHealth's goal is to dominate the Nevada and Las Vegas health insurance markets.…**Winter storms in British Columbia** in November and December caused an estimated $135 million Canadian ($114.7 million) in insured losses, according to the Insurance Bureau of Canada.

Property insurers courted

La. plan would create capital matching grants

By MEG FLETCHER

BATON ROUGE, La.—Louisiana Insurance Commissioner Jim Donelon said last week he will propose a bill to increase the availability and affordability of property insurance in the hurricane-ravaged state through a new $100 million program in matching capital grants.

The grants would be available for insurers that help draw policyholders out of the state's market of last resort. Such insurers also could underwrite all other property risks—both personal and commercial—in the state.

Under the Insurance Capital and Surplus Match Incentive Program, an experienced property insurer that meets the minimum financial requirements would commit at least $2 million in new capital to write new property insurance policies. The state would match insurers' capital allocation dollar-for-dollar, according to a Louisiana Department of Insurance statement.

Under the terms of the program, "participating companies must use the capital and surplus and the state matching grant to write new property insurance policies in Louisiana for a minimum period of five years. If an insurer fails to comply with the requirements of the program, the insurer must repay the remaining state matching funds on a pro rata basis," the department said.

The program would be phased in, with an initial offering of up to $10 million. If fully utilized, the program would provide an additional $400 million to $600 million of property insurance capacity, the department said.

Mr. Donelon expects his proposed bill will be introduced after the Legislature begins its 2007 session on April 30, a spokeswoman said.

SCIF: State hearings slated after board fires officials

CONTINUED FROM PAGE 3

named replacements, a spokeswoman said.

Following last week's terminations, other lawmakers and officials expressed concerns about the situation at SCIF.

"I'm concerned about what may be gross mismanagement of the State Compensation Insurance Fund," Sen. Michael Machado, D-Linden, chairman of the Senate Banking, Finance and Insurance Committee, said in a statement. "This agency plays an integral role in the state's workers compensation system, providing many employers with affordable insurance and keeping rates down. We must make sure the agency is in competent hands."

"This is a very closed organization that needs some sunlight and will certainly benefit from new management and a new approach," said a spokesman for Lt. Gov. John Garamendi, the state's former insurance commissioner. "It's critical that this happens."

"We support the board's actions and the ongoing oversight of State Fund's operations," a spokeswoman for Gov. Schwarzenegger said. "It's important that the Fund performs with the integrity necessary to ensure the public's confidence."

The California Insurance Department, which has solvency oversight jurisdiction over SCIF, took a more cautious view of the management changes.

"We're watching the situation with great interest and will follow it very closely in the coming weeks," a spokeswoman for Insurance Commissioner Steve Poizner said.

"The Department of Insurance has been somewhat concerned about the management of SCIF and the inherent lack of public accountability. The commissioner understands that California businesses and workers rely on SCIF to operate in a manner that is publicly accountable. While he's not familiar with the details (of the personnel changes) he does plan to work with the governor to make sure SCIF is a responsive organization and that the issues that were highlighted in this specific incident are fully addressed," she said.

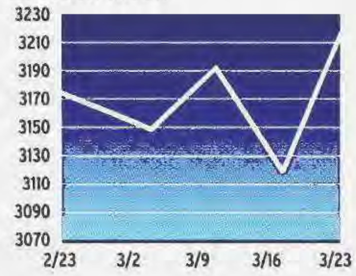
Meanwhile, in a separate announcement, SCIF named Lawrence E. Mulryan, former executive director of the California Insurance Guarantee Assn., as Mr. Tudor's interim replacement.

Stock Index

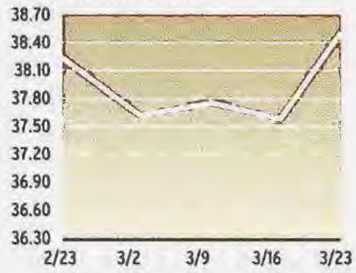
[3/19 -3/23]

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

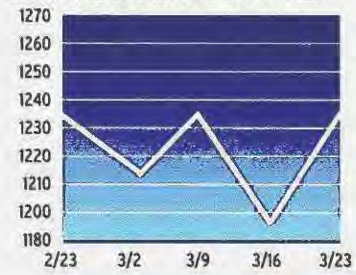
BI STOCK INDEX



BI BROKERS INDEX



BI INSURER/REINSURERS INDEX



BI MANAGED CARE ORGANIZATIONS INDEX

Percentage change of BI Stock Index vs. key indicators

BI STOCK INDEX 3219.35	▲ 3.05%
DOW JONES 12481.01	▲ 3.06%
S&P 500 1436.11	▲ 3.54%

LARGEST GAINS

SCPIE Holdings Inc.	9.11%
ING Group N.V.	7.67%
SCOR S.A.	7.17%
AXA	7.11%
Fairfax Financial Holdings	7.06%

LARGEST LOSSES

Brown & Brown	-0.58%
EMC Insurance Group	-0.50%
Travelers	-0.39%
Willis Group Holdings	-0.03%

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

for in-network services at $5,000 for ty of plans sponsored by midsize Randy Abbott, a senior consultant contribute to the cost of coverage emergency rooms.

Business Insurance
END PAGE

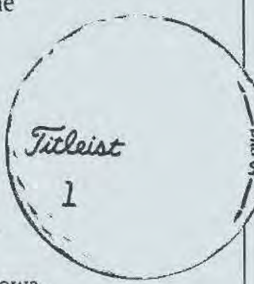
Contributing: Judy Greenwald, Mark A. Hofmann, Dave Lenckus, Matt Scroggins

Ruling in cover fight puts insurer in the rough

Perhaps the judge should have bellowed "fore" before hitting an insurer with his ruling in a duty-to-defend dispute.

Although Allied Insurance Co.'s advertising injury coverage excluded claims alleging intentional trademark and copyright infringement, the judge ruled that the insurer must defend golf equipment supplier Cam Golf against claims that the company intentionally marketed fake high-end golf balls.

Lansing, Ill.-based Cam Golf has been sued by Fairhaven, Mass.-based Acushnet Co. and others for allegedly marketing counterfeit reproductions of Acushnet's Titleist Pro V1 golf balls. Acushnet, a subsidiary of Fortune Brands Inc., charged that Cam Golf "willfully and intentionally" infringed upon its trademark and copyright.



Des Moines, Iowa-based Allied refused to defend Cam Golf, saying that its advertising injury insurance policy expressly bars coverage for such allegations.

But Illinois federal district Judge Harry D. Leinenweber late last month dropped responsibility for Cam Golf's defense against Acushnet squarely on Allied.

The judge ruled that simple allegations of willful and intentional misconduct are not enough to relieve Allied of its duty to defend Cam Golf.

That's because, under federal trademark law, Cam Golf could be found liable even if Acushnet does not prove that the defendant acted with intent or knowledge, the judge said.

But Judge Leinenweber noted that Allied would have no duty to indemnify Cam Golf if Acushnet proves that the golf supplier acted willfully and intentionally.

Fox, O'Reilly face suit over on-air comment

Where's Lance Ito when you need him?

That question could resonate in both media and entertainment circles if a lawsuit brought by Zsa Zsa Gabor's husband against Fox and its talk show host Bill O'Reilly ever makes it to court.

Only a jurist such as Judge Ito, who presided over the O.J. Simpson murder trial, could do justice to this celebrity-driven case.

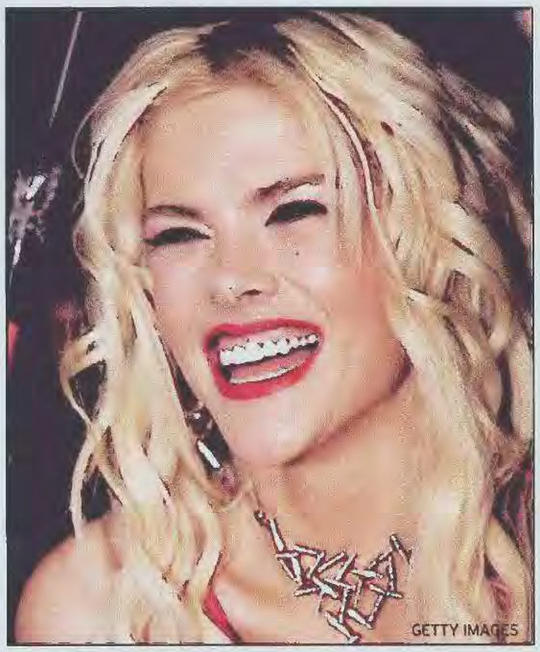
Ms. Gabor's husband, Prince Frederic von Anhalt, recently filed a defamation suit in Los Angeles County Superior Court against Mr. O'Reilly after the conservative commentator called him a "fraud" during his Feb. 22 edition of "The O'Reilly Factor" for claiming that he might be the father of the daughter of the late Anna Nicole Smith.

According to the Associated Press, the prince said that people now give him dirty looks when he goes shopping.

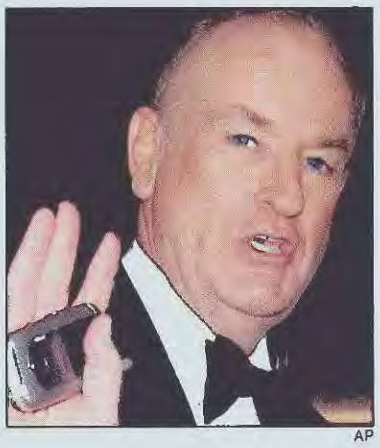
"They say, 'Look, here comes the fraud,' " the prince told the news wire service.

The prince has requested DNA tests to determine whether he is the father of the infant girl. At least two other men have claimed paternity.

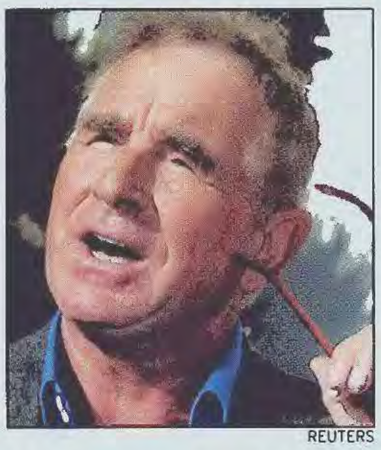
So far, the results of DNA tests to determine the girl's father have not been revealed, but in the meantime, Mr. O'Reilly may want to check the fine print on his libel and defamation insurance policy—the results of the DNA analysis may put that coverage to the test as well.



GETTY IMAGES

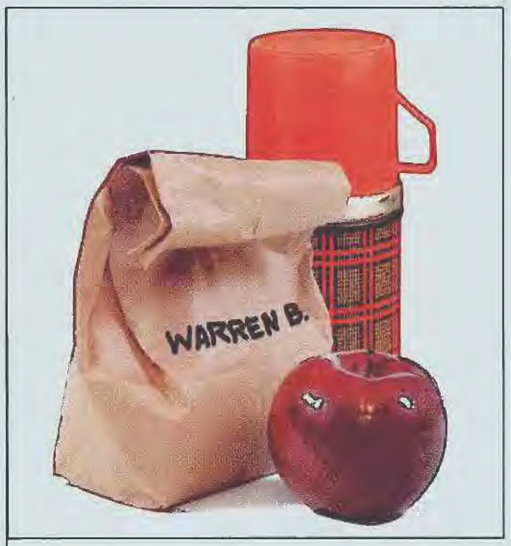


AP



REUTERS

Prince Frederic von Anhalt, bottom right, who claims he may have fathered the infant daughter of Anna Nicole Smith, top, is suing Fox talk show host Bill O'Reilly, bottom left, over comments Mr. O'Reilly reportedly made on his show "The O'Reilly Factor."



Berkshire boss always pays his own way, company says

Warren Buffett, chairman and chief executive officer of Omaha, Neb.-based Berkshire Hathaway Inc., has reimbursed the company for $50,000 in personal expenses last year, according to the company's proxy statement.

Mr. Buffett, who is the world's second-richest man, has received just $100,000 in compensation annually for the past 25 years, "and he would not expect or desire it to increase in the future," according to the proxy statement that was filed March 14 with the Securities and Exchange Commission.

Berkshire Hathaway Vice Chairman Charles T. Munger, who has also had a $100,000 salary for the past 25 years, repaid the company $5,500 in personal expenses, including postage and telephone calls, according to the statement.

The company's vp and chief financial officer, Marc D. Hamburg, receives a higher six-figure annual income. He was paid $662,500 in salary during 2006.

The proxy also says neither Mr. Buffett nor Mr. Munger use company cars, belong to clubs to which the company pays dues or use corporate-owned aircraft for personal use.

Perhaps that's because there is no need. Despite giving a record charitable donation to the Bill & Melinda Gates Foundation, the so-called Oracle of Omaha's net worth rose $10 billion last year to $52 billion, according to Forbes magazine.

Hartford courts attention with NCCA tourney events

Hartford Financial Services Group Inc.'s marketing team has found a way to put a little more spark into the NCAA men's basketball tournament next weekend in Atlanta.

The Hartford, Conn.-based insurer is hosting several events in Atlanta for college hoops fans, including a wheelchair basketball exhibition, a financial education kiosk and a free-throw contest, whose winner will receive two tickets to the championship game to be held April 2.

The insurer also will sponsor an award presentation honoring this year's top NCAA point guard.

"This year The Hartford is bringing together basketball greats from many arenas—champion disabled athletes, outstanding collegiate student-athletes, former professional stars and gifted, successful coaches—to underscore how ability, teamwork and leadership help win in every aspect of life," said Ann Glover, Hartford's group senior vp and chief marketing officer.

Hartford is an official corporate sponsor of the NCAA, the founding sponsor of the U.S. Paralympics, a sponsor of Coaches vs. Cancer and a partner of the Naismith Memorial Basketball Hall of Fame. James Naismith, who invented basketball as a physical education instructor in the late 19th century, was the first basketball coach at the University of Kansas, a No. 1 seed in the NCAA tournament this year.

BUSINESSWIRE

Hartford's stag made a memorable comeback in spots shown during the 2005 NCAA men's basketball tournament.