

Business Insurance

March 6, 2006

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Late News

Senate names conferees for pension reform bill

Breaking a long deadlock, Senate Republican and Democratic leaders Fricker named members to a congressional conference that will soon meet to try to work out a compromise pension funding reform bill. Setting up the conference committee—which has nine Republicans and seven Democrats—had been delayed for weeks while leaders bickered over the ratio of Republicans to Democrats on the panel, which will iron out differences in funding reform bills passed last year by the Senate and House. House conferees are expected to be named shortly.

Quanta mulls options after downgrade to B++

Quanta Capital Holdings Ltd. said it is exploring "strategic alternatives"—including a possible sale—after it was downgraded Thursday to B++ from A- by A.M. Best Co. Inc., due largely to 2005 hurricane losses. In a statement, Oldwick, N.J.-based Best said the downgrade stemmed from Quanta's "significant fourth-

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Converium restatements leave questions lingering

Potential for regulator, shareholder actions

By SARAH VEYSEY

ZUG, Switzerland—Converium Holding Ltd.'s restatement last week of its financials for several years to correct improper accounting for finite reinsurance transactions has resolved some of the questions that have been hanging over the reinsurer, but it still could face regulatory action and other problems related to the restatements, analysts say.

Zug, Switzerland-based Converium on Feb. 28 announced that it was restating its annual accounts for the years 1998 through 2004 and for each quarter from March 31, 2003, through June 30, 2005 (see box, page 41). The changes, which stemmed from an internal review of finite risk transactions, were made to correct the accounting for several reinsurance transactions—both assumed and ceded—that Converium determined did not include sufficient

risk transfer to be accounted for as reinsurance (see story, page 41).

The restatements had been signaled in December, when the reinsurer restated its shareholders equity figures for 2004 and the first nine months of 2005 and said that more restatements were in the offing (*BI*, Dec. 26, 2005).

The internal review of finite transactions was initiated last year, after Converium received subpoenas from the U.S. Securities and Exchange Commission and the New York attorney general's office seeking information about nontraditional insurance transactions. In particular, officials sought information about transactions between Converium's North American reinsurance arm and Armonk, N.Y.-based MBIA Inc., Converium said in a statement announcing the latest changes.

Converium said it also had received additional requests for information from the SEC and European authorities about other nontraditional reinsurance deals and that it is cooper-

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Integro's recruiting efforts trigger lawsuit from Aon

By SALLY ROBERTS

ATLANTA—After raiding talent from the world's biggest brokers over the past year, Integro Ltd. is now facing litigation over its efforts to build a large-account brokerage from scratch.

Aon Corp. last month sued Integro and two former Aon executives now employed by the startup, accusing them of engaging in a campaign to "pirate" employees from Chicago-based Aon.

Observers note that such lawsuits, which focus on employment agreement violations, are common in the industry and are sometimes viewed as a cost of doing business for brokerages attempting to grow their operations by poaching top talent from competitors.

Integro, founded last year by longtime brokerage and insurer executive Robert Clements, secured more than \$300 million in a private se-

Aon suit's charges that Integro has recruited staff in an effort 'to convert Aon's National Property Practice into Integro's National Property Practice.'

curities placement in May. Since then, it has hired more than 200 employees, many of whom were recruited from competitors such as Aon and Marsh & McLennan Cos. Inc., the former employer of top Integro executives Peter F. Garvey and Roger E. Egan.

In its suit filed Feb. 13 in Fulton County Superior Court in Atlanta, Aon charges that New York-based Integro essentially has built "a ready-made" national property practice at the expense of Aon, "blatantly disregarding" an employment agreement signed by David J. Finnis, Aon's former Atlanta-based national property syndication group director, who joined Integro in November.

In addition to Integro and Mr. Finnis, the suit names Gary Marchitello, former head of Aon's global property practice group in New York,

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Starr Tech MGA inks deals with ACE, Berkshire

Agency will compete with AIG on energy

By JUDY GREENWALD

NEW YORK—Managing general agency Starr Technical Risks Agency said last week it will begin to offer commercial insurance coverage by ACE USA and Berkshire Hathaway Group, a move that observers say will bring welcome new competition into the energy market.

The deals will put Starr Tech in direct competition with AIG Global Energy, a unit of American International Group Inc., which will manage accounts formerly underwritten by Starr Tech on behalf of AIG.

New York-based Starr Tech, which specializes in the energy business, is one of four C.V. Starr & Co. MGAs controlled by former AIG Chairman Maurice R. Greenberg.

Meanwhile, separately, Dublin, Ireland-based Starr International Co., also controlled by Mr. Greenberg, has agreed to discovery and deposition concerning its sale of AIG shares, said a Starr spokesman.

AIG is suing Starr International in an effort to have it surrender control over its remaining AIG stock, while Starr is countersuing (*BI*, Oct. 24, 2005).

In related litigation, a dispute between Mr. Greenberg and AIG over the C.V. Starr agencies' efforts to strike out on their own led to an order by a New York State Supreme Court judge last month that Starr Technical may continue to pursue non-AIG business, including maintaining an MGA agreement with National Indemnity Co., a Berkshire Hathaway Group unit, for new customers.

The order restrains Starr from placing reinsurance with National Indemnity on behalf of AIG.

AIG subsequently terminated agency relationships with Starr Technical and its subsidiaries and



Battle escalates over release of AIG report to ex-chief Maurice Greenberg

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Regulation setting driving hours challenged.

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New magazine launches for European market.

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SPOTLIGHT

SELF-INSURANCE and CAPTIVE MANAGEMENT

Captive growth cooling off amid rise of market options.

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RANKING

Annual BI ranking of the world's largest captive managers.

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AON

FOCUS

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Segregated cell captives can align the behavior of physicians and hospitals to promote the shared mission of delivering high-quality care.

MARCH 6, 2006

Putting segregated cell captives to work for complex health care organizations



Gisele Norris, DrPH, is senior consultant for Aon's National Healthcare Alternative Risk Practice. She provides an array of strategic risk consulting services for selected health care clients, specializing in alternative risk transfer. Gisele can be reached at gisele_norris@aon.com.

Health care organizations across the nation are seeking ways to offer physicians alternatives to commercial professional liability in order to provide efficient coverage, build loyalty and promote compliance with risk management and quality efforts. To this end, many organizations are exploring the use of segregated cell captives. Such captives may benefit health care enterprises that house autonomous entities with some degree of linked liabilities and/or other common interests.

A segregated cell captive is a single legal entity that operates in two or more parts, the core and the cells. The core and each cell have their own balance sheets, and each is independently responsible for its losses. The core functions as a common governance facility, whereas each cell is an individual account. The formation of segregated cell captives began in 1997 on the Isle of Guernsey. Since then, other domiciles have begun to allow this structure, most notably Bermuda and the Cayman Islands.

Because each cell is an individual account, only the assets belonging to a given cell may be applied to meet the liabilities of that particular account. Like an insurance company, each cell is responsible for its own underwriting surpluses or losses. If the cell enjoys good underwriting experience, it is ultimately eligible to receive the associated surplus, in accordance with its contractual agreements with the core. If a cell's losses exceed its assets, cell owners and/or reinsurers will be called upon to respond to these liabilities. Cells retain their own investment income and pay expenses that specifically relate to them. Cells also pay agreed administrative fees, etc., to the core. Note: Individual domiciles determine the ultimate captives structure, and the domicile's particular laws influence how well the assets of each cell are protected.

Statutory capital requirements for the segregated cell captive as a whole tend to be identical with statutory capital requirements for a traditional captive. Segregated cell captive statutes generally dictate that a single board of directors, elected by the core, has exclusive governing authority of the captive. Cell participants may or may not become members of the board, depending on the organic documents of the segregated cell captive.

Segregated cell captives in the health care industry have many benefits. They allow hospitals to help physicians secure professional liability coverage, while ensuring that each entity maintains separate financial responsibility. They also include mechanisms for purchasing shared reinsurance, preserve some degree of economic alignment between the physicians and the hospitals and promote accountability for losses, thereby encouraging best practices.

This option is particularly attractive for hospitals operating in jurisdictions where physician professional liability cover is particularly expensive or difficult to obtain. By providing physicians an alternative to commercial professional liability, hospitals may build loyalty and provide incentives for compliance with risk management and quality efforts. Such an approach aligns the behavior of the physicians and the hospital, and promotes their shared mission of delivering high-quality care.

It is important to note that the separation of assets in a segregated cell captive has yet to be legally tested. Therefore, it is vital to have competent legal advice when exploring this concept.

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HR helps employers shift focus to integrated solutions and regain competitive advantage

Over time, most companies' products and services lose their unique characteristics, becoming commoditized as new market entrants and substitution products emerge. To regain competitive footing, companies often shift their focus from selling individual products and services, to offering integrated solutions across functions, geographies and business units. To start, companies must understand the work and workflows used to create products and services, envisioning a desired state of how integrated solutions can be achieved. HR should be a catalyst, helping the business identify, analyze and recommend implementation strategies at this important evolutionary juncture. To learn more, visit www.aon.com/focus.

Compliance risk assessments can help companies protect reputation, build value

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Passage of bill threatened to trigger legal battle.
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Optional federal charter unlikely to pass this year

But debate continues on reform of state insurance regulation.
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Exaggerations unneeded in Medicare Part D reports

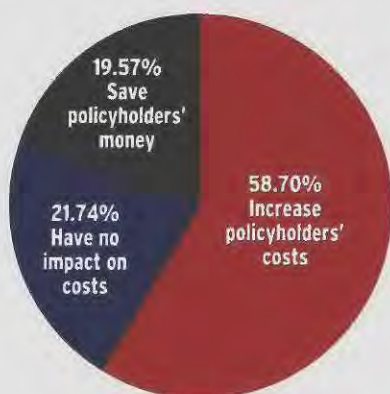
Democrats, Republicans both guilty of rhetorical excesses, an editorial says.
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Proposal gives more power to Irish pension regulators

Pensions board would be allowed to levy fines without prosecutions.
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Online poll - [2/27 - 3/3]

New York Attorney General Eliot Spitzer's investigations into certain insurance industry practices will:



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REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

Business Insurance (ISSN 0007-6864) Vol. 40, No. 10, is published weekly by Crain Communications Inc., 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Send address changes to Business Insurance Circulation Department, 1155 Gratiot Ave. Detroit, Mich. 48207-2912. \$5 a copy and \$97 a year in the U.S. \$130 in Canada and Mexico (includes GST). All other countries, \$230 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 40012850, GST No. 136760444, Canadian return address: 4960-2 Walker Road, Windsor, ON N9A6J3. Printed in U.S.A. Copyright © 2006 by Crain Communications Inc.

Trucker regulation faces challenge

Review of time rule requested

By MICHAEL BRADFORD

WASHINGTON—The federal government's hours-of-service rule for truckers is being challenged by public advocacy groups and a union that charge the regulations will harm the health of drivers and create unsafe highway conditions.

Public Citizen joined with four other advocacy groups and the International Brotherhood of Teamsters in filing a petition on Feb. 27 asking the U.S. Court of Appeals in Washington to review the rule. That marks the first step

in a legal challenge to the regulations, said Bonnie Robin-Vergeer, senior attorney with Washington-based Public Citizen.

Other advocacy groups in the action are Citizens for Reliable & Safe Highways, Parents Against Tired Truckers and Advocates for Highway & Auto Safety.

The advocacy groups and the union claim in a statement issued last week that the 2005 rule is similar to a 2003 rule by the Federal Motor Carrier Safety Administration that was struck down in 2004. Like the stricken 2003 rule, the latest version "dra-



matically increases" the number of hours that truckers may drive without a break and over the course of a week, the petitioners claim.

In its decision striking down the 2003 rule, the appeals court said the FMCSA had failed to consider the effect of the rule on

the health of drivers, as is required by law.

The 2005 rule is further flawed, the petitioners claimed in their statement, because it does not require electronic recorders to be used in trucks to track the number of hours truckers drive and to

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PHOTO: REUTERS PHOTO ARCHIVE

Court bars airline's 9/11 recovery bid

By JUDY GREENWALD

RICHMOND, Va.—An airline that lost revenues in the grounding of planes after the Sept. 11, 2001, terrorist attacks cannot recover under both its business interruption coverage and a federal act intended to compensate airlines for their losses, the Virginia Supreme Court ruled last Friday, overturning a lower court decision.

The subscription all risk manuscript property policy issued to Tempe, Ariz.-based US Airways Group Inc. and other airlines by Caliber One Indemnity Co.—at the time a unit of Blue Bell, Pa.-based PMA Capital Insurance Co.—and others stated that any losses recovered under the policy would be reduced by all "salvages, recoveries and payments," notes the court's decision in *PMA Capital Insurance Co. vs. US Airways Inc., et al.*

Falling under the "recoveries" category, the court said, is the \$310 million the airline received from the U.S. government under the 2001 Air Transportation Safety and System Stabilization Act. That law, intended to preserve the viability of the U.S. air transporta-

tion system after Sept. 11, provided for compensating air carriers such as US Airways for both direct and incremental losses as a direct result of the terrorist attacks.

The lower court, in ruling that the airline was not required by its policy to reduce its business interruption losses claim by the amount received under the Stabilization Act, "essentially rewrote the policy and made a new contract between PMA and US Airways," says the decision. "It was error to do so."

The Virginia high court notes also that the amount the airline received under the Stabilization Act "far exceeds" both its \$58 million in claimed losses and PMA's potential \$2.5 million liability under the policy.

PMA's attorney, Walter J. Andrews of Hunton & Williams L.L.P. in McLean, Va., said he believes this is the first time a state supreme court has issued a decision on this issue. "This should carry some weight with other courts that are, or will be, considering these issues in the future," said Mr. Andrews.

An attorney for US Airways could not be reached.

BI to launch magazine for European market

NEW YORK—Crain Communications Inc. announced today it will launch *Business Insurance Europe*, a London-based, biweekly news magazine focused on news, trends and issues of interest to corporate risk management executives in Europe.

Staffed with a large contingent of business reporters located throughout Europe, *Business Insurance Europe* will begin with a pilot issue on June 12, 2006, and will be published biweekly beginning in September 2006. The print edition will be published in English, with translation of some or all of the content into several languages provided on the publication's Web site.

"As the European Union steadily expands, risk managers are demanding to know more about new risks and opportunities in their market, while risk management continues to be one of the business world's most critically important and dynamic subjects," said Keith Crain, chairman of Crain Communications. "*Business Insurance Europe* will champion the European corporate buyer's perspective as *Business Insurance* has done for its predominantly U.S. readers for nearly 40 years."

CCI Vice President/*Business Insurance* Publisher Martin J. Ross III will oversee *Business Insurance Europe*, serving as publishing direc-

tor, while Nick White, formerly with Crain Communications' Automotive News Group, has been named associate publisher/ad director. *Business Insurance* Editorial Director Paul Winston, who has been promoted to BI's associate publisher/editorial director, will serve as editorial director for the new European publication.

Based in *Business Insurance Europe's* London headquarters, Mr. White joins the new publication from his most recent post as director of business development in Europe for Automotive News Group. He started at CCI from Leading Edge Publishing with the company's 1998 acquisition of Automotive International, which was later titled Automotive News International under the company's Automotive News Group. Mr. White led the international publication's sales efforts from its London headquarters until ANI ceased publication in 2001 and he subsequently moved to further develop the international business efforts for the group.

Mr. Ross will continue to be based in New York, and Mr. Winston will continue to be based in Chicago.

"With *Business Insurance*, we know that corporate risk management executives in Europe are seeking news and information specifically relat-

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Mississippi backs off RRG licensing requirement

Change to legislation avoids clash over scope of regulators' authority

By JERRY GEISEL

JACKSON, Miss.—Mississippi legislators are moving away from a controversial risk retention group licensing bill that could have triggered a legal battle with the RRG industry.

The controversy was ignited in January, when Rep. Mark Formby, R-Picayune—at the request of the Mississippi Department of Insurance—introduced legislation, H.B.

984, to require any risk retention group that wants to operate in the state to apply for a license on or before March 1 each year.

If an RRG were to fail to renew its license, the Mississippi insurance commissioner would have the authority to immediately revoke "without hearing or notice" the RRG's license.

In an identical letter sent to Rep. Formby and Mississippi Insurance Commissioner George Dale, the Na-

tional Risk Retention Assn., a trade group that represents the RRG industry, warned that the legislation clearly violates the federal law that created RRGs, which are multiple-owner captives.

The letter, written by Robert H. Myers, NRRA's general counsel and a managing partner with the law firm of Morris, Manning & Martin L.L.P. in Washington, notes that the Risk Retention Act sharply limits the regulatory authority of non-

domiciliary states.

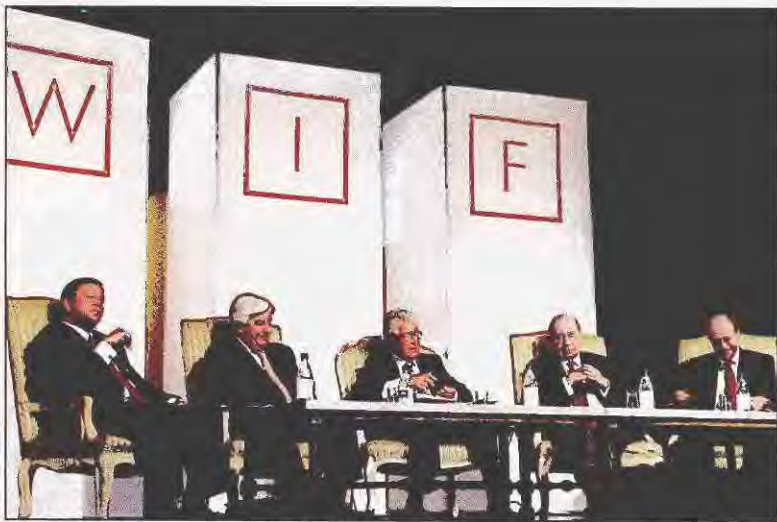
Among other things, out-of-state regulators are entitled to a copy of the RRG's business plan that is filed with its chartering state, as well as the name of the chartering state, Mr. Myers noted. Additionally, out-of-state regulators can go to court to try to shut down an RRG that they believe to be in hazardous financial condition.

The Mississippi legislation to require out-of-state RRGs to obtain an

"annual license conflicts with these requirements," Mr. Myers wrote.

The Risk Retention Act's breadth of the exemption of RRGs from rules and laws of nondomiciliary states is broad, Mr. Myers wrote. In his letter, he quoted a 1990 11th U.S. Circuit Court of Appeals decision that says, "The authority of a nondomiciliary state to license and regulate risk retention groups is

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The panel of CEOs during the World Insurance Forum comprised, from left: Brian Storms of Marsh; Martin J. Sullivan of AIG; moderator Michael Butt, chairman of AXIS Capital Holdings; Lord Peter Levene of Lloyd's of London; and Nikolaus von Bomhard of Munich Re.

CEOs predict more new market players

By RUPAL PAREKH

SOUTHAMPTON, Bermuda—Despite concentrated capital among the world's biggest reinsurers, and major changes to the insurance brokerage business prompted by recent investigations, the industry will continue to attract new entrants, a group of top insurance executives said.

In addition, harmonization of insurance regulations globally can be achieved, but only through a gradual process, the executives predicted.

The panelists made their comments during the opening session of last month's World Insurance Forum in Southampton, Bermuda. Michael Butt, chairman of Bermuda-based AXIS Capital Holdings Ltd., moderated the discussion.

While the largest reinsurance companies have long accounted for the majority of global reinsurance premiums—with additional consolidation through Swiss Reinsurance Co.'s recently approved acquisition of GE Insurance Solutions—insurers should not be concerned about a lack of choice, the executives noted.

"There's no actual barrier to entry for new players," said Lord Peter Levene, chairman of Lloyd's of Lon-

don. That was proven by the nearly dozen new companies that set up in Bermuda in the wake of the 2005 hurricane season, he said. "There's plenty of healthy flexibility for new and smaller reinsurers to operate, and hopefully to operate well and make money."

Brian Storms, chairman and chief executive officer of New York-based Marsh Inc., said, "From my perspective this concentration issue has not really been an issue...despite this concentration there doesn't seem to be any limitation on new capital coming into the marketplace."

Mr. Storms also predicted new entrants in the brokerage sector. "You're going to see a lot of new players coming into the marketplace," he said.

Despite new rules imposed on insurance brokers in the wake of industrywide investigations into companies' business practices, the role of the broker is fundamentally unchanged, if not more valuable in the face of increasingly complex risks such as terrorism and pandemic risk, he asserted.

"You do need an intermediary there who understands the client's

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Federal charter option for insurers unlikely this year, lawmaker says

But regulatory reform efforts gaining steam

By MARK A. HOFMANN

WASHINGTON—Congress is unlikely to pass legislation on insurance regulation this year that would allow insurers to choose federal rather than state charters, according to a key member of the House Financial Services Committee.

But that doesn't mean the issue is dead, noted Rep. Paul Kanjorski, D-Pa. He pointed out that Sens. John Sununu, R-N.H., and Tim Johnson, D-S.D., are expected to introduce an optional federal charter bill soon.

"I don't know how that type of legislation could see the light of day" to be enacted in this Congress, said Rep. Kanjorski, who is the ranking member on the House Financial Services Committee's Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises. Congress has already entered the "crazy season" that doesn't usually start until June, thus making progress on most issues extremely difficult.

Rep. Kanjorski was one of several participants in the Networks Financial Institute at Indiana State University's annual insurance summit in Washington last week to tackle the optional federal charter issue. The federal McCarran-Ferguson Act of 1945 set states as the prime regulators of insurance, but over the

past few years some insurance groups have begun pushing for the right to obtain a federal charter citing shortcomings in state regulation. Even groups that oppose the optional federal charter hold that state regulation must be significantly improved.

Reform proposals have ranged from a gutting of state regulation to federally prodded reform of state regulation that stops short of the issuance of a federal charter. The rationale for reform has ranged from shoring up what some perceived as serious state regulatory shortfalls to removing what others have regarded as overly burdensome and expensive state regulation.

As Emil Henry, the assistant sec-

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CICA to present first service award to captives expert Hugh Rosenbaum

By MICHAEL BRADFORD

ORLANDO, Fla.—D. Hugh Rosenbaum, one of the foremost experts in captives and self-insurance, will receive the Captive Insurance Cos. Assn.'s first Distinguished Service Award at the group's conference this week.

The award was created to recognize contributions by individuals or organizations in advancing the captive industry. Choosing Mr. Rosenbaum as the first recipient will set the standard for future awards, said CICA President Dennis P. Harwick.

"Hugh has been the sort of intellectual godfather of the captive industry," said Mr. Harwick. "He's sometimes taken positions that not everyone agrees with, but he's challenged the industry....He was the unanimous choice to be the first recipient."

Mr. Rosenbaum is a London-based consultant and retired princi-



Mr. Rosenbaum is the first recipient of CICA's Distinguished Service Award.

pal of Tillinghast-Towers Perrin, where he began focusing on captives in 1977 after working for a large insurance broker in Paris and New York.

"I was helping them sell insur-

ance to the big insureds," Mr. Rosenbaum said of his brokerage career. "But I realized that that's not what the big insureds needed. They needed a financial carrot with which to manipulate the risk management stick. Captive insurance companies served as the first step."

The captive side of the business appealed to him, Mr. Rosenbaum recalled, because "one of my interests has always been the support of the original insured—the people who are really managing the risks and those who are paying the premiums. I saw captive insurance as a corner of risk financing, as a tool allowing insureds to gain from their own risk management."

Among his accomplishments, Mr. Rosenbaum says his work on the Directory of Captive Insurance Cos. is among the most important. The directory was begun by Felix

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200,000 REASONS A SPRINKLER HEAD DOES NOT DOUBLE AS A COAT RACK.

WAUSAU PACKAGE AT WORK. Recently, we received some interesting property claims. Hotel guests, trying to expand their closet space, enlisted the help of sidewall sprinkler heads, using them as makeshift coat racks. The weight of the clothing damaged the fusible element of the sprinklers, setting them off and causing more than \$200,000 in water damage. When our loss



prevention experts located the source of the problem, they quickly advised clients to place a warning sign next to sidewall

sprinklers to prevent similar damage. Simple, but effective. That kind of industry knowledge and attention to detail can be found throughout Wausau, in any of our areas of expertise – from hospitality to construction. And with Wausau Package, you can leverage that expertise to get comprehensive coverage tailored to the specific needs of your business. It's all part of Wausau TotalValueSM and our commitment **PRICE ≠ COST.** to lowering your total cost of risk. A commitment backed by the financial strength of Liberty Mutual. To learn more, contact your Wausau Signature Agency representative or your appointed Wausau producer.



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Panel discusses regulation obstacles

By RUPAL PAREKH

SOUTHAMPTON, Bermuda—An increasingly global economy calls for global insurance standards, but broadening existing rules is a thorny process that will take years to achieve, regulators say.

During a panel at the World Insurance Forum, held in Bermuda last month, regulators from the world's major insurance markets discussed the various barriers to hammering out global regulations—including confusion about who the "real" regulators of the industry are, the politicization of the role of regulator and widely differing supervisory methods.

The panel discussion was moderated by Bradley L. Kading, president and executive director of the Hamilton, Bermuda-based Assn. of Bermuda Insurers & Reinsurers.

Howard Mills, insurance superintendent for the state of New York, noted that his role as state regulator became mired in the midst of industry investigations undertaken by other authorities last year—challenging him to have to "reclaim the role of regulator."

New York Attorney General Eliot Spitzer "had jumped into the breach, and was in fact a de facto regulator of the industry," Mr. Mills said. "I would submit that the industry would rather have the regulator looking at these issues and handling them than an attorney general, where politics can enter in the mix."

Tom Karp, executive general manager of the Australian Prudential Regulatory Authority and chairman of the International Assn. of Insurance Supervisors' technical committee, echoed that political motivations should be divorced from the role of the regulator.

"You end up with far better and more sensible results when you actually have regulators—professional people doing their job—not hamstrung by the day-to-day of politics," said Mr. Karp. "If you have your main eye on the political outcome...then you are distracted."

Also blurring the lines of who acts as industry regulator in recent years is a growing emphasis on rating agency assessments of companies.

"We've become almost an accidental standard for things like capital...things ratings were never really intended to be," said Steven J. Dreyer, managing director at New York-based Standard & Poor's Corp.

"We don't particularly enjoy that role. We'd be very pleased to have standardization of international accounting, to get on to the business of what we're really trying to do, which is offer opinions about the financial strength of companies," Mr. Dreyer said.

Fragmented system

The fragmented regulatory structure under which insurers are regulated in the United States—each state plus the District of Columbia

Forum draws 328 to Bermuda

SOUTHAMPTON, Bermuda—The biennial World Insurance Forum attracted 328 attendees from Europe, Australia, the United States and Bermuda itself.

Held Feb. 21-23 at the Fairmont Southampton Princess Hotel in Southampton, Bermuda, the opening address for the conference—the seventh such gathering since its inception in 1993—was provided by Sir John Vereker, Bermuda's governor.

Panels featured insurance regulators and top executives from leading insurers and reinsurers, as well as participants from rating agencies and catastrophe

modeling firms. The discussions covered a range of topics but focused on industry investigations, last year's record hurricane season, the new crop of Bermuda reinsurers and changes to regulatory standards.

The next WIF is slated to be held on Feb. 19-21, 2008, at the Fairmont Southampton.

For more information, contact Suzie Pewter, project coordinator, World Insurance Forum, 61 Front St., P.O. Box HM 2550, Hamilton HM KX, Bermuda; telephone: 441-292-6386; fax: 441-292-6990; e-mail: worldinsuranceforum@bis.bm.

has its own regulator—also represents a barrier to establishing clarity and uniform standards.

The state-based system of regulation "certainly has its problems," acknowledged Mr. Mills, because companies are subjected to greatly varying standards under a mix of elected and appointed insurance officials.

Complicating the matter, added Mr. Kading, is that the average tenure of a state insurance commissioner is currently just 18 months.

Before the states become involved in establishing internationally recognized standards for insurance regulation, "we need to first get our house in order," Mr. Mills said. He noted, however, that there is "great room for progress."

The ultimate objective in trying to broaden the scope of insurance regulation internationally, Mr. Karp said, is so "companies can operate globally without having to dramatically meet different requirements in different parts of the world, and regulators in one part of the world can rely on regulation in another part of the world without having to redo it."

One way regulators around the world are looking to standardize insurance supervision is through "mutual recognition." Under a mutual recognition pact, insurers in different jurisdictions agree to recognize as acceptably regulated the "home" regulator in order to reduce paperwork and associated costs.

The European Union last year is-

sued a reinsurance directive aimed at creating standards to harmonize regulation across the E.U. membership (*BI*, June 13, 2005).

David Strachan, sector leader for insurance at the United Kingdom's Financial Services Authority, said that for the FSA, reaching a mutual recognition agreement with another domicile would require at least the following: a broadly consistent overall regulatory framework; some convergence of supervisory practice and methods; a dialogue and exchange of information; and an agreement to regulate a global group of companies as a whole, not individually.

The FSA is on the road to attaining that level with at least one domicile—Bermuda—Mr. Strachan noted during the panel.

"I think we are making excellent progress" in cementing a regulatory relationship with Bermuda, Mr. Strachan said. "Bermuda and the BMA matter hugely to the FSA and to the United Kingdom. It is a very important regulatory relationship for us."

"I foresee this relationship being an extremely good relationship," said Jeremy Cox, supervisor of insurance for the Bermuda Monetary Authority. The relationship between the BMA and the FSA "is a critical relationship" for mutual recognition standards, Mr. Cox said.

Meanwhile, Mr. Mills said that in the United States, "absolute mutual recognition in the states is not something I can foresee," due largely to constitutional issues.

WIF: Top industry executives foresee more new market entrants

Continued from page 4

business, who understands the way in which the business can be placed and where to place it," who can also "give increasingly detailed and more informed advice to the clients," said Lord Levene. He added that Lloyd's has traditionally been a broker marketplace where "if brokers didn't exist, we would have to invent them," because policyholders left to navigate the market on their own would result in "chaos."

Martin Sullivan, president and CEO of New York-based American

International Group Inc., agreed the industry can expect to see new brokers entering the marketplace but noted there will be "more menu-shopping" on behalf of buyers looking for intermediaries that offer specific expertise or services.

Challenge of standards

Panelists concurred that a key area in which the industry will be challenged going forward is the standardization of standards among international regulators of insurance (see related story).

Lord Levene, along with Nikolaus von Bomhard, chairman of the board of management at Munich, Germany-based Munich Reinsurance Co., expressed frustration that in an essentially global reinsurance market, U.S. regulators still require alien reinsurers to meet certain collateralization requirements.

"It is unbalanced, and it is unfair," said Lord Levene, calling for a "level playing field."

Representing one of the world's largest reinsurers, Mr. von Bomhard said, "we would advocate strongly in favor of a federal charter in the U.S."

While the push for a more uniform regime is seeing some support in the United States, Mr. Storms noted "there's so much variability to the regulations"—due to 50 different state insurance departments, with a mix of appointed and elected officials with varying terms—that "it's unlikely to change soon."

"To go from where we are today to federal regulation in the U.S. in one step would seem very difficult to achieve," said Mr. Sullivan, who suggested as an alternative "a midway point, where you actually transition regulation to a federal stand-

point on a certain sector of the market or line of business."

For example, federal regulation could be reserved for the "sophisticated buyer" of commercial property/casualty risks, while states continue to monitor personal lines insurers, Mr. Sullivan said.

Mr. von Bomhard suggested using the reinsurance sector as a test case in moving regulation away from the state level, because reinsurance is already a global business, reinsurance buyers are professional buyers and because the European Union's recent directive to simplify reinsurance rules across 25 member states can serve as a model for the process.

New group seeks to boost profile of catastrophe management field

By MICHAEL BRADFORD

WASHINGTON—Catastrophe management professionals have a new association to call their own.

The International Society of Catastrophe Managers held its first board meeting late last month at a catastrophe modeling seminar sponsored in Tampa, Fla., by the Washington-based Reinsurance Assn. of America. The ISCM's doors are now open to new members, who will pay anticipated annual dues of \$100 to belong to the association.

The society's mission is to promote the professions of catastrophe managers, natural-hazard scientists and engineers, catastrophe modelers and other catastrophe professionals who work in the insurance and reinsurance industries or for related organizations, Ronald C. Nash, vp and chief catastrophe manager for XL Capital Ltd. in Stamford, Conn., told attendees at the seminar. Mr. Nash serves as president of the new group.

"What we're seeing is a more holistic approach," he said of



catastrophe management. And the new society is "not just looking at catastrophe modeling but catastro-

phe management as a whole and how it will affect your organization," said Mr. Nash.

"The bottom line is we're here to promote professionalism and encourage professionalism. Also, we want to be able to coordinate ideas and speak with one voice," he said.

A benefit to members will be "instant access to people/experts at various levels" and a "central source for cross-referencing of ideas," said Mr. Nash. "It really

doesn't exist in catastrophe management," he said, speaking of a single source for comprehensive catastrophe management information.

Members also will benefit from a Web site the society is constructing, Mr. Nash noted. Launched during the Tampa meeting, the site features some basic information that will be expanded as the group grows.

To view the group's site, visit www.catmanagers.org. Questions regarding the ISCM can be e-mailed to info@catmanagers.org.



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Editorial

Part D exaggerations not needed

IS THE MEDICARE PART D prescription drug program a success?

With the program now only in its third month, the short answer is that it is too soon to say. That said, we wish members of both political parties would cool their rhetoric.

Many Democrats have been charging that the program is an administrative nightmare. For example, Sen. Edward Kennedy, D-Mass., who wants to give retirees the option of getting coverage directly through Medicare rather than only from managed care plans or prescription benefit managers, describes the implementation of the benefit as "incompetent."

Certainly, there have been bugs—big ones—in the startup of Medicare Part D. Most problems, it appears, involve the automatic transfer of individuals who had received prescription drug coverage from Medicaid to Medicare.

But to describe, as Sen. Kennedy does, implementation as incompetent, strikes us as unfair and a gross overstatement. Given the size of this program—about 43 million people are eligible for coverage—it would be unrealistic to expect that there would not be implementation problems. And that would be true if administration was directly done by Medicare, private insurers or anyone else.

While there have been snafus, Sen. Kennedy's statement ignores the basic fact

that thousands of Medicare Part D prescriptions are being filled each day without a hitch.

It isn't only Democrats guilty of rhetorical excesses. The Bush administration also, we think, is guilty of some exaggeration.

Take a news release issued last month by the Department of Health and Human Services. It reports that more than 25 million Medicare beneficiaries now have prescription drug coverage. Only later on does the news release note that the 25 million figure includes individuals who previously had drug coverage, such as more than 3 million federal retirees and 6 million Medicaid beneficiaries. Only a modest percentage of that 25 million are getting prescription drug coverage for the first time.

In fact, there is no need for either party to exaggerate the program's problems or successes. Adding a prescription drug benefit to Medicare is something that both Republicans and Democrats can and should be able to agree upon as a move that represents the best in public policy.

Millions of people now have access to a good and relatively inexpensive benefit. And for taxpayers that heavily subsidize the program, this expansion of Medicare will over the long term make good fiscal sense if—as we think likely—it helps individuals keep their health problems under control.

Due process is overdue

FORMER AMERICAN INTERNATIONAL Group Inc. Chairman and Chief Executive Officer Maurice R. Greenberg was expected this week may finally see a copy of an internal AIG report, but not before the legal contortions surrounding his access to such information reach a new level of absurdity.

Mr. Greenberg had sued AIG to obtain a copy of its report into alleged activities that led to AIG's recent \$1.64 billion settlement of bid-rigging and fraud charges. As we report in this issue, a judge initially upheld Mr. Greenberg's right to review the report but was to issue a final decision today. Joining AIG in seeking to block the report's release was the U.S. attorney for the Eastern District of Virginia.

The Virginia prosecutor argued that it could damage the government's criminal case against three former General Reinsurance Corp. executives and AIG's former vp-reinsurance relating to a finite reinsurance transaction more than five years ago. New York Attorney General Eliot Spitzer's civil charges against Mr. Greenberg stem largely from that transaction. While the four indicted former executives have pleaded not guilty, neither Mr.

Spitzer nor federal officials found sufficient evidence to charge Mr. Greenberg or former AIG Chief Financial Officer Howard Smith with a crime. Messrs. Greenberg and Smith have consistently denied any wrongdoing, and Mr. Greenberg recently told *Business Insurance* he is looking forward to defending himself.

Frankly, we were surprised this dispute over documents occurred in the first place and incredulous that it took so long to resolve.

The AIG report that Mr. Greenberg had sued to obtain has been reviewed by Mr. Spitzer and other officials involved in the investigation of events alleged to have occurred on Mr. Greenberg's watch. We support the judge's conclusion that Mr. Greenberg should be permitted to review this report for purposes of defending himself.

No matter what one may think of Mr. Greenberg or the merits of the case against him, he deserves his day in court—as do the indicted former executives. We think due process demands that defendants be permitted access to evidence that may be used at trial. Justice can be served only when verdicts are based on facts known to both sides.

Schillerstrom



Letters

Industry must cooperate to solve big risks

To the editor: Although it has been impossible to keep up with the details of the entire New York financial debacle, the one thing that stands out loud and clear is that Attorney General Eliot Spitzer, like Thomas Dewey before him, is running for president of the United States.

The evils and crimes he has found are current alternative solutions to problems that have emerged with the growth of our country, technology and the world economy.

Nobody "cooked the books." There was nothing wrong with practices that were motivated by the invisible hand of Adam Smith and the practical working out of Milton Friedman's theories.

What we have seen are rational responses to unreasonable accounting principles and chaotic market forces in an economy where there is no perfect information and where stability, for the most part, is not appreciated.

Finite insurance may currently have a bad name and be out of favor, but serious theoreticians have been speaking about "earnings stabilization contracts" for decades.

The mere existence of organizations the size of Fortune 500 companies creates risks that cannot be solved by the "insurance

mechanism." Why must our industry adhere to the holy grail of transfer when insurance is only one of the ways we use to finance losses? The risks created by size can be solved only by our industry cooperating with those organizations of size. New mechanisms emerge to deal with emerging risks.

Just as the Blue Cross organization was created out of a public health need during the Depression, so too are creative financially sensitive programs needed today for the stability of both markets and society.

R. John Wekselblatt
Principal
GPC Insurance Agency
San Francisco

Response to editorial on AIG off the mark

To the editor: In light of the facts, John Sullivan's letter in the Feb. 27 issue, disparaging the *Business Insurance* editorial of Feb. 13 about American International Group Inc. does seem a bit off the mark and over

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

SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by Crain Communications Inc.

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Published weekly at 360 N. Michigan Ave., Chicago, Ill. 60601-3806; Fax: 312-280-3174. biweb@crain.com. Offices: 711 Third Ave., New York, N.Y. 10017-5806; Fax: 212-210-0704; 71121 Minkler St., Abita Springs, La. 70420; Fax: 985-871-4006; Suite 814, National Press Building, Washington, D.C. 20045-1801; Fax: 202-638-3155; 6500 Wilshire Blvd., Suite 2300, Los Angeles, Calif. 90048-4947; Fax: 323-655-8157; 967 Bermuda Court, Sunnyvale, Calif. 94086-6750; Fax: 408-774-1155; 34 Southwark Bridge Road, London SE1 9EU, Fax: +44-(0)20-7457-1440; 7300 N. San Anna Drive, Tucson, Ariz. 85704; Fax: 520-579-3476; 1746 Cole Blvd., Suite 150, Golden, Colo. 80401; Fax: 303-733-9941; 12524 Acuff Court, Olathe, Kan. 66062; Fax: 312-280-3174; 77 Franklin St., Suite 809, Boston, Mass. 02110-1510; Fax: 212-210-0704; 4 Executive Circle, Suite 185, Irvine, Calif. 92614-6791; \$5 a copy and \$97 a year in the U.S., \$130 in Canada and Mexico (includes GST). All other countries, \$230 a year (includes expedited air delivery). John Azua, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, *Business Insurance*, 711 Third Avenue, New York, N.Y. 10017-5806. Microfilm copies available: University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103. Microfiche copies: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For reprints or reprint permission: Reprint Management Services, 1808 Colonial Village Lane, Lancaster, PA 17601; 800-290-5460, ext. 160; BusinessInsurance@reprintbuyer.com.

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Photo: Michael Marcotte

Lance Ewing (L) and Chris Mandel, RIMS past presidents.

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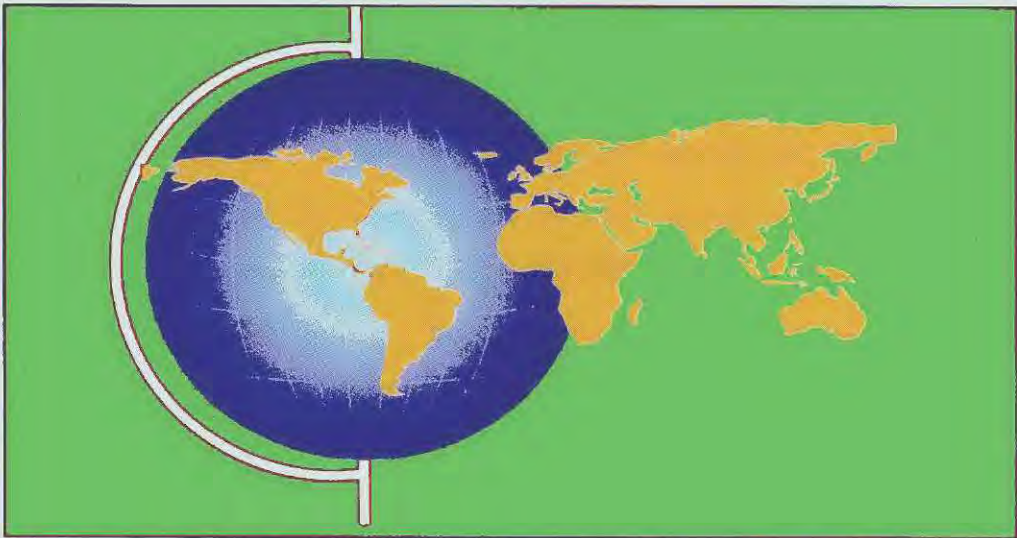
Spotlight

SELF-INSURANCE
& CAPTIVE MANAGEMENT

Counting captives

Domicile	2005	2004
Bermuda	987*	1000*
Cayman Islands	733	693
Vermont	542	524
British Virgin Islands	383*	346
Guernsey	382	379
Barbados	301*	290*
Luxembourg	208	219
Dublin	207	214
Turks & Caicos	166**	164**
Isle of Man	165	175
Hawaii	158	147
South Carolina	122	106
Singapore	60	57
District of Columbia	59	40
Nevada	58	39
Arizona	53	39
Switzerland	48	50
New York	33	28
Labuan	28	21*
Bahamas	22	19
Netherlands Antilles	16	18
British Columbia	15	13
Georgia	15	14
Jersey	15	13
Utah	15	2
Mauritius	13	13
Montana	13	10
Gibraltar	14†	12
Colorado	9	10
U.S. Virgin Islands	9*	7
Kentucky	6	5
Delaware	5	5
Malta	4	0
Panama	4	3
Illinois	3	3
Tennessee	3	4
Hong Kong	2	2
Arkansas	1	1
Guam	1	1
Kansas	1	1
Oklahoma	1	0
Puerto Rico	1	0
South Dakota	1	1
Maine	0	0
Rhode Island	0	0

* BI estimate
** Excludes credit life insurers
† Pure captive only



Captive growth cools
as market options rise

By JERRY GEISEL

The captive insurance company market is cooling off.

Captive formations last year in many of the world's largest domiciles were down sharply from the pace of the prior two years when several major domiciles licensed either a record or near-record number of captives.

Indeed, counting captives that dissolved, the roster of licensed captives in four of the world's 10 largest domiciles—Bermuda, Dublin, Isle of Man and Luxembourg—fell last year, while several other domiciles saw only slight growth.

Captive managers and others agree on the overwhelming reason for the captive slowdown: the return of competition in most lines in the traditional commercial market.

"The fact that, pre-Katrina, there was a general softening across most lines...that always lessens the impetus for captive formations," said Rory Gorman, managing director for Marsh Management Services (Bermuda) Ltd.

Others note that it is not realistic to expect that captive formations to continue indefinitely at record levels. "I think it was an expected result...2005 wasn't going to be sustaining at the same level of growth," said Brian Durrant, executive vp at Aon Insurance Managers (Bermuda) Ltd. Last year, Bermuda licensed an estimated 37 new captives, down from an estimated 52 in 2004.

Still, some domiciles, reported substantial growth, if not quite at the level of recent years. For example, the Cayman Islands, a long-time health care captive powerhouse, licensed 59 captives, down from 76 in 2004, but still substantially well above its norm of about 45 new licenses a year.

In the United States, some of the newer domiciles—those established in the past five years or so—enjoyed above average growth. For example, Utah, which last year eliminated captive premium taxes, licensed 13 captives in 2005, bringing its total up to 15, while Nevada issued 20 licenses, boosting its captive roster to 58.

In addition, the District of Columbia licensed

18 captives in 2005 for a total of 59 and Arizona licensed 17 captives for a total of 53.

These young, fast-growing domiciles have helped make the United States bigger—as measured by the number of licensed captives—than any individual offshore domicile. With 1,098 captives last year, the United States, for the first time overtook Bermuda, which had been the world's largest captive domicile. In 2005, Bermuda had an estimated 987 captives.

One federal law has given a special boost to domestic domiciles. In the late 1980s, Congress passed legislation authorizing risk retention groups, which are special multiple-owner captives that can operate nationwide with minimal oversight by most state regulators. But to obtain this exemption, a risk retention group must meet the licensing requirements of one domestic state.

At the end of last year, 221 risk retention groups were operating, up from 186 in 2004 and just 69 in 2001, according to the Risk Retention Reporter, a Pasadena, Calif., newsletter that tracks the industry. And RRGs have been a major factor in the growth of some domestic domiciles.

Captive managers in offshore domiciles are keenly aware of the competition they face. "We recognize that there is terrific competition out there," said Marsh's Mr. Gorman.

And it isn't only offshore domiciles that are hurt by growth in newer domestic domiciles. Vermont—while still the largest domestic domicile with 542 captives in 2005, compared with 158 for Hawaii—no longer dominates the domestic captive market to the extent it did only a few years ago. At 556, the combined captive domicile count of all other U.S. domiciles, exceeds Vermont's 542.

Captive sponsors in the United States, managers note, have more domicile choices than ever. "It used to be not that long ago that you really had two options, Bermuda offshore or Vermont onshore. Now there's a number of captive domiciles, many of which have established infrastructures, that users are comfortable with and people are looking at," said Jon Harkavy, vp and general counsel with captive manager Risk Services L.L.C. in Arlington, Va.

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The full Directory of Captive Managers is available online, in the directories area of www.businessinsurance.com. The searchable directory allows registered subscribers to find information on managers by using various search criteria. *Business Insurance* now offers the option to purchase the entire directory as an Excel download from our Web site. PDF copies of this and other BI directories can still be purchased by e-mailing the Crain Information Center at biorders@crain.com.

Some new domestic domiciles drawing clients

By SALLY ROBERTS

Companies have more choices than ever when it comes to choosing a domicile for their captive insurance entities.

And while the lure of such established domiciles as Bermuda, the Cayman Islands and Vermont remains strong, more prospective captive owners are turning to some of the newer domestic domiciles.

Indeed, over the past several years, since passing legislation that allowed the formation of captive insurance companies, Arizona, the District of Columbia, Nevada and South Carolina alone have licensed more than 300 captive insurers.

The reasons for the growth vary, captive managers and regulators say. While a good climate and proximity play a part, flexible regulation, unique state laws and established infrastructures, including dedicated captive regulators, also are attracting captive owners, they note.

"It used to be not long ago that you really had two options, Bermuda offshore or Vermont onshore," said Jon Harkavy, vp and general counsel for captive manager Risk Services L.L.C. in Arlington, Va. "Now there's a number of captive domiciles, many of which have established infrastructures, that users are comfortable with and people are looking at."

"From a standpoint of where to form a captive...there's an old adage 'different horses for different courses,' and that applies to captives," Mr. Harkavy said. "A lot depends on what the clients want."

There are certain clients, for example, that for recreational reasons may prefer the warm weather of Arizona, while others, such as West Coast-based firms, may prefer Nevada or Arizona over other U.S. domiciles for their geographic proximity, Mr. Harkavy said.

"Simply put, there's just a lot of attractiveness to the state and the Phoenix area that entices people to want to come," said Rod Morris, captive insurance administrator for

"Simply put, there's just a lot of attractiveness to the state and the Phoenix area that entices people to want to come. ... If you have to go to an annual meeting someplace, it's not a bad place to go."

Rod Morris
Arizona Insurance Department

the Arizona Insurance Department in Phoenix. "If you have to go to an annual meeting someplace, it's not a bad place to go."

Arizona passed captive legislation in 2001, and, by the end of 2005, it already had 53 licensed captives, including 17 captives licensed last year. Just as the proximity and attrac-

tions of domestic domiciles may be playing a role in their growth, so too has the risk retention group market.

While older, more traditional U.S. captive domiciles have taken a tougher stance on RRG formations, many of the newer domiciles have focused on ERGs for expansion.

"Some of the domiciles got initial interest because they showed more flexibility in what they would look at in terms of captives or risk retention groups," said Greg Meyers, executive managing director with Beecher Carlson in New York who has oversight responsibilities for the broker's captive management and captive consulting operations. "So they've gotten initial growth from that aspect."

In the District of Columbia, for example, all but four of the domicile's 18 licenses issued in 2005 were for RRGs, said Dana Sheppard, associate commissioner of the risk finance bureau of the district's Department of Insurance, Securities and Banking. "That's the big deal right now, and we've seen that trend continue through '06," Mr. Sheppard said.

The District of Columbia passed its captive legislation in 2000 and at the end of 2005 had 59 licensed captives on its roster.

Other regulators point to the specific tax treatment of captives within their respective domiciles as being a draw for captive owners.

In Nevada, for instance, the government has "been very proactive" in making the state "an economical destination" for all kinds of business, including captives, said Cliff King, chief administrator for cap-

U.S. domicile growth

Ranked by percent change in the number of captives

Domicile	2005	2004	% change
Utah	15	2	650%
Oklahoma	1	0	100
Nevada	58	38	53
District of Columbia	59	40	47
Arizona	53	39	36
Montana	13	10	30
Kentucky	6	5	20
New York	33	28	18
Hawaii	158	147	7
Georgia	15	14	7
South Carolina	122	114	7

Source: BI survey

tive programs for the Nevada Division of Insurance in Carson City.

For captive parents incorporating in Nevada, that means, among other tax advantages, no corporate tax, no income tax, no franchise tax and nominal fees, Mr. King said. "It's a good reason to incorporate in Nevada," he said.

Nevada, which passed captive legislation in 1999, had 58 licensed captives at the end of 2005, including 20 licenses issued last year.

And in Arizona, an attraction for captive owners is that the state does not impose premium taxes on captives, Mr. Morris said. "A lot of domiciles have amended laws to drop their premium taxes to a considerable degree, but we don't have them at all," he said.

But as Robert L. Johnson, senior

vp with Marsh Management Services Inc. in Charleston, S.C., noted, success for a captive domicile lies within its infrastructure. And he attributed South Carolina's success to the knowledge base of the regulators and the fact they are committed to focusing their energy and expertise on captives.

"They certainly have a very healthy traditional business here too, but they've carved out a separate body to oversee, to govern and to regulate the captive industry, and that's a common denominator across all the most successful domiciles," Mr. Johnson said.

South Carolina, which passed its captive legislation in 2000, had 122 licensed captives at the end of 2005, including 21 new captives that formed in 2005.

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Health care stop-loss insurers continuing to get premium hikes

By MICHAEL BRADFORD

Stop-loss insurance for self-funded health plans is going through its yearly round of rate hikes, a process so commonplace that increases of 25% are not significant enough to generate much hand wringing.

"We're still seeing very competitive quotes for 2006," said Donna Cowden, vp with Aon Consulting in Charlotte, N.C. "You have to look at it on a case-by-case basis, but, as a whole, increases are ranging from 11% to 26%."

For many employers, those figures for specific stop-loss coverage are smaller than original quotes, which were lowered when the buyers opted to increase deductibles, Ms. Cowden noted.

Rate increases for aggregate stop-loss coverage are more moderate than those for specific stop-loss, sources say, because the aggregate coverage generally mirrors the trend of medical inflation more closely and its cost is not calculated according to the same underlying factors as specific stop-loss cover.

The "trend," as the increase in health care costs is called, is expected to total around 8% for 2005, a slightly smaller increase than in 2004, according to sources in the marketplace.

"The market is relatively stable," explained John Snyder, president and chief executive officer of Medical Excess, a South Coast Metro, Calif., stop-loss insurer unit of American International Group Inc. Price increases for specific coverage have not gotten out of hand in part because the trend's impact has diminished somewhat, Mr. Snyder said.

"Pricing has increased slightly over the past few years" for specific coverage purchased by The Restaurant Co., according to Mark Hopkins, senior director of benefits and human resources systems at the Memphis-based restaurant operator. "But the markets remain pretty competitive," Mr. Hopkins said.

The Restaurant Co.'s rates rose around 15% for specific stop-loss

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Stop loss: No near-term slowing predicted for rates on self-funded health plans

Continued from page 14

coverage in 2005 and are expected to be a little more expensive this year because of some "bad experience" the company encountered last year, Mr. Hopkins noted.

A survey by Tillinghast indicates that The Restaurant Co.'s rate hike is right in line with the average experienced by employers. The 2005 Stop Loss Survey shows that 15%

was the average increase last year for a self-funded plan with a \$50,000 deductible. That is up slightly from 14% in 2004.

The survey, based on responses from 28 insurers, managing general underwriters and health plans that supplied data from 50 metropolitan areas, said rate increases are not likely to decrease much in the near term. In fact, more disciplined in-

surers, along with accelerating hospital charges and prescription drug costs, among other factors, will likely keep rates steadily rising, the survey noted.

"I think that those rate increases are likely to continue on even further into 2006," said Rick Nelson, a St. Louis-based consultant with Tillinghast. "I don't see that changing a lot."

Ernie Clevenger, president of MyHealthGuide L.L.C. of Brentwood, Tenn., noted there is a "growing consensus" that price hikes for many employers will show up in the spring, as reinsurers begin to make up for losses suffered during last year's storm season.

Several reinsurers have raised additional capital, which takes pressure off rates in the short term, Mr.

Clevenger explained, but those reinsurers will be looking for returns on that capital as the year wears on.

Significant amounts of stop-loss insurance are ceded to property/casualty reinsurers, he noted, and as the property market hardens, stop-loss insurers are likely to be carried along among those that experience price increases.

Although rates are rising, it is not for a lack of capacity among stop-loss insurers.

"There are certainly no capacity issues in the stop-loss market," said Mr. Snyder. And he emphasized that underwriters are treating their capacity with more care these days.

"In the past, substantial capacity has been accompanied by irresponsible pricing," Mr. Snyder said. "That does not seem to be the case now."

Brian Diedrich, senior managing director at Mesiroow Financial, a Chicago-based broker, noted that some insurers are taking as much time as possible to write stop-loss policies, and they want "more in-

"In the past, substantial capacity has been accompanied by irresponsible pricing. ... That does not seem to be the case now."

John Snyder
Medical Excess

formation to lock in. They are getting closer to the effective date before locking in their quotes," he said.

In some cases, employers also are facing delays in getting claims paid, according to Mr. Diedrich. When reinsurers get involved, "the claims process can get dragged out in an audit," he said. "There's money out there, but it's not getting paid quickly."

Mr. Diedrich also said that some stop-loss claims are being paid above what is considered "reasonable and customary" rather than actual claim amounts. "We're just starting to deal with that," he said.

Those sorts of provisions may be in many contracts but are not being invoked, Mr. Diedrich suggested. "I've heard it's started to grow a little bit," he said.



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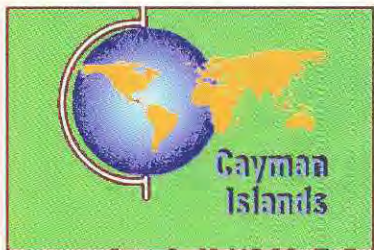
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Cayman's new captives not limited to health care

By DOUGLAS McLEOD

GEORGE TOWN, Grand Cayman—The Cayman Islands' captive industry has seen growth on several fronts in the past year, with the addition of new captive and management companies, the creation



of the domicile's first open market reinsurer and a spurt of catastrophe bond business.

Cayman added 59 new captives while canceling 19 licenses in 2005, including one captive whose license was revoked, two that domiciled onshore and 16 that entered voluntary liquidation, according to Mary Lou Gallegos, head of the insurance supervision division of the Cayman Islands

Monetary Authority.

That left the domicile with a net increase of 40 captives, bringing its total of licensed companies to 753 at the end of last year, up from a restated 693 at the end of 2004.

Health care captives continue to account for a sizable part of Cayman's industry, representing about 37% of the number of captives and captive premium volume as of last Sept. 30.

"Health care continues to be the dominant sector of opportunity," said Stephen Gray, senior vp with Willis Management (Cayman) Ltd.

Still, managers report new business across multiple lines of coverage.

"Cayman has been a little bit of a victim of its own success in the health care arena," widely known as a domicile for hospital and physician malpractice insurers, said Daniel MacLean, managing director with Aon Insurance Managers (Cayman) Ltd.

Aon's new clients, though, include not only health care-related

Largest managers of Cayman captives

Ranked by gross premium volume in millions of dollars

Manager	Premium volume		Captives	
	2005	2004	2005	2004
Marsh-Captive Management Services (Cayman)	\$1,940.0	\$1,750.0	186	184
Aon Insurance Managers (Cayman) Ltd.	1,600.0	1,410.0	127	105
Willis Management (Cayman) Ltd.	825.0	875.0	32	34
Kensington Management Group Ltd.	779.0	668.8	29	29
HSBC Financial Services (Cayman) Ltd.	602.0	520.0	93	86
Global Captive Management Ltd.	421.7	399.5	79	73
USA Risk Group (Cayman) Ltd. ¹	308.0	NA	38	NA
Fair Winds Captive Management (Cayman) Ltd.	92.5	80.0	12	12
Moncton Insurance Services Ltd.	61.5	38.7	11	8
Chandler Insurance Management Ltd.	48.1	50.0	13	12

¹ Acquired JLT Risk Solutions (Cayman) Ltd., December 2005
Source: B/S survey

entities but trucking, marine construction and other companies writing an array of property/casu-

alty coverages in their captives.

"What that shows is that the domicile continues to attract qual-

ity health care and non-health care captives," he said.

While more than a third of Cayman's \$6.49 billion in captive premium volume as of last Sept. 30 related to health care, other large contributors were workers compensation with \$1.52 billion in premiums, general and professional liability with \$1.05 billion and property \$494.6 million, according to CIMA statistics.

The structure of Cayman captives also varies, though single parent entities remain the dominant form and accounted for more than two-thirds of the domicile's captive premiums through the first nine months of last year. Group captives were the second largest premium producers, generating about 13% of total premiums. Segregated portfolio companies—of which there were 102 as of Sept. 30—accounted for another 7.7% of premiums, according to government statistics.

Several managers report growth in the individual cells of existing segregated portfolio insurers. In some cases, though, the creation of new segregated cell companies has been in a "holding pattern" in recent months as potential clients wait for the U.S. Internal Revenue Service to decide on the tax treatment of cells, noted Peter MacKay, chairman and chief executive officer of Global Captive Management Ltd.

The IRS issued Notice 2005-49 last summer asking for public comment on several captive issues, including whether cell arrangements should be considered insurance for tax purposes. In previous rulings, the IRS has said that captive structures must produce risk shifting and risk distribution to qualify for favorable insurance tax treatment, and that the risk distribution requirement is not met if an insurer is issuing contracts to only one policyholder.

Fronting, meanwhile, continues to be a difficult problem for some captives as U.S. insurers continue to impose tough terms for

Cayman sees influx of captive management firms

GEORGE TOWN, Grand Cayman—The Cayman Islands' captive management ranks have seen several changes in recent months as new managers have set up offices and an established company has sold its business and shut down.

Liberty Mutual Group launched a Cayman office last August to service clients in the health care industry, said Chris Ridge, managing director with Liberty Mutual's captive management division. The company is working with a number of clients on forming Cayman captives, according to Mr. Ridge, who said much of the Cayman management work will actually be handled out of the insurer's existing Bermuda branch, Liberty Mutual Management (Bermuda) Ltd.

Liberty Mutual also has management operations in South Carolina and Vermont.

In January, Atlas Insurance Management opened a Cayman office not only to service health

care clients but also clients based in Latin America. Atlas, an affiliate of Nassau, Bahamas-based Britannia Consulting Group, has management operations in the Bahamas, British Virgin Islands, Nevis and Anguilla. Clive Harris, a former managing director of IAS (Cayman) Ltd. and the Bank of Bermuda (Cayman) Ltd., was named director of Atlas' Cayman operation, the company announced.

Last year also saw the addition of Strategic Risk Solutions (Cayman) Ltd., a new branch of Waltham, Mass.-based Strategic Risk Solutions Inc.

Meanwhile, JLT Risk Solutions (Cayman) Ltd., which received its management license in 2001, sold its business to USA Risk Group (Cayman) Ltd. last fall and closed. JLT continues captive management operations in Bermuda and other domiciles.

Paul Macey, who headed JLT's Cayman office, has joined the USA Risk office, along with other

former JLT staffers. USA Risk, which had two captive clients before the acquisition now has about 42, Mr. Macey said.

JLT (Cayman) faced a client problem last year after the U.S. Securities and Exchange Commission filed civil fraud charges against the operators of PFA Assurance Group Ltd., one of JLT's Cayman clients.

Luis Manuel Cornide and Robert Anthony de la Riva, the Coral Gables, Fla.-based operators of PFA and affiliate Pension Fund of America L.L.C., defrauded more than 3,400 investors with a sham retirement plan that combined life insurance and mutual fund investments, the SEC charged in a complaint filed in federal court in Miami in March 2005.

The companies collected \$127 million from investors but diverted a large part of the money to pay exorbitant administrative fees, commissions and other costs, the suit alleged.

A court-appointed receiver for Pension Fund of America and several related entities has recovered several million dollars in assets so far, including Florida houses owned by Mr. Cornide and Mr. de la Riva. PFA Assurance, meanwhile, was ordered into joint provisional liquidation last September after an investigation by the Cayman Islands Monetary Authority.

Mr. Macey declined to comment on whether the PFA debacle contributed to JLT's decision to withdraw from Cayman captive management. A JLT official in Bermuda could not be reached.

Time spent on the PFA issue and the transfer of business to USA Risk made 2005 only an "average" year for the management company, Mr. Macey said. This year is already looking more positive, he said, with several new captives likely to be formed during the first quarter.

—By Douglas McLeod

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Continued on next page

Continued from previous page
fronting services, Aon's Mr. MacLean noted.

Fronting insurers are focusing more than ever on clients' credit quality and can demand collateral to protect balances ceded to captives in amounts equal to a policy's aggregate limit or to between two and two and one-half times its loss limit, he said.

Overall, though, Cayman managers are generally optimistic about business prospects in 2006.

New captive formation is continuing at a steady pace and across a spectrum of industries, several say.

Health care captives will remain the industry's dominant opportunity, but other types of business may expand, including the use of captives for property coverages, some managers say.

Last year saw a resurgence of the catastrophe bond market, noted Linda Haddleton, associate director with HSBC Financial Services (Cayman) Ltd., which handled six cat bond deals in 2005.

While Ms. Haddleton said it is uncertain whether 2006 will see the same level of cat bond activity, other managers suggest that a commercial property insurance market battered by hurricane losses over the last two years may prompt more use of captives for property lines.

John Pitcairn, president of Fair Winds Captive Management (Cayman) Ltd., said he has had several inquiries about using captives to fund large deductibles on commercial property programs.

Meanwhile, managers also cite last year's incorporation of Greenlight Reinsurance Ltd. as a new plus for the domicile. Greenlight Re, formed with \$250 million in private capital, is Cayman's first open-market reinsurer and plans to offer a variety of captive reinsurance products in Cayman and beyond.

The reinsurer will focus on custom-designed programs for ceding insurer clients rather than the kind of "commoditized" products—such as generic excess liability coverage—that are widely available in the market, said Len Goldberg, Greenlight Re's chairman and chief executive officer.

In December, Greenlight Re hired Barton Hedges as its president and chief underwriting officer. Mr. Hedges had been president and chief operating officer of Platinum Underwriters Bermuda Ltd.

"There are a lot of eyes watching them, particularly from Bermuda," Mr. MacLean said.

"Its success—and we see no reason why it shouldn't succeed — can only lead to others considering the same path," said Seamus Tivnan, managing director with Marsh-Captive Management Services (Cayman) Ltd.

Cayman's expansion hasn't been limited to new insurers and reinsurers: the domicile has also added two new captive managers, while losing one to consolidation, and now has about two dozen licensed management companies (see related story).

One advantage Cayman will enjoy this year is that it has put the damage from 2004's Hurricane Ivan behind it. While most managers resumed operating immediately or soon after Ivan hit, damage to George Town buildings and employees homes was extensive.

Managers continued to deal with staffing headaches last year, as some non-Caymanian employees decided to leave the island rather than re-establish themselves in Ivan's wake.

Those staffing problems have been resolved with new hires, though, managers report.

"It was a worrying time," said Ms. Haddleton of HSBC, which lost four employees to resignations, "but it turned out to be a plus situation."

Vermont sees steady growth as domestic options expand

By MICHAEL BRADFORD

MONTPELIER, Vt.—Captive formations in Vermont have settled to a pace that captive managers and regulators expect will continue for a while.

The domicile issued 37 new captive licenses in 2005, down from 43 the previous year and well below the record—77—set in 2003. That pace is manageable without being burdensome, domicile sources sug-



gest, and unless the traditional insurance market experiences a significant hardening, licensing activity

is likely to tick along at a similar rate.

Formations in 2006 should total around the same as last year, said Leonard D. Crouse, deputy commissioner of captive insurance in Vermont's Department of Banking, Insurance, Securities & Health Care Administration in Montpelier. "Thirty to 35 is great growth," he said. "I think we'll have a good

See VERMONT / next page

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Vermont: Well-established domicile holding its own amid a crop of newcomers

Continued from page 21

year; I don't see any reason why not."

Parent companies that established captives in Vermont last year range from very large organizations to smaller outfits, Mr. Crouse said. Looking ahead, he predicted that smaller businesses will drive formations.

"I think that the growth in this industry is going to be from mid-cap to small-cap, and probably more small-cap," Mr. Crouse said of parent companies. Such companies are doing well in the current econo-

now having captive laws and offshore domiciles wooing parents, there are plenty of options for companies looking to set up an insurer.

"There is a lot more competition among domiciles," said Gary Griswold, director of captive operations at SB&T Captive Management Co. in Burlington. "Vermont is getting its fair share and it's getting very good ones, but it has more competition from a lot of states."

Vermont's regulatory environment has long been touted as its top drawing card. Managers talk of enjoying good relationships with regulators who are conscientious in supervising captives while remaining accessible and flexible when special circumstances arise. The domicile's regulatory environment is often referred to by Vermont sources as setting "the gold standard" among states hoping to attract captives.

"I think captives will always consider Vermont and will probably consider Vermont first, then look at other domiciles," said Roger D. Teese, president and chief executive officer of SB&T.

"You know what you're getting in Vermont," said Robert M. Gagliardi, assistant regional director of U.S. captive operations at AIG Insurance Management Services in Burlington. "You have so much history, so much experience, it's hard to look away from that."

Vermont has a "firm hand but is open to business," said Mr. Griswold. As for who gets in, "it really depends on the program. They're not going to accept programs that they're not sure about," he said of regulators. "If they believe it's a well-put-together program, then Vermont's a great place to be."

Weyerhaeuser Co. set up its Vermont captive in 1983 to reinsure some of the Federal Way, Wash.-based company's property coverages. The domicile is an easy place to do business because of the actuarial, banking, accounting and other services that are close together in Burlington, said John W. Lambdin, assistant treasurer and director of insurance at Weyerhaeuser. "And we don't have to travel internation-

Largest managers of Vermont captives

Ranked by gross premium volume in millions of dollars

Manager	Premium volume		Captives	
	2005	2004	2005	2004
Marsh Management Services Inc.	\$4,300.0	\$4,500.0	196	189
Aon Insurance Managers (Vermont) Inc.	3,900.0	2,900.0	178	168
AIG Insurance Management Services Inc.	552.4	865.5	32	31
Willis Management (Vermont) Ltd.	546.0	515.0	35	35
Champlain Captive Management Inc.	539.9	520.6	13	15
USA Risk Group of Vermont Inc.	526.5	892.5	33	31
SB&T Captive Management Co.	407.0	315.8	19	23
Beecher Carlson (Vermont)	108.0	55.0	8	8
Strategic Risk Solutions (Vermont) Ltd.	106.6	101.0	25	21
Arthur J. Gallagher Captive Services (Vermont)	24.5	NA	1	NA

Source: BLSurvey

"You know what you're getting in Vermont. ... You have so much history, so much experience, it's hard to look away from that."

Robert M. Gagliardi
AIG Insurance Management Services

my and as they grow are expected to show interest in establishing captives, he noted.

Even so, the big players are not staying away from Montpelier. In 2005, Chevron Corp., DuPont Chemical & Energy Operations Inc., Nestle USA Inc., Sun Microsystems Inc. and Pfizer Inc. were among the parents establishing captives in Vermont.

One indication that there is expected to be plenty of business to go around in Vermont is the growth in the state's captive management community. Setting up new management offices in 2005 were Liberty Mutual Management (Vermont), HSBC Insurance Management, Arthur J. Gallagher Captive Services (Vermont) and Wilmington Trust Corp.

The state is holding its own at a time when domiciles have to prove their worth to captive parents, sources note. With so many states

ally, which can be an advantage," he noted.

While there are closer domiciles to Weyerhaeuser's headquarters, "we're well established in Vermont and happy there," said Mr. Lambdin. "The benefit to moving to a closer domicile wouldn't offset the expense of the move."

Vermont ended 2005 with a net gain of 18 captives after 19 dissolved during the year, leaving 542 active captives at the year's close. Gross premiums reached more than \$12 billion for 2005, regulators estimated, up from \$10.9 billion in 2004.

A majority of the 37 new licenses—26—were issued to pure captives in 2005. Five risk retention groups were formed, as were three sponsored captives, which operate as cell companies, and two association captives were licensed. One license was issued to a branch captive.

Among the new formations, "the most popular line was general liability," with 17 companies forming to cover that exposure, said Derick A. White, director of captive insurance with the Vermont Department of Banking, Insurance, Securities & Health Care Administration. Professional liability, automobile liability, workers compensation and property coverages rounded out the new formations in order of popularity.

The number of captives formed to write medical malpractice insurance "keeps rising," said Mr. White. "We have about 85 med mal captives; about half are groups and half are pure," he said. Those captives generated around \$1.2 billion in premiums last year.

Interest in captives to fund employee benefits continues in Vermont but formations are few. Employers are getting more comfortable with the idea, captive managers agree, but in many cases they face internal obstacles to putting the companies together.

Parents that have gained U.S. Department of Labor approval to fund benefits in their Vermont captives include Archer Daniels Midland Co., International Paper Co., Sun Microsystems Inc. and others.

There remains something of a "cultural divide between risk management and benefits" that can

make formation of a captive to fund benefits a slow process, said Mr. Teese of SB&T. Benefit managers don't generally have the same knowledge of captive operations as risk managers, he said, and therefore they need time to become comfortable with how captives operate.

"Getting the risk manager to talk to human resources" can be a challenge in some organizations, said Andrew Sargeant, president of USA Risk Group of Vermont in Montpelier. "We have a number of clients talking about that," he said of benefit captive formations, with group life and disability coverages among those most talked about as a fit for captives.

"I think it's going to be an area where we are going to see some growth but slow," said Nancy L. Gray, executive director at Aon Insurance Managers (USA) Inc. in Burlington.

Risk managers have focused on property/casualty exposures more intently than benefits issues during recent hard-market years, Ms. Gray said. And they have "taken a very cautious attitude toward it in determining whether it would make sense" to fund benefits in a captive, she said.

Vermont regulators are hopeful that a report issued by the U.S. Government Accountability Office in September will lead to uniform standards in the regulation of risk retention groups and eliminate some of the headaches of overseeing companies licensed in other states.

Vermont has licensed 77 RRGs, which are multiple-owner captives that are allowed under the federal law that authorized them to provide coverage to policyholders in any state after meeting the licensing requirements of one state.

The 120-page GAO report, which was requested by Rep. Mike Oxley, R-Ohio, recommends that states and the National Assn. of Insurance Commissioners adopt a set of uniform regulatory standards for RRGs.

The report pointed out, among other things, that widely varying state regulations allow capitalization and financial reporting under less-than-stringent laws in some states, and some domiciles "may be

relaxing chartering or other requirements to attract RRGs."

"I thought it was a very good report with a lot of good recommendations," said Mr. Crouse. "My question is, when is Congress going to take a look at this, and, if they're going to do anything, when are they going to do it? I just hope this doesn't sit up there for a number of years without any action."

Mr. Crouse said he believes there "have to be some uniform standards in this business," because, as it stands, states have no authority to keep out risk retention groups that regulators believe to have been organized under weak laws. "Why should states have to take something that their laws don't accept?" he asked.

"Existing risk retention groups are looking at that very carefully, considering the domicile that they're in and how those suggestions might impact them," Julie Boucher, managing director at Marsh Management Services Inc. in Burlington, said of the GAO report. But formations are not halting from a fear of tightened regulations, she said, because insurance needs in many cases are driving the decisions to set up RRGs.

The report has caused some domiciles to rethink their licensing procedures, according to Ms. Gray of Aon. "I think we've seen the effect of the GAO report in some of these domiciles, because it is taking longer to license risk retention groups," she said, as regulators take a closer look at how the groups are structured.

"If you look at the number of risk retention groups that were formed last year, the numbers are down," said Ms. Gray. "I think that is a result of the GAO report."

The Vermont Captive Insurance Assn. is a strong supporter of uniform regulations for RRGs, said Molly Lambert, president of the Burlington-based group, while "at the same time, appreciating that risk retention groups are not traditional insurance companies" and should not be regulated as such.

"They are part of the alternative infrastructure," Ms. Lambert said of RRGs, "and it is very important to understand their unique structures and regulate them accordingly."



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Guernsey considering incorporated cell units

By SARAH VEYSEY

ST. PETER PORT, Guernsey—The U.K. crown dependency of Guernsey is set to introduce legislation that would pave the way for so-called "incorporated cell companies," a version of the protected cell company structure first introduced on the island in 1997.

Guernsey is likely to introduce legislation shortly that would allow the creation of ICCs, a type of structure similar to a PCC but within which each cell is a separately incorporated company with its own legal identity.

Cells within an ICC structure would be able to contract among themselves, which PCC cells currently cannot do, and eventually could be floated as independent companies should their owners wish to do so, captive experts in Guernsey say.

Guernsey's Channel Islands neighbor, Jersey, introduced ICC rules earlier this year, and Guernsey will introduce similar legislation as quickly as possible, so that captives and investment funds may have the ICC structure "in their tool kit," according to Peter Niven, chief executive of Guernsey Finance and director of the finance sector development unit of the States of Guernsey.

Guernsey currently is reviewing its PCC legislation and the new rules introduced in Jersey, said Merise Wheatley, managing director of Heath Lambert Insurance Management (Guernsey) Ltd. and incoming chair of the Guernsey Insurance Co. Management Assn.

Legislation likely will be enacted "in the next few weeks" that will enable companies to set up ICCs, according to a spokesman for the Guernsey Financial Services Commission, the island's financial services regulator.

"A particular advantage of an ICC would be for rent-a-captive or association-type structures where the individual members would have their own incorporated cells and where the structure does not rely on having recourse to any core capital support," the spokesman said.

Mr. Niven said that ICCs are intended not to replace the PCC structure but to provide another option for captive managers setting up captive operations on behalf of risk managers.

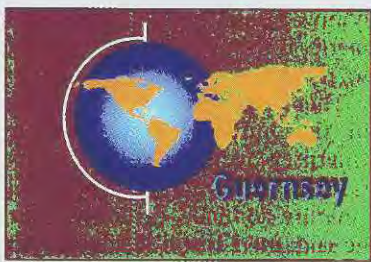
The ICC structure will be "a useful concept," according to Geoffrey Allez, a partner at the St. Peter Port, Guernsey-based law firm of Babbe Le Pelley Tostevin. While Mr. Allez acknowledged that the PCC structure remains robust, he noted that no cell within a PCC can contract with another cell within the same PCC because the cells must be segregated.

If, for example, a company were to have several cells within the same PCC, there might exist instances in which it would want to contract between the cells but be unable to do so, said Chris Le Conte, managing director of Aon Insurance Managers in Guernsey,

Gibraltar and Malta. But because each cell within an ICC would be "a mini-company in its own right," though, their owner would be able to contract between cells, Mr. Le Conte explained.

Captive managers also stress that ICCs are not expected to replace PCCs but that some owners of cells within PCC structures might wish to convert their cells into incorporated cells.

Another change expected in Guernsey later this year is a parliamentary vote to introduce a 0% rate of corporation tax for all



companies in Guernsey. This rate would replace the current tax exemption available to companies with non-Guernsey-based parents setting up on the island, for which such companies have paid

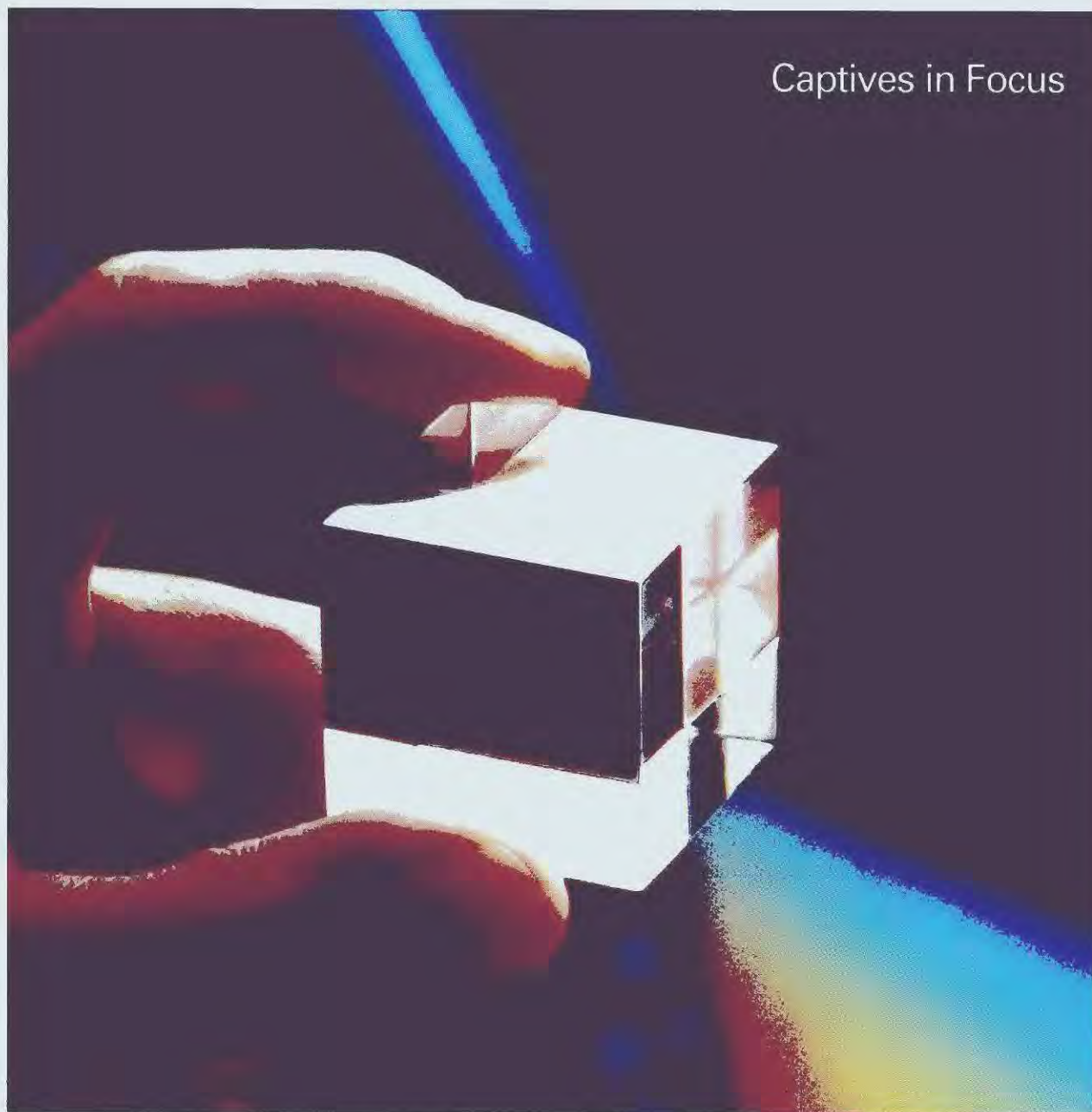
an annual fee of £600 (\$1,047). Currently, companies with Guernsey parents must pay a variety of corporation taxes based on such factors as income and facilities.

In 2002, Guernsey was removed from a list of 35 potential "uncooperative tax havens" compiled by the Organization for Economic Cooperation & Development, after pledging to improve the transparency of its tax regime. And after subsequent scrutiny from the European Union—of which Guernsey, though a U.K. crown dependency, is not a mem-

ber—Guernsey entered into discussions with interested parties about a potential change to its tax regime for corporations, explained GICMA's Ms. Wheatley.

The European Union had expressed concerns that Guernsey's lack of a corporation tax for non-Guernsey entities seeking to set up companies on the island might potentially divert business away from other jurisdictions that do have corporation taxes, she explained. As a result, GICMA and

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Captives in Focus

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Guernsey: Considering approval of incorporated cell companies

Continued from previous page
other interested parties have been involved in discussions with Guernsey authorities about a new system.
The Parliament will vote in June or July on a 0% corporation tax rate for all companies in Guernsey, including those headquartered on the island, she noted, and the new regime likely will come into force in 2008.
GICMA wanted to ensure that any changes to the tax system would not be viewed as disadvantageous to captive owners, said Ms. Wheatley, and the organization is pleased that a 0% corporation tax appears likely to be introduced.
Other captive domiciles such as Bermuda and the Isle of Man have 0% corporation tax regimes, noted Aon's Mr. Le Conte, so the introduction of a similar system in Guernsey likely would prevent the "leakage" of captives to other domiciles and not deter new captives from forming on the island, he said.
The expected change in taxation rules probably would have no noticeable effect on captives, because they mostly pay no tax anyway, said John Copeland, managing director of Marsh Management Services Guernsey Ltd.
The shortfall that would result from removing the corporation tax for Guernsey-parented entities likely would be recovered via social

taxes or sales taxes, sources say.
But while higher social taxes mean that employers in Guernsey—such as captive managers—might face increased costs, it is not likely that the increase would significantly affect captive managers, provided "that is kept within bounds," said Richard Bates, managing director of Thomas Miller Risk Management (Guernsey) Ltd.
Aside from these upcoming changes, captive managers in Guernsey are looking at new ways to attract business to the island, particularly from small to midsize companies.
Captive numbers in Guernsey remained virtually static in 2005. There were 382 captives and protected cell companies registered in Guernsey in 2005, up from a restated 379 in 2004. Of those 382 companies, 315 were traditional captives and 67 were protected cell companies comprising 239 cells, according to figures from the insurance department of the GFSC.
Figures for the total premium volume written by captives during 2005 are not yet available, but in 2004 the total premium volume written was £3.3 billion (\$6.32 billion), compared with £2.5 billion (\$4.46 billion) in 2003, according to the GFSC.
Guernsey's captive market is now fairly mature, captive managers say,

and most of its biggest target group—large U.K. companies—likely now has set up captive arrangements if they had intended to do so, they note.
There hasn't been huge growth in the numbers of captives in Guernsey over the past few years, said Mr. Le Conte, because it is a "mature domicile, certainly." But, he said, there is still steady growth, and he noted that Aon added six new captives last year.
Because Guernsey is a "mature domicile," it is not likely to see the rapid growth in captive numbers such as it experienced during the 1990s, Marsh's Mr. Copeland said. But any growth is likely to come from within "the next tier" below the FTSE100 companies, the United Kingdom's 100 largest publicly listed companies, he said.

"The real potential (for captive growth) lies with small-to-medium enterprises and collective" plans, said Thomas Miller's Mr. Bates.
To this end, GICMA has forged links with the London-based British Insurance Brokers' Assn., explained Ms. Wheatley. The captive managers' association will attend BIBA's annual conference and also run workshops to educate smaller and regional U.K. insurance brokers about the benefits of captives, she said.
One area in which there is interest in new uses of captives is in environmental cleanup liability, said Shaun Brook, a director at Willis Management (Guernsey) Ltd. Unforeseen pollution typically is excluded from standard insurance policies, Mr. Brook said,

and risk managers who are concerned about increasing pressure from the European Union on companies to clean up environmental damage are looking for ways to mitigate against potential liabilities, he said.
Captives, which are suited to long-term liabilities, can be one mechanism for achieving this, he said.
Another exposure some captive owners are exploring putting through their captives is product recall coverage, said Mr. Brook. While insurance coverage is available for such risks, it is generally expensive, he noted, and companies are looking to use self-insurance mechanisms as a way to protect themselves and their shareholders against the cost of product recalls.

Largest managers of Guernsey captives

Ranked by gross premium volume in millions of dollars

Manager	Premium volume		Captives	
	2005	2004	2005	2004
Aon Insurance Managers (Guernsey) Ltd.	\$3,000.0	\$5,060.0	203	191
Marsh Management Services (Guernsey) Ltd.	806.0	963.0	67	68
Willis Management (Guernsey) Ltd.	390.0	300.0	51	51
Heath Lambert Insurance Management (Guernsey) Ltd.	222.0	294.0	19	22
JLT Risk Solutions (Guernsey) Ltd.	147.0	144.0	17	17

Source: BLSurvey

Growth in exempt companies slows in Barbados

By GLORIA GONZALEZ

BRIDGETOWN, Barbados—Captive growth in Barbados in 2005 was sluggish due to a softening insurance market, fierce competition from other domiciles and companies restructuring their captives.
In 2004, Barbados added to its rolls 11 new entities that it calls "exempt companies," which includes both captives and noncaptives. The total number of exempt companies registered at the end of 2005 was 439, according to Carlos Belgrave, the domicile's supervisor of insurance. The domicile previously re-

ported it had 426 exempt companies at the end of 2004 but has since



revised that figure up by two companies to 428 at year-end 2004.
Business Insurance estimates that about 40% of the exempt companies are commercial insurers or rein-

surers formed to write third-party business. This would leave an estimated 263 captive insurers as exempt companies at year-end 2005, up from an estimated 257 at the end of 2004.
The number of exempt companies being formed has declined from 15 in 2004 because many Canadian companies are opting to restructure or license themselves as "qualifying insurance companies" rather than as exempt companies, managers say.
Barbados now has 55 QICs, 45 of which have Canadian parents. "It seems to be popular among our Canadian investors," Mr. Belgrave

said. *Business Insurance* estimates about 70% of QICs are captives, which would give a total 2005 captive count for the domicile of 301, compared with 290 in 2004.
Canadian companies are licensing themselves as QICs in response to the uncertainty surrounding the renegotiation of the Canada-Barbados tax treaty of 1980, which has been under discussion since 1997. Canada requires captives to be Barbados "residents" to qualify for certain tax benefits, so Barbados has allowed companies to opt to be licensed as domestic qualifying insurance companies rather than exempt companies. While domestic insurers are subject to a 40% income tax rate, Canadian-owned qualifying insurers can use foreign currency tax credits to reduce this rate to the low single digits.

been a pretty slow year in terms of incorporations for the island," said Nicholas Crichtlow, senior vp for Bridgetown, Barbados-based Marsh Management Services (Barbados) Ltd.
"I think the numbers were about what we expected, given all the things that have been happening. ... 2005 wasn't too bad. But I would say the competition is really intense."

Carlos Belgrave
Office of the Supervisor of Insurance

"I think the numbers were about what we expected, given all the things that have been happening," Mr. Belgrave said. "2005 wasn't too bad. But I would say the competition is really intense."
Managers blamed the softening commercial insurance market for the sluggish captive growth. "I think 2005 globally was expected to be a more difficult year than 2004 in terms of captive growth," said Winston Hampden, managing director of Aon Insurance Managers (Barbados) Ltd.
But the managers also hope that

continued to use Barbados as a domicile in expectation that Canadian tax authorities will officially accept the QIC structure. Nonetheless, uncertainty about the treaty remains, observers say.
"The jury is still out as far as changing it to that type of company," said Ricardo Knight, president of St. James, Barbados-based The Townier Management Group. "We don't know how that's going to play out."
The total number of new companies licensing themselves as either exempt or qualifying insurance companies in Barbados in 2005 was 19, down from 28 in 2004, 24 in 2003 and 22 in 2002. "I think 2005 has

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Barbados: Domicile boosts its marketing effort aimed at the U.S.

Continued from previous page

the government's marketing efforts will trigger a wave of new business from the U.S. market. The government has committed to promoting Barbados as a strong offshore domicile with advantages over other domiciles, including a network of tax treaties and lower startup and maintenance costs.

"I think we are still going to be expecting there will be additional opportunities out of Canada, and we are also hoping that with the emphasis that the government is pushing with respect to marketing that we will be able to see some growth out of the U.S. as well," Mr. Crichtlow said. "I think that we have been unable to gain as much out of the U.S. as we would otherwise have liked to. Therefore, until we can tap more into that market, our growth certainly will not be comparable to the growth that you may see from other jurisdictions."

The Office of the Supervisor of Insurance plans to accelerate these marketing efforts by examining their current companies to see what lines of business they are writing, identifying the most popular line of business and promoting the advantages of setting up a captive to write that particular line of business.

Barbados expects at least 15 new companies to be formed in the domicile this year, Mr. Belgrave said.

"We may not have the numbers, but the contact is there," he said. "We believe, in time, we will have a bigger share of the market."

One issue that may affect captive development is whether last year's hurricane-related losses eventually reverse the softening of the commercial insurance market.

"Depending on what happens in 2006, that could trigger another hard market," Mr. Hampden said. "We're hopeful that maybe the market is not going to be softening as much as initially anticipated...given what has happened in the hurricane season. So my outlook would be cautious optimism."

Largest managers of Barbados captives

Ranked by gross premium volume in millions of dollars

Manager	Premium volume		Captives	
	2005	2004	2005	2004
Marsh Management Services (Barbados) Ltd.	\$1,000.0	\$1,000.0	33	33
Aon Insurance Managers (Barbados) Ltd.	260.0	258.0	46	46
Towner Risk Management Ltd.	232.7	192.0	15	16
IAS (Barbados) Ltd.	215.0	271.0	10	10
American International Management Co. (Barbados) Ltd.	11.6	51.4	2	3
Meadowbrook Risk Management Ltd.	8.5	10.0	5	5

Source: BI survey

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BVI managers reorganize in push for growth

By JOANNE WOJCIC

TORTOLA, British Virgin Islands—Following last year's record growth, the British Virgin Islands is continuing to hold its own as one of the world's leading captive domiciles.

BVI's director of insurance, Michael Oliver, said in an e-mail that "both the number of new licenses issued and those that were not renewed in 2005 were in line with numbers for the prior year. In 2004, 67 new licenses were issued, with 30 licenses not being renewed. That left a total of 346 licensed insurers" at Dec. 31, 2004. BVI doesn't have final captive figures for 2005, but *Business Insurance* estimates that the domicile had a total of 383 captives in 2005.

The BVI Insurance Assn., reorganized into a more formal structure, is expected to shore up the domicile's ability to attract new business, captive managers say.

And the growth is expected to

continue despite some concerns over a provision in the new BVI Business Companies Act that some say may require compliance officers to become residents.

"There have been a lot of changes here, with new people coming to the island," said Simon Owen, president of the BVI Insurance Assn.

This new blood is bringing with it "a diverse group of captives writing different classes of business," including construction and aviation, he added.

And although BVI traditionally has attracted small and midsize captives, "larger companies are coming through more and more," said Mr. Owen, who is the insurance manager of Belmont Insurance Management, which manages about 70 BVI captives.

USA Risk Group (BVI) Inc. added "close to a dozen" new captives in 2005, all with U.S.-based parents, according to Stuart Grayston, president. Among the risks the new cap-

tives will write are medical malpractice and transportation, he said.



Though the Cayman Islands has a reputation for being the domicile of choice for medical malpractice captives, "sometimes the smaller groups don't have to go to a place like Cayman," Mr. Grayston said. "They're a little more expensive, and we've found the BVI to be a good little domicile for the smaller business we do."

Altogether, USA Risk Group manages 60 captives in BVI.

AMS Insurance Management Services Ltd. also added about a dozen

new captives during 2005, according to Derek Lloyd, director. All of the new formations, whose parents are mostly from the Caribbean, were single-parent captives, and one was a conversion into a segregated portfolio company, which were permitted under amendments to the 1994 BVI Business Companies Act. They generally will write professional liability-based business, Mr. Lloyd said.

Mr. Lloyd was among the captive managers that were involved in reorganizing the BVI Insurance Assn. to create a more formalized structure that is expected to attract even more captive business.

"We're definitely trying to move one or two things forward. It's been formally constituted. There have been membership fees paid. We had our first meeting with the Financial Services Commission a couple of weeks ago," he said, adding that "there are a couple of 'hot potato topics' on the agenda

right now."

The topic of greatest concern is the interpretation of the residency requirement for compliance officers in the new BVI Business Companies Act 2004, which will eventually replace the existing International Business Companies Act that regulates international businesses in the BVI.

"I'm not sure it's well thought out with regards to insurance companies," Mr. Lloyd said.

Though the BC Act was enacted on Jan. 1, 2005, the legislation provides for a two-year transition period during which all new companies incorporated after Jan. 1, 2006, will be registered under the new law. Existing captives may continue to operate under the old law or re-register under the new legislation, but, regardless of whether they re-register during 2006, all captives will be automatically re-registered as Business Companies under the new act on Jan. 1, 2007.

Luxembourg totals shrink as competition increases

List of rival E.U. domiciles expands

By CAROLYN ALDRED

LUXEMBOURG—The number of captives licensed in the small European state of Luxembourg declined last year, to 208 from 219, due to competition from other domiciles, as well as changes in the business world.

For many years, Luxembourg was the only European Union country marketing itself as a captive domicile. The big push by Dublin, Ireland, to attract reinsurance and captive business in the 1990s changed that, and newer domiciles, such as Malta, also have increased the competitive pressures on Luxembourg.

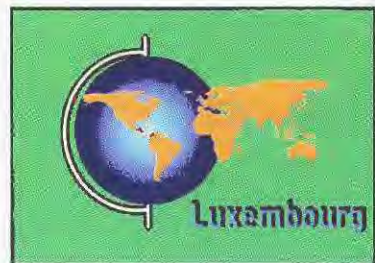
Many of Luxembourg's captive parent companies are based in continental Europe, and countries such as France and Spain continue to be the main source of business for the land-locked country.

In the past, most captives set up in Luxembourg were effectively reinsurance captives, requiring a fronting insurer. But the increasing difficulty of finding insurers willing to front captives has made the authorities more prepared to license direct captives, said a spokeswoman for the Commissariat aux Assurances.

"We look at each captive proposal on a case-by-case basis," she said, noting that it has not been necessary to alter any legislation to accommodate direct-writing captives. "We are not actively marketing Luxembourg as a direct-writing captive domicile, but we now are more prepared to accept a captive without a fronting company," the

spokeswoman said.

"During the last 18 months,



there has been a more-favorable approach to direct captives establishing themselves here. That is helpful in encouraging business to Luxembourg," said Frederick Gabriel, senior vp at Marsh Management Services (Luxembourg) S.A.

Marsh has "had a good year in Luxembourg," with the formation of three new captives by parents based in France, Spain and Luxembourg itself, according to Mr. Gabriel.

He puts the fall in Luxembourg's total captive count—its first ever—to a number of factors. For example, several captive sponsors have merged or been acquired, which, in turn, has led to a restructuring or rethinking of their captive requirements. Other companies, meanwhile, have found that their long-established captives have come to the end of their usefulness, he said.

A number of captive parents with several captives in Luxembourg consolidated their captives, which contributed to the decline in total numbers, agreed Lambert Schroeder, managing director

of Aon Insurance Managers (Luxembourg) S.A.

Nonetheless, Luxembourg is still seeing new captives being formed, particularly from French and German parent companies, he said.

Mr. Schroeder said he does not believe that newer European captive domiciles such as Malta and Gibraltar will threaten Luxembourg's position.

"There is room for growth in Europe, and the increase in competition will benefit the captive industry," he said.

Mr. Gabriel also predicted continued growth in European captive formation, particularly by companies based in the Eastern European countries that have recently joined the European Union.

Meanwhile, Luxembourg's authorities are starting to assess what changes may be needed in national legislation to fulfill the requirements of the new E.U. reinsurance directive. All E.U. member states have to adopt the directive by 2007.

"As our current laws comply with existing E.U. direct insurance supervision, we do not foresee any great changes," the spokeswoman for the Commissariat aux Assurances said, adding, though, that solvency requirements may have to be slightly altered.

Any changes are unlikely to affect Luxembourg's captive management community dramatically, she said.

Mr. Gabriel agreed, pointing out that most of the reinsurance directive's regulations, such as a minimum capital requirement of 1 million (\$1.2 million), are in line with existing Luxembourg regulations.

Dublin managers readying for law to mandate funds for reinsurers

By SARAH VEYSEY

DUBLIN, Ireland—Captive managers and regulators in Dublin are gearing up for the implementation of the European Union's reinsurance directive, which will in-



troduce the regulation of reinsurance captives when it is passed into Irish legislation in the coming months.

Ireland likely will be one of the first E.U. member states to adopt the directive when it passes a bill that incorporates the directive into Irish law; a final version of the bill is expected to be published for public consultation within the next month, sources say.

All 25 member states must adopt the directive by 2007 and then be subject to a one-year transition period before the directive becomes fully operational across the European Union in 2008.

The introduction of the directive in Ireland will mean that, in addition to the €635,000 (\$753,618) of share capital that each captive in Dublin must hold, a reinsurance

captive will have to maintain a minimum guaranty fund of €3 million (\$3.6 million).

The European Union's reinsurance directive defines a reinsurance captive as "a reinsurance undertaking owned either by a financial undertaking other than an insurance undertaking or a group of insurance or reinsurance undertakings" or "by a nonfinancial undertaking, the purpose of which is to provide reinsurance cover exclusively to the risks of the undertaking or undertakings of the group of which the captive reinsurance undertaking makes part."

The Irish Financial Services Regulatory Authority is eager for the directive to be introduced swiftly in Ireland, because reinsurance has not previously been specifically regulated in the domicile, according to Alex Tully of the IFSRA reinsurance department.

Ireland's regulator has been looking for some time at introducing reinsurance regulation and was actively involved in consultation on the E.U. reinsurance directive, as well as on the development of the International Assn. of Insurance Supervisors' standards on finite reinsurance, among other things, Mr. Tully noted.

The bill needed to enact the directive into Irish law likely will be in place well before the summer, predicted Frank Brosnan, deputy

Turks & Caicos to add protected cell captives

By DOUGLAS MCLEOD

GRAND TURK, Turks & Caicos Islands—The Turks & Caicos captive industry expanded slowly last



year, adding 11 new insurers.

At the same time, nine licensed captives ceased doing business, leaving the domicile with a net gain of two insurers and a total of 166 licensed captives at year-end, according to Albert P. Smith, the Turks & Caicos insurance superintendent.

A number of the new captives were formed to write liability risks for nursing homes, Mr. Smith reported. The domicile expects similar steady growth in its captive numbers for 2006, he said.

Last year's captive total does not

include the more than 2,000 credit life reinsurers that represent the main part of the domicile's offshore insurance sector.

The Turks & Caicos government has been considering new legislation that would allow the formation of protected cell companies, Mr. Smith confirmed. Although the proposal was tabled before the islands' legislative council last year, it is expected to be passed early this year, he said.

While the Turks & Caicos captive sector has grown slowly, its bread and butter business continues to be producer-owned reinsurance companies, often formed by lenders and retailers to write reinsure credit life policies covering their customers.

Several U.S. financial institutions and retailers have Turks & Caicos-based reinsurance subsidiaries, including York, Pa.-based Bon Ton Stores Inc.; AmSouth Bancorp. of Birmingham, Ala.; Cincinnati-based Fifth Third Bancorp.; and First Financial Corp. of Terre Haute, Ind., according to U.S. Securities and Exchange Commission filings.

Growth is slow in Isle of Man

By CAROLYN ALDRED

DOUGLAS, Isle of Man—The consolidation of captive parents and the redomestication to other domiciles of several captives have led to a decrease in the number of captive insurance companies in the Isle of Man.

At the end of 2005, 165 captive insurance companies were licensed, compared with 175 at the end of 2004, according to the Isle of Man Insurance & Pensions Authority.

The decrease follows several years of slow growth in captive formation on the island, located in the Irish Sea between Ireland and Great Britain.

Traditionally, many of the parents of Isle of Man captives have been companies based in the United Kingdom; the island has in the past also attracted captives from South African-based companies and Eastern European countries such as Russia. Its position outside of the European Union, though, often makes it less attractive to E.U.-based companies than established E.U. domiciles such as Dublin and Luxembourg or even newer E.U.-based captive domiciles

such as Malta.

David Vick, the island's insurance supervisor, confirmed that organizations in the United Kingdom remain the island's main provider of captives, although "this is gradually diversifying," he acknowledged.

Insurance market conditions "continue to be positive" for the formation of captives, said Mr. Vick,



who predicted a "gradual rise in numbers" in future years. "Our experience has been similar to our closest competitor jurisdictions in that we are still seeing new companies being formed but some longstanding existing companies are dormant or winding up," he explained.

According to Mike Henthorn, managing director of Aon Insurance

Managers (Isle of Man) Ltd., "our book of business in the Isle of Man has remained fairly solid. We are still seeing plenty of inquiries, despite increasing competition from newer domiciles such as Gibraltar and Malta."

"The Isle of Man has an established captive management structure with professional support from banks, accountants and lawyers used to captives," stressed Mr. Henthorn, who added that the Isle of Man is recognized as a well-managed offshore domicile.

Legislation is currently before the Manx government that would make it easier for companies that have merged to combine or redomesticate their captives to the Isle of Man. The new legislation should go into effect by the middle of the year, according to a spokesman for the IPA.

"The legislation will allow the more straightforward amalgamation of two or more insurers and will also extend the categories of companies that may redomicile

See ISLE OF MAN / next page

Dublin: Preparing for E.U. directive

Continued from previous page

head of nonlife insurance at IFSRA.

The captive insurance industry has been in regular discussions with the regulator about reinsurance regulation and the potential impact of the directive on captive companies in Dublin, said Sarah Goddard, chief executive of the Dublin International Insurance & Management Assn. Ltd.

When the decision was made that Ireland would opt for "accelerated transposition" of the directive, the association and the regulator agreed to have ongoing dialogues about the impact that regulation could have, Ms. Goddard noted.

Captive managers are now waiting to see what form the directive takes when translated into Irish regulation.

"It probably won't affect most of our captive owners" to any great degree, predicted Ian Clancy, managing director of Marsh Management Services (Dublin) Ltd. "I don't think we'll lose existing reinsurance captives as a result" of the implementation of the directive, he said.

But the implementation of the directive is "a matter of getting the balance right between being well regulated and remaining competitive," Mr. Clancy said. It will be interesting to note how other E.U.-based captive domiciles implement the directive, he said.

Because of an increased focus on corporate governance and compliance, most clients want their captive domiciles to be well regulated, Mr. Clancy noted. "But when people are looking at captives, they do a cost-benefit analysis" and compare various domiciles, "and we need to get the balance right" between a prudent regulatory regime and one that promotes business, he said.

Garry Cullen, managing director of Aon Insurance Managers (Dublin) Ltd., said that, in the wake of large corporate scandals such as the collapse of Enron Corp., it is important for captive domiciles to be able to demonstrate that they are well run—particularly because Dublin seeks to attract large European and Fortune 500 multinational

parent companies.

In 2005, the number of captives in Dublin dropped to 207, down from 214 at the end of 2004. This drop was largely due to a number of captives that were inactive and in runoff completing that process during 2005, said IFSRA's Mr. Brosnan.

During 2005, most owners employed their captives for "traditional uses," such as property and casualty business, noted Mr. Clancy.

There has not been "a huge amount of aggressive use of captives" for employee benefits, confirmed Mr. Clancy. This is probably because labor laws across the European Union—where many of Dublin's captive owners are located—have still not been harmonized and state benefit systems are at varied stages across the continent, he said. "So, though it is something people are looking at and gearing up to, (they are) not doing too much at the moment," Mr. Clancy said.

Aon has some multinational clients that are writing employee benefits business through captives, and there is "a strong interest in it," noted Mr. Cullen. Large cost savings can be derived from writing multinational group benefits business via captives, he said, and this is something some clients are exploring.

Another area where Aon is seeing interest in captive use is for pan-European motor business written on a direct basis, noted Mr. Cullen. Companies that operate fleets of thousands of cars across Europe can achieve costs savings by putting that insurance through their captives, and Dublin can "direct-write" across Europe, he said.

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Largest managers of Dublin's captives

Ranked by gross premium volume in millions of dollars

Manager	Premium volume		Captives	
	2005	2004	2005	2004
Aon Insurance Managers (Ireland)	\$1,585.0	\$2,845.0	98	93
Marsh Management Services (Dublin) Ltd.	890	999.0	71	67
Willis Management (Dublin) Ltd.	245	220.0	17	17
AIG Insurance Management Services (Ireland) Ltd.	72	130.6	17	17

Source: BI Survey

Isle of Man: Slow growth in domicile

Continued from page 27

to the Isle of Man to include insurers other than captives," said Mr. Vick.

The legislation "would be another tool in our armory. Acquisitions and takeovers among captive parents often result in a company" wishing to consolidate its captives, said Roger Hara, underwriting manager for Willis Management (Isle of Man) Ltd.

Current redomestication legislation is restricted to companies writing only related business and not third-party business.

"We are seeing a number of companies who now have multiple insurance companies within their group wishing to rationalize them. This new legislation will help to put us on an equal footing to other domiciles" such as Guernsey and Bermuda, which already have such legislation, said Derek Patience, manager for Marsh Management Services (Isle of Man) Ltd.

Willis' Mr. Hara noted several factors that have made the Isle of Man an attractive domicile for captive sponsors, including capitalization requirements that are more liberal—especially for smaller captives—than some other domiciles. Additionally, the Isle of Man has a zero-rate tax structure and has a very flexible business environment, he said.

Competition cited for slowdown in Hawaii

By ROBERTO CENICEROS

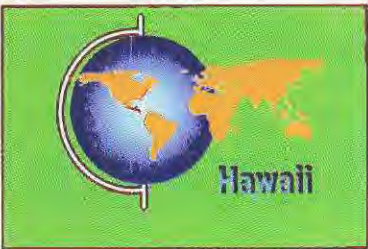
HONOLULU—Captive growth in Hawaii slowed last year, with the Aloha State claiming 158 licensed facilities at the end of 2005, up from 147 the prior year.

Hawaii licensed 18 captives last year, but the domicile also lost seven, according to Craig Watanabe, captive insurance administrator for the state's Insurance Division. By contrast, Hawaii licensed a record 30 captives in 2004.

Observers cite softening in the overall insurance market and competition from new domestic domiciles as reasons for the slower growth.

"There are a lot of options out there, and Hawaii is fighting for business just like other domiciles," said Jason Palmer, managing director for Willis Management (Hawaii) Ltd. in Honolulu.

The Western territory office of the Salvation Army is among the entities that formed Hawaii captives in 2005. It created Crestmont Insurance Co to formalize the Western region's large self-insured retention arrangements and manage about \$30 million in annual losses, including California workers compensation claims, explained John McCarthy, director of risk management in Long Beach, Calif., for the Western region. The Honolulu-based not-for-profit captive writes a variety of property and casualty



coverages.

Even before forming Crestmont, the Salvation Army charged its operating divisions for their losses. But the captive will help the Western territory's risk management department to base the rates of its operating divisions on their long-term loss experience. Once the captive reaches a certain funding level,

the Salvation Army can decide whether to reduce the premiums paid by the divisions or give them dividends.

Honolulu-based Marsh Management Services Inc., which manages Crestmont and is by far the state's largest captive manager, saw the number of captives under its management decline in 2005, dropping to 58 from 63 a year earlier.

The drop in the number of facilities under the firm's management can be traced to the growth of new Hawaii managers in recent years, which provides captive owners with more options, said Denys Kazama, senior vp for Marsh in Hawaii.

But Ms. Kazama stressed that Marsh currently has more potential clients considering Hawaii formations than it did at this time last year.

Other domicile changes for 2005 included the extension of the interval between captive examinations by the Captive Insurance Branch of the Hawaii Insurance Division to every five years, from every three years, for certain facilities that meet the insurance commissioner's approval; the establishment of a new captive manager, Honolulu-based Alliance Captive Insurance Services L.L.C.; and the passage of legislation that dedicates captive taxes and fees to the operation of the Captive Insurance Branch.

Largest managers of Hawaii captives

Ranked by gross premium volume in millions of dollars

Managers	Premium volume		Captives	
	2005	2004	2005	2004
Marsh Management Services Inc	\$810	\$1,100	58	63
Beecher Carlson (Hawaii)	\$322	277	37	34
Aon Insurance Managers (Hawaii) Inc.	\$241	176	17	15
Willis Management (Hawaii) Ltd.	\$150	184	15	13
Arthur J. Gallagher Captive Services Hawaii	\$59	46.5	12	6
AIG Insurance Management Services Inc.	\$55	55.9	10	8

Source: BI surveys, insurance department reports

South Carolina regulator says market maturing

By SALLY ROBERTS

COLUMBIA, S.C.—South Carolina's young captive insurance industry attracted 21 new insurers in 2005, further enhancing the state's status as a viable alternative to more established domiciles.

At the end of 2005, just five years after passing the necessary legislation, South Carolina was home to 122 captive insurers, making the state the third largest domestic domicile.

Premium volume generated by the captives in 2005 has yet to be tallied, but in 2004 the 106 captives in the state generated \$243.0 million in direct written premiums, more than double compared with 2003.

"I think it was a successful year for us; it was a continued year of growth and maturation," said Jeffrey Kehler, program manager for the alternative risk transfer services division of the South Carolina Department of Insurance in Columbia. "2006 is only the sixth year that South Carolina has been in the captive business...and it's continuing to make progress," he said.

And the stage is set for further growth and development as it continues to grow its dedicated captive staff, he noted.

Mr. Kehler, a former senior account executive with Liberty Mutual Alternative Markets in Chicago, joined the insurance department

last November to oversee the captive market.

"Captives can be complex and sometimes difficult to understand, and having a dedicated captive unit here that understands captives and works with them every day goes a long way to not only lending credibility for South Carolina as a captive domicile but also by bringing expertise to the table," Mr. Kehler said.

While the state continues to attract a variety of captives from all over the country, growth in 2005 was down significantly from 2004, when the domicile licensed 47 new captive insurers. Nowhere was that more apparent than with risk retention group formations.

As a relatively new domicile,



South Carolina has targeted RRGs as an opportunity for expansion and has attracted a number of physician groups and hospital networks as a result of the medical malpractice crisis.

But while South Carolina has licensed 49 RRGs since 2000, it licensed only one in 2005.

Paul Newton, vp and manager with USA Risk Group of South Carolina in Charleston, attributes the

slowdown, in part, to the response to a report last fall by the U.S. Government Accountability Office that recommended new regulatory controls over RRGs.

In addition to that "wait-and-see" mentality, the slowdown was a natural winding down from the previous few years, which had been very busy with RRG formations, Mr. Newton said.

But John J. O'Brien, vp and director of client service for Wilmington Trust Captive Management Services in Charleston, said the slowdown may be an indicator of South Carolina's evolution into a more established domicile.

"We might move away from RRGs into more pure captives as our domicile matures," he said.

Fifty-seven of the state's 122 cap-

tives are pure captives, including eight new ones in 2005.

"The medical crisis is not as severe as it used to be, so I think we'll get more into property-type risks," Mr. O'Brien predicted. "I think we'll continue with RRGs, but perhaps they will be a little more sophisticated."

Captive managers also look to continued growth in special-purpose financial captives, noting that the domicile is gaining a reputation for its securitization deals.

In 2004, South Carolina passed legislation specifically allowing for the formation of SPFCs, which so far has attracted only life insurance companies looking to securitize their excess reserves.

South Carolina added six new SPFCs in 2005, bringing its total roster to 10.

Captive managers say they expect the number of SPFCs to continue to expand and grow.

The law is not limited to life insurers, noted Robert L. Johnson, senior vp with Marsh Management Services Inc. in Charleston. "Anybody who has the ability or desire to fund risk through the issuance of equity, (an SPFC) would be a benefit for them," he said.

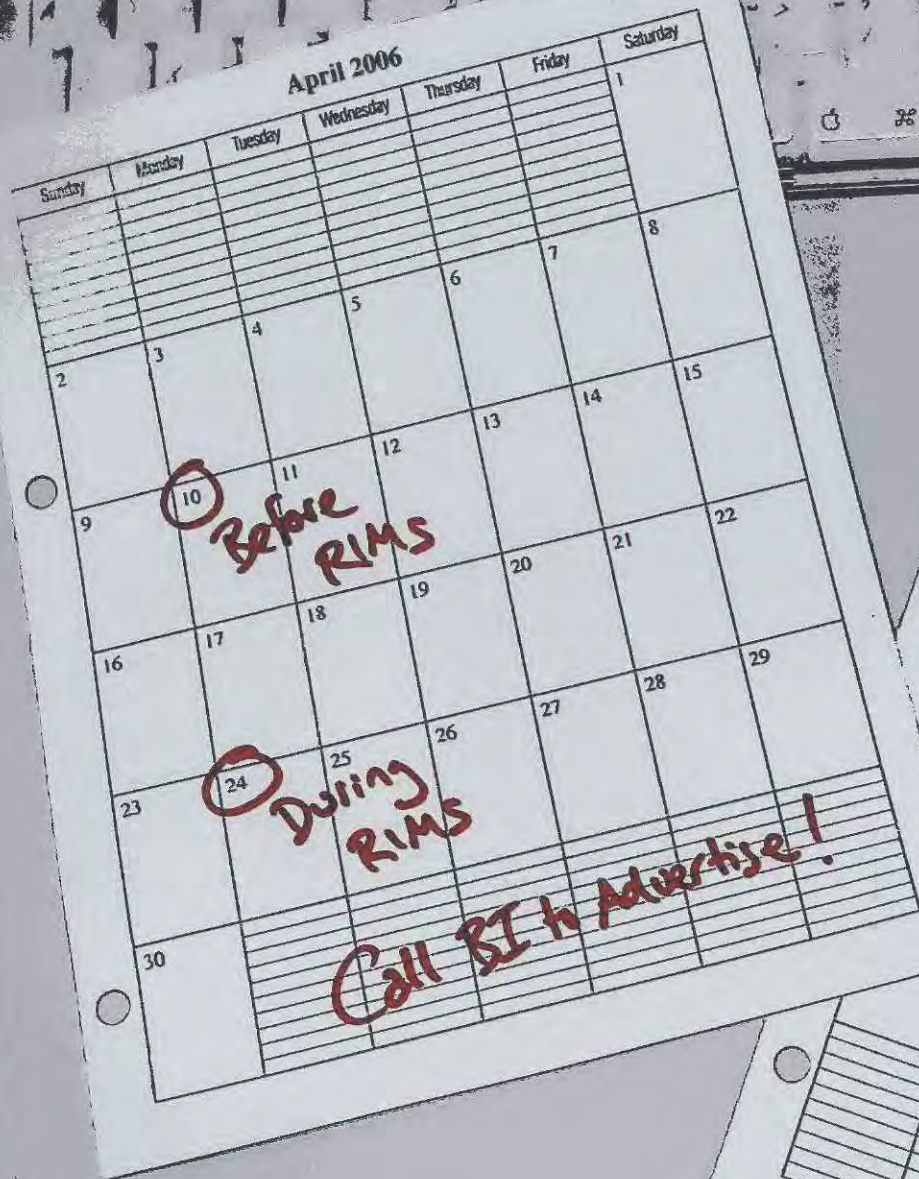
"If I were to look into my crystal ball, I'd say we'll see a lot more opportunities for pure captives...and we'll continue to see more securitization deals through special-purpose financial captives come about," Mr. Kehler said.

Largest managers of South Carolina captives

Ranked by gross premium volume in millions of dollars

Manager	Premium volume		Captives	
	2005	2004	2005 ¹	2004
Marsh Management Services (South Carolina) Inc.	\$1,575.0	\$279.7	35	31
USA Risk Group of South Carolina Inc.	101.0	128.2	31	31
Aon Insurance Managers (South Carolina)	25.0	N/A	17	71
AIG Insurance Management Services Inc.	23.2	N/A	3	12
HSBC Insurance Management (USA)	4.5	N/A	2	N/A

1 Managed in 2004 by Aon Insurance Managers (USA) Inc., Burlington, Vt. 2 Managed in 2004 by AIG Insurance Management Services Inc., Burlington, Vt.
Source: BI survey



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Directory of world captive domiciles

The following charts were developed by *Business Insurance* to help risk managers track developments and regulatory requirements in captive domiciles worldwide. The information is provided for domiciles with specific captive legislation or regulations and that are seeking to add captives; domiciles that

merely allow captive formation under existing insurance legislation or are not currently seeking to attract captives are not included.

The charts provide information on captive domiciles—listed in alphabetical order—beginning with the number of licensed captives at year-end 2005 and

2004. Those figures include the number of inactive captives registered in the domicile.

Listed next are the minimum capital and surplus for captives and premium-to-surplus requirements for each domicile, followed by application fees and annual license fees pertaining to

captive insurers. Also listed are the applicable local taxes as well as the name of the law that governs captives in the domicile and the year it was passed.

Each listing concludes with information on the domicile's regulator, including contact details for those seeking additional information.

DOMICILE	2005	2004	CAPITAL & SURPLUS	PREMIUM TO SURPLUS	FEES	TAXES	LAWS	REGULATOR
Arizona	53	39	Single-parent: \$250,000; association: \$500,000; agency: \$500,000; protected cell: \$1 million	None	\$1,000 for first year, \$5,500 annual renewal fee	None	Title 20, Chapter 4 of Arizona Revised Statutes, Article 14	Rod Morris, Captive Administrator, Arizona Department of Insurance, 2910 N. 44th St., Suite 210, Phoenix, Ariz. 85018-7269; 602-912-8420; fax: 602-912-8421
Arkansas	1	1	Pure captive: \$250,000; industrial insured: \$500,000; producer reinsurance or special-purpose: \$600,000; association: \$750,000; sponsored: \$1 million	None	\$200 application fee; \$300 annual license	\$5,000 minimum annual premium tax. Direct written premiums: 0.4% on first \$20 million, 0.3% on next \$20 million, 0.2% on next \$20 million and 0.075% thereafter. Reinsurance premiums: 0.225% on the first \$20 million, 0.15% on next \$20 million, 0.05% on next \$20 million and 0.025% thereafter	Licensing and Regulation of Captive Insurers, 2001, amended in 2003	Julie Benafield Bowman, State Insurance Commissioner, Arkansas Insurance Department, 1200 W. Third St., Little Rock, Ark. 72201-1904; 501-371-2600; fax: 501-371-2629
Bahamas	22	19	\$200,000 capital or at discretion of regulator	5-to-1	\$25 application fee; \$2,500 annual registration fee; \$1,000 company registration fee	None	The External Insurance Act, 1983. Chapter 318 as amended Dec. 24, 1996. The Subsidiary Legislation/Chapter 318 External Insurance, 1987	Roger G. Brown, Registrar of Insurance Companies, Office of the Registrar of Insurance Companies, Ministry of Financial Services and Investments, P.O. Box N-7770, Nassau, N.P. Bahamas; 242-328-1068; fax: 242-328-1070
Barbados	301*	290*	\$125,000 cash	5-to-1 net premium to surplus. Less than \$5 million in premiums: net assets of \$125,000 or 20% of premium written. More than \$5 million: net assets of \$1 million plus 10% of premiums written	\$250 application fee; \$2,500 annual license	None	Exempt insurance Act of 1983	Carlos Belgrave, Supervisor of Insurance, Ministry of Finance and Economic Affairs, Bridgetown, Barbados; 246-426-3815; fax: 246-436-2699; sofi@caribsurf.com
Bermuda	987*	1,000*	\$120,000 for Class 1 (single-parent insuring only risks of parent and affiliates); \$250,000 for Class 2 (group/association deriving no more than 20% of net premiums from unrelated companies); \$1 million for Class 3 (more than 20% from unrelated companies)	20% below \$6 million; 10% above for Class 1 and 2; 15% for Class 3	Registration fees—general business: Class 1, \$925; Class 2, \$1,575; Class 3, \$7,500. General and long-term business: \$7,500 for all classes. Annual fees: same	Company tax: minimum for Class 1 is \$3,635; minimum for Classes 2 and 3 is \$5,610	Amendments to Insurance Act 1978	Jeremy E. Cox, Supervisor of Insurance, Bermuda Monetary Authority, 26 Burnaby St., Hamilton, HM 11 Bermuda; 441-295-5278; fax: 441-278-0289
British Columbia	15	13	\$200,000 Canadian (\$171,585)	None	\$500 Canadian (\$429) application fee; \$2,500 Canadian (\$2,145) registration fee; \$2,500 Canadian annual renewal fee	30% federal income tax; 16% provincial income tax	The British Columbia Insurance (Captive Company) Act of 1987	Doug McLean, Manager of Provincial Operations, Financial Institutions Commission, 1050 W. Pender St., Suite 1000, Vancouver, British Columbia V6E 3S7 Canada; 604-953-5300

DOMICILE	2005	2004	CAPITAL & SURPLUS	PREMIUM TO SURPLUS	FEES	TAXES	LAWS	REGULATOR
British Virgin Islands	383*	346	\$100,000 for P/C captives writing up to \$500,000 in net premiums; \$250,000 for life/health captives	5-to-1 for P/C insurers writing up to \$5 million in net premiums	\$500 application fee; \$2,000 annual renewal fee; \$5,000 license fee for segregated cell companies	None	The Insurance Act, 1994. Insurance regulations, 1995. Segregated Portfolio Companies Regulation, 2005. Companies registering in 2006 will be regulated by BVI Business Companies Act, 2005.	Michael Oliver, Director of Insurance, Islands Financial Services Commission, P.O. Box 418, Road Town, Tortola, British Virgin Islands; 284-494-4190; oliverm@bvfisc.vg
Cayman Islands	733	693	\$120,000 for Class B license (most single-parent, P/C captives); \$240,000 if writing long-term coverages; \$360,000 if writing both long-term and general business	At discretion of regulator	\$8,333 annual licensing fee; special-purpose vehicles pay \$300 per cell up to \$1,500 per year	None	The Insurance Law (2003 revision)	Mary Lou Gallegos, Head of Insurance Supervision, Cayman Islands Monetary Authority, Elizabethan Square, George Town, Grand Cayman, Cayman Islands B.W.I.; 345-949-7089; fax: 345-949-2532; insurance@cimoney.com.ky
Colorado	9	10	\$500,000 capital and surplus for single-parent and group captives	Pure captives: none; group captives: 3-to-1	\$500 application fee; \$620 annual fee	Direct: greater of \$5,000 or 0.5% of first \$25 million of direct premiums written, 0.25% of next \$50 million and 0.1% thereafter. Reinsurance: 0.25% of first \$20 million in premiums and 0.1% thereafter	The Colorado Captive Insurance Act of 1972	David Rivera, Insurance Commissioner, Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colo. 80202; 303-894-7499
Delaware	5	5	Minimums: Pure captive, \$250,000; association, \$750,000; industrial, \$500,000; risk retention group, \$1 million; sponsored, \$500,000; special purpose, \$250,000	None	\$200 application fee; \$3,000 processing fee; \$300 annual fee	0.2% for direct business, with \$125,000 maximum; 0.1% for reinsurance, up to \$75,000 maximum. The minimum aggregate is \$5,000; the maximum is \$200,000	Title 18, Delaware Insurance Code, Chapter 69 (Captive Insurance Companies), 1984, 2005	Darryl Reese, Director of Company Regulations, Delaware Department of Insurance, Rehabilitation/Guaranty Division, 841 Silver Lake Blvd., Dover, Del. 19904; 302-739-4251, ext. 160; fax: 302-739-2709; darryl.reese@state.de.us
District of Columbia	59	40	Capital: \$100,000. Surplus: \$150,000 for pure captive; \$300,000 for association (stock), agency, rental; \$500,000 association (mutual) captive	None	\$500 application fee; \$300 certification fee; \$300 annual renewal fee	Direct: 0.0025% on first \$25 million, 0.0015% on next \$25 million, 0.005% thereafter. Reinsurance: 0.225% on the first \$20 million of premiums, 0.15% on the next \$20 million and 0.025% thereafter. \$100,000 cap on all premium taxes	The Captive Insurance Company Act of 2004	Dana Sheppard, Associate Commissioner, Risk Finance Bureau, 1400 L St. N.W., Suite 400, Washington, D.C. 20005; 202-727-5074; fax: 202-727-1290
Dublin	207	214	Minimum share capital of €635,000 (\$751,967); additional contribution determined by review of business plan	Determined by review of business plan	Supervisory fee is based on premium volume	2% levy on nonlife premiums; corporate tax of 12.5%	Insurance Act 2000 Irish Financial Services Regulatory Authority Act 2003; Insurance Act 1989	Frank Brosnan, Deputy Head of Nonlife Insurance Supervision, Irish Financial Services Regulatory Authority, P.O. Box 9138, College Green, Dublin, 2 Ireland; 353-1-410-4000; frank.brosnan@ifsra.ie
Georgia	15	14	\$500,000	3-to-1	\$600 application fee, \$700 annual fee	Gross premiums written in Georgia: 2.25% state tax, 2.5% county and municipal tax. Workers comp captives must contribute to Subsequent Injury Trust Fund	O.C.G.A. Title 33, Chapter 41, 1989	Christopher Taylor, Property and Casualty Supervisor, 2 Martin Luther King Jr. Drive, Suite 604, West Tower, Atlanta, Ga. 30334; 404-657-9206; fax: 404-657-7743; chris.taylor@mail.oci.state.ga.us
Gibraltar	14**	12	New licenses: €2 million to €3 million (\$2.4 million to \$3.6 million) in respect of liability business. Transitional arrangements for existing licenses	18% of gross annual premiums up to €50 million (\$59.2 million) plus 16% of premiums over €50 million, or 26% of average claims over prior three years	£1,000 (\$1,719) application fee; £2,500 (\$4,297) annual license fee	Tax exempt by paying £225 (\$387) per year for 25 years; qualifying companies are taxed at up to 35%	Insurance Companies Ordinance of 1987 and associated regulations	Commissioner of Insurance Financial Services Commission, P.O. Box 940, Suite 943, Europort, Gibraltar; 350-40-283; fax: 350-40-282; info@fsc.gi

*BI estimate ** Pure captives only

DOMICILE	2005	2004	CAPITAL & SURPLUS	PREMIUM TO SURPLUS	FEES	TAXES	LAWS	REGULATOR
Guam	1	1	Capital: \$50,000 for pure captive; \$100,000 for group captive; \$150,000 for industrial insured captive (stock); \$150,000 for protected cell companies. Surplus: \$100,000 for pure captive; \$150,000 group captive (stock); \$200,000 for industrial insured or group captive (mutual insurer) and protected cells	None (repealed 2003)	\$200 filing fee; \$3,500 insurance advisers review fee; \$2,500 annual license fee. \$750 fee for qualifying certificate. Registration \$51; \$1,000 qualifying certificate annual surveillance fee; \$3,500 insurance review fee for complex captive applications	Rebate of all income tax on underwriting income and dividends to shareholders. No gross receipts or premium tax	Public Law 23-109, 1997. Public Law 24-266 allowing rebate of income tax on dividends. Public Law 27-54 allowing formation of protected cells within protected cell companies	Andreas Jordanou, Commissioner of Banking and Insurance, Department of Revenue and Taxation, Building 13-1, Mariner Ave., P.O. Box 23607 GMF, Tiyan 96921 Guam; 671-475-1843; fax: 671-472-2643; ajordanou@mail.gov.gu
Guernsey	382	379	Minimum is £100,000 (\$171,880)	Greater of 18% of net premiums for first £5 million (\$8.6 million), 16% thereafter; or 5% of loss reserves	Captive and protected cell companies: £3,535 (\$6,076) application and annual renewal fee; cell of a protected cell company, £1,045 (\$1,796) application fee and £1,150 (\$1,977) annual fee	Four options: no tax but annual fee of £600 (\$1,031); sliding-scale tax on investment income of shareholders' funds; 20% of net profits; fixed rate of up to 30% for five years	Insurance Business (Bailiwick of Guernsey) Law 2002	Alan Fleming, Director of Insurance, Guernsey Financial Services Commission, La Plaiderie Chambers, La Plaiderie, St. Peter Port, Guernsey GY1 1WG, Channel Islands; 44-148-171-2706; fax: 44-148-171-2010; insdiv@gfsc.gg
Hawaii	158	147	Minimum requirements vary by type of captive; additional requirements determined on a case-by-case basis	Varies by case	\$1,000 application review	0.25% on first \$25 million in premiums, 0.15% on next \$25 million, 0.05% thereafter	Chapter 431, Article 19 of Hawaii's Revised Statutes	Craig Watanabe, Captive Insurance Administrator, State of Hawaii, Department of Commerce & Consumer Affairs Insurance Division, 335 Merchant St., P.O. Box 3614, Honolulu, Hawaii 96811-3614; 808-586-0981; captiveins@dcca.hawaii.gov
Hong Kong	2	2	Greater of 5% of net premiums written and net claims outstanding, or \$2 million Hong Kong (\$257,954)	None	\$22,600 Hong Kong (\$2,915) authorization fee	Corporate tax is 17.5%	The Insurance Companies Ordinance, Chapter 41 of the laws of Hong Kong	Insurance Authority, Queensway Government Offices, 66 Queensway, 21st Floor, Hong Kong; 852-2867-2565; fax: 852-2869-0252; iamail@oci.gov.hk
Illinois	3	3	\$2 million	None	\$3,500 application fee	Subject to same taxes as all insurers	Article VIIIC of the State Insurance Code, 1987	Etta Mae Credi, Assistant Deputy Director, Illinois Insurance Department, 320 W. Washington, Springfield, Ill. 62767; 217-782-4515; fax: 217-782-5020; ecredi@idfpr.com
Isle of Man	165	175	£500,000 (\$859,400) for long-term; £150,000 (\$257,820) for general; £100,000 (\$171,880) for reinsurance; £50,000 (\$85,940) for restricted	Restricted: £50,000, plus 10% of net written premium; general, £150,000, or 15% of net written premium, whichever is greater; Long term, £500,000 or the greater of 1% of actuarially assessed liabilities (nonlinked) or 0.25% of actuarially assessed liabilities (linked); reinsurance: £100,000	£1,500 (\$2,578) application fee; £3,250 (\$5,586) annual license and renewal fee	Standard tax is 15%. Isle of Man companies operating internationally may elect 1% to 35% taxation. Insurers, including captives, can elect to pay a 0% tax rate	Insurance Act 1986; Insurance (Amendment) Acts 1993, 1995 and 2004; Protected Cell Companies Act 2004	David A. Vick, Chief Executive and Insurance Supervisor, Isle of Man Government Insurance and Pensions Authority, HSBC House, Ridgeway St., Douglas, IM1 1ER Isle of Man; 44-162-464-6000; fax: 44-162-464-6001; ipa@gov.im
Jersey	15	13	£100,000 (\$171,880) or at discretion of regulator	Property/casualty: 17.5% of net premiums; life: 2.5% of long-term business fund	Category A: £2,000 (\$3,438) for property/casualty, £4,000 (\$6,875) for life. Category B: £3,500 (\$6,016) for property/casualty; £7,000 (\$12,032) for life	Maximum stamp duty is £2,500 (\$4,297). 20% standard rate; exempt captives pay £600 (\$1,031) per year	Insurance Business (Jersey) Law 1996, General Provisions and Solvency Margin Orders, 1996	Nigel Woodroffe, Director of Insurance, Jersey Financial Services Commission, Nelson House, David Place, P.O. Box 267, St. Helier, JE4 8TP Jersey; 44-1534-822-000; fax: 44-1534-822-001; info@jerseyfsc.org
Kansas	1	1	Capital: \$100,000 for pure captive; \$200,000 for industrial captive (stock); Surplus: \$150,000 for pure captive; \$300,000 for industrial captive (stock); \$500,000 for industrial captive (mutual)	Determined by review of business plan	\$500 application fee; \$110 registration fee; \$110 annual renewal fee	2% premium tax	K.S.A. 40-4301 et seq.	Sandy Praeger, Insurance Commissioner, 420 S.W. 9th St., Topeka, Kan. 66612; 785-296-3071; fax: 785-296-7805

DOMICILE	2005	2004	CAPITAL & SURPLUS	PREMIUM TO SURPLUS	FEES	TAXES	LAWS	REGULATOR
Kentucky	6	5	Pure: \$250,000; association: \$750,000; sponsored or reciprocal: \$1 million	None	\$600 application fee; \$300 annual renewal fee and filings	Subject to \$5,000 annual minimum. 0.4% on first \$20 million 0.3% on next \$20 million; and 0.075% thereafter	Kentucky Revised Statutes 304.49 and Kentucky Administrative Regulations 806 KAR 49:020-49:040	Pat Talley, Chief Financial Analyst, Kentucky Office of Insurance, P.O. Box 517, 215 W. Main St., Frankfort, Ky. 40602-0517; 502-564-6082; fax: 502-564-4604
Labuan	28	21*	Single/multiowner captive: 300,000 ringgit (\$79,386); rent-a-captive/cell captive: 500,000 ringgit (\$132,310)	Single/multiowner captive: 300,000 ringgit; rent-a-captive/cell captive: 500,000 ringgit	6,000 ringgit (\$1,588) for incorporation; 10,000 ringgit (\$2,646) annual license fee; 13,000 (\$3,440) ringgit for master rent-a-captive and 3,000 (\$794) ringgit for subsidiary rent-a captive	3% of net income or 20,000 ringgit (\$5,292)	The Offshore Insurance Act 1990, amended in 1997, 2001	Danial Mah Abdullah, Director of Regulation, Labuan Offshore Financial Services Authority, Main Office Tower, Financial Park, Jalan Merdeka, 87000 F.T. Labuan; 60-87-591-200; fax: 60-87-413-328; <i>communication@lofsa.gov.my</i>
Luxembourg	208	219	€1.2 million (\$1.4 million)	10% for nonlife, 2% for life	€1,500 (\$1,776) for incorporation. Annual license fee of €3,000 (\$3,553)	Varies	1991 Insurance Law and Grand Ducal Regulations, amended 1994, 2001, 2004	Victor Rod, Insurance Commissioner, Commissariat aux Assurances, 7 Blvd. Royal, L-2449 Luxembourg; 352-226-911; fax: 352-226-910; <i>commassu@commassu.lu</i>
Maine	0	0	Pure: \$100,000 in capital, \$150,000 in surplus; industrial insured (stock): \$200,000 in capital, \$300,000 in surplus; industrial insured (mutual): \$500,000 in surplus; association stock: \$400,000 in capital, \$350,000 in surplus; association mutual: \$750,000 in surplus	None	\$1,000 initial fee; \$100 for license; \$100 for financial statement; \$500 fee for captives that redomesticate to Maine	0.375% of first \$20 million in direct gross premiums, 0.30% of next \$20 million, 0.20% of next \$20 million and 0.075% thereafter; slightly less for captive reinsurers. Minimum tax is \$4,000 per year; 2% of gross direct premiums if parent is a Maine corporation	Title 24-A, Chapter 83, Sections 6701-6720, 1997	Kendra Godbout, Director of Financial Analysis, Maine Bureau of Insurance, 34 State House Station, Augusta, Maine 04333-0034; 207-624-8496; fax: 207-624-8599; <i>kendra.l.godbout@maine.gov</i>
Malta	4	0	100,000 lira (\$276,810)	Solvency margin set in accordance with European Union directives	500 lira (\$1,384) application fee; 500 lira acceptance fee; 1,000 lira (\$2,768) annual renewal fee	Corporate tax is 35%. Companies may operate foreign income accounts and get a tax refund on distributions to nonresident shareholders	Insurance Business Act, 1998	Director of Insurance, Malta Financial Services Authority (Insurance Unit), Attard, Malta; 356-21-441-155; fax: 356-21-441-189; <i>communications@mfsc.com.mt</i>
Mauritius	13	13	\$100,000	Solvency margin: higher of 15% of premiums or \$100,000	\$500 processing fee; \$1,500 annual fee	15% corporate income tax; 80% foreign tax credit available	Financial Services Development Act 2001; Companies Act 2001; PCC Act 1999; Guidelines on the Regulation and Supervision of Captive Insurance Business in Mauritius and Financial Services Development Regulations 2001	Financial Services Commission, Harbour Front Building, Fourth Floor, President John Kennedy St., Port Louis, Mauritius; 230-210-7000; fax: 230-208-7172; <i>fscmauritius@intnet.mu</i>
Montana	13	10	Pure captive: \$250,000; industrial insured: \$500,000; association: \$750,000; sponsored, \$1 million; reciprocal: \$1 million	None	\$200 application fee; \$300 annual license	Direct written premiums: 0.4% on first \$20 million, 0.3% on next \$20 million, 0.2% on next \$20 million and 0.075% thereafter. Reinsurance premiums: 0.225% on the first \$20 million, 0.15% on next \$20 million, 0.05% on next \$20 million. \$100,000 cap on annual premium taxes	33-28-101 through 306 MCA	John Huth, Captive Coordinator, Montana State Auditor's Office, 840 Helena Ave., Helena, Mont. 59601; 406-444-2040; fax: 406-444-3497
Netherlands Antilles	16	18	At least the amount of the solvency margin	Solvency margin: the higher of 15% of net premiums or 300,000 guilders (\$168,000) for nonlife; higher of 4% of net technical reserves or 400,000 guilders (\$223,000) for life	6,000 guilders (\$3,350) application fee; 3,000 guilder (\$1,700) annual license fee	2.4% of the first 100,000 guilders (\$56,000) net of capital gains and losses of the investment portfolio; 3% of the remaining operational result. No dividend tax is payable if a holding/parent company receives dividend from its subsidiaries established in the Netherlands	Special Insurance License Decree, 1992	Nataly Davelaar-Mercelina, Superintendent-Insurance Bank van de Nederlandse Antilles (Central Bank), Simon Bolivar Plein 1, Curacao, Netherlands Antilles; 599-9-434-5500; fax: 599-9-461-5004

*BI estimate



Between the Lines

Compiled by Joanne Wojcik

Disparaging words for consultants

Playwright Oscar Wilde may have said "life is too important to be taken seriously," but that philosophy is also apparent at Despair Inc., a Web-based company that makes its money mocking motivational posters.

Despair Inc. was launched in 1998 by a trio of disillusioned employees of an Internet startup that did not pan out as promised. The trio—Lawrence Kersten, Despair Inc.'s chief operating officer, and twin brothers Jef and Justin Sewell, the company's president and chief executive officer, respectively—decided to spin their



frustration into an Internet-based business of their own, Mr. Kersten explained.

Despair Inc.'s founders get together annually in their Austin, Texas, headquarters to brainstorm new axioms and the products on which they will be used, ranging from posters and calendars to screen savers and mugs. Sometimes they entertain suggestions from other cynical wordsmiths, though so far, fewer than five of Despair Inc.'s 86 designs have been licensed, according to Mr. Kersten.

Among some of the perennial favorites: Ambition, which depicts a bear waiting for a salmon that has just swum upstream: "The journey of a thousand miles sometimes ends very, very badly"; Motivation, which states beneath the photograph of a stunning sunset, "If a pretty poster and a cute saying are all it takes to motivate you, you probably have a very easy job. The kind robots will be doing soon"; and, of course, Consulting, which features two suited hands clasped in a handshake: "If you're not a part of the solution, there's good money to be made in prolonging the problem."

To find a product that fits your particular bad attitude or to submit your own derisive aphorism, visit www.despair.com.

Smoking ban burns pensions

Employers that have banned smoking in the workplace as a means to improve their employees' health and thereby reduce medical costs might be interested in the findings of a new U.K. study.

Hewitt Inc. researchers found that banning workplace smoking—which will result in people living longer—will increase shortfalls in government pension funds by billions of pounds, as well as increase the annual cost to private employers that provide their own defined benefit pensions. Hewitt estimates that adding just one year to each worker's life would increase the aggregate deficit of the government's pension funds by as much as £20 billion (\$35 billion), while employers could see an additional £1 billion (\$1.7 billion) a year in annual pension costs.

Despite its findings, Hewitt is not endorsing that U.K. employers not ban smoking in the workplace, according to a spokeswoman at Hewitt's Lincolnshire, Ill., headquarters. "Our goal with this report was simply to further educate our clients on the importance of thinking strategically to ensure that they understand that, should their employees live longer, they need to make sure they set aside more cash to meet the promises they have made," the spokeswoman said.

More smoke signals

Howard Weyers, president of Okemos, Mich.-based third-party medical benefits administrator WEYCO Inc., said he was taken by surprise when the ABC television drama "Boston Legal" used his crusade against employee smoking as a plot line.

The man who made headlines for announcing he would fire any employee who used tobacco said he has gotten several calls since Tuesday night's broadcast, in which the lawyer who usually wins—Alan Shore—actually lost a wrongful termination suit filed on behalf of a woman who was fired for failing to kick the habit.

"I'm glad the employer won," Mr. Weyers said, especially because the judgment validates his position. Mr. Weyers added that he's anxious to watch a tape of the episode that his lawyer made for him.

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

COMINGS & GOINGS - INDUSTRY



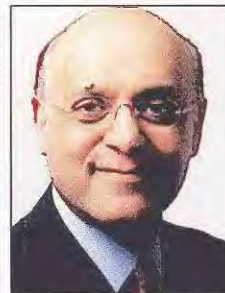
Mr. Cahill



Mr. Bartlett



Mr. Smith



Mr. Viegas



Mr. Austin

Brokers:

Ames & Gough Inc., a McLean, Va.-based broker and risk management consultant, has named **Dan Knise** president and chief executive officer. Previously, he was an equity partner.

Richmond, Va.-based Hilb Rogal & Hobbs Co. has appointed **William F. Creedon** its West regional director. Previously, he was president of HRH's Denver office.

Mark Von Vogt has been named senior account executive in the employee benefits group at Peabody, Mass.-based Mazonson L.L.C. Before joining Mazonson, he was an account manager with William Gallagher Associates.

BMS Vision Reinsurance Intermediaries Inc. in Shelton, Conn., has named **Michael P. Cahill** executive vp. Previously, he was a managing principal with REcentis Intermediaries L.L.C.

Aon Construction Services Group has appointed **Paul Rodriguez** director in the Miami office. Previously, he was a director of Aon Construction Services Group, Surety.

Cerek A. Smyth has been named chief financial officer of Willis Group Holdings Ltd.'s North American operations in New York. He joins Willis from General Electric Co., where he was a vp for securitization.

Insurers:

Hartford Financial Services Group Inc. has named **Andrew J. Pinkes**

president of Heritage Holdings Inc., a unit that oversees the company's property/casualty run-off operations. Mr. Pinkes currently is senior vp and chief operating officer of Heritage Holdings. His appointment is effective April 1.

Reinsurance:

Beat Strebel has been named head of Swiss Reinsurance Co.'s Latin American unit. Mr. Strebel, who is based in Armonk, N.Y., previously was head of marketing for the Latin American unit.

Managed care:

Blue Cross & Blue Shield of Michigan, based in Detroit, has made several senior-level appointments.

• **Mark Bartlett**, executive vp and chief financial officer, has been named to the additional post of president of emerging markets.

• **William Smith**, formerly senior vp and chief information officer, has been named executive vp for operations and information technology.

• **Les Viegas**, previously senior vp of the auto/national business unit, has been named executive vp for group product development, marketing and Blue Cross & Blue Shield Assn. relations.

• **Paul Austin**, previously senior vp of Michigan sales and service, has been named senior vp and chief actuarial officer.

Other providers:

Terry M. Hackett has been made partner in the litigation practice of Kerns, Pitrof, Frost & Pearlman L.L.C. in Chicago and will concentrate on products liability and health care litigation and arbitration. Previously, he was a partner with Gardner Carton & Douglas.

Jill M. Levy and **Thomas M. Sheffield** have been named partners in the law firm of Boundas, Skarzynski, Walsh & Black L.L.C., which specializes in insurance-related issues. Both previously were associates. Ms. Levy will be based in New York; Mr. Sheffield will be based in Chicago.

Atlanta-based Engle Martin & Associates Inc. has named **J. Robert Gambell** senior vp of Engle Martin Claims Administration Services, the third-party administrator division of the company. Before his promotion, he was a director of casualty operations.

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

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Irish pension regulator may get more power

Bill would let ombudsman levy fines without litigation

By SARAH VEYSEY

DUBLIN, Ireland—The Irish pension regulator would be granted expanded powers—including the ability to fine employers—under legislation expected to become law later this year.

In addition, the measure, currently being debated by the Irish Parliament, would allow Ireland's pension ombudsman to step in and settle pension disputes earlier, sub-

ject internal actuaries to external scrutiny and expand the pension options for employers with international operations.

In a statement, Ireland's Minister for Social Affairs, Seamus Brennan, said the changes would "reinforce protection and extend investigative powers in the pensions area."

The Social Welfare Law Reform and Pensions Bill would amend certain provisions of the Pensions Act 1990, and would enable Ireland's



Pensions Board, the country's only pension regulator, to levy fines on employers operating pension plans that commit regulatory breaches, such as failing to provide members of a plan with an annual report.

Currently, the Pensions Board must prosecute companies that breach pension regulations, and the

process is often lengthy and costly, said Joyce Brennan, a senior retirement consultant at Mercer Human Resource Consulting in Dublin.

Under proposals in the pension bill, the Pensions Board would either order employers to rectify problems within 21 days or fine employers, she said.

These proposals may result in more actions by the Pensions Board, according to Russell Irvine, an actuarial consultant at Aon Consulting in Dublin.

Among other changes, the bill would allow the pensions ombudsman to bypass the current requirement that disputes over pensions

See PENSIONS / page 39

Updates

Storms, reserves hit Swiss Re profits

Swiss Reinsurance Co. posted net income of 1.45 billion Swiss francs (\$1.10 billion) for 2005, down 41% from 2004, due in part to natural catastrophe losses of about 1.1 billion Swiss francs (\$836.6 million), after releases from catastrophe reserves. In addition, Swiss Re said it had added 1 billion Swiss francs (\$760.5 million) to its liability reserves for the underwriting years 1999 to 2001. Swiss Re's gross written premiums fell 4.0% to 30.46 billion Swiss francs (\$23.17 billion) in 2005, while its combined ratio rose to 108.7% from 97.0%.

Singapore issues risk guidelines

The Monetary Authority of Singapore has issued a set of guidelines to encourage risk management practices at the country's financial institutions. The guidelines emphasize: the role of a financial institution's board of directors in oversight of risk management policies and implementation; the role of senior management in ensuring that sound policies and procedures are in place; the presence of sound risk management processes and operating procedures that integrate prudent risk limits with appropriate risk measurement, monitoring and reporting; the presence of competent personnel in risk management, control and audit functions. The guidelines can be viewed at www.mas.gov.sg.

Lloyd's honors U.S. brokers

Lloyd's of London has recognized two U.S. brokers for their contributions to the Lloyd's market in its fifth annual U.S. broker awards. Named as Lloyd's 2005 surplus lines broker of the year was Garry Edwards, senior vp and western region leader for the major accounts property practice of Glen Allen, Va.-based Hilb Rogal & Hobbs Co. William H. Eyre Jr., managing director and chief executive officer of the reinsurance arm of Towers Perrin in Philadelphia, was named reinsurance broker of the year.

Hewitt expands Polish operations

Hewitt Associates Inc. on Thursday opened its first human resources business process outsourcing center in Krakow, Poland. About 300 Hewitt employees will work at the facility, which will provide customer service support to Hewitt's HR BPO clients in Europe, as well as conduct pension administration and software development services.

Marsh Ltd. replacing 'final salary' plan

Non-U.S. pensions are underfunded

LONDON—Marsh Ltd., the U.K. arm of Marsh Inc., is replacing its defined benefit pension plan based on final salary with a plan whose benefits will be calculated on a "career revalued" basis.

A Marsh Ltd. spokeswoman said the changes were the result of "continuing pressures on pension funding" caused by "increased life expectancy, lower-than-anticipated investment returns, and greater regulation in the U.K. and more stringent accounting standards in the U.S."

No details are available about the number of participants in

the MMC U.K. Pension Fund, or the plan's assets and liabilities.

In its annual report for 2004, Marsh & McLennan Cos. Inc., the ultimate parent of Marsh Ltd., said its "significant" non-U.S. pension plans were underfunded by \$1.12 billion and estimated it would pay about \$163 million in non-U.S. pension benefits in 2005.

In 2005, Marsh Ltd. had about 6,000 employees, though about 750 positions had been slated for redundancy as part of a cost-cutting drive instigated after MMC's settlement with U.S. regulators.

Marsh Ltd. said the changes to its U.K. defined benefit pension plan would take place on April 1

See MARSH / page 39

Australia bars claims of negligence under federal trade laws

By ELIZABETH FRY

CANBERRA, Australia—Restrictions on negligence claims that have already been incorporated into state laws in Australia will be extended to federal law under a measure the Australian parliament passed late last month.

The measure would remove the ability of plaintiffs to sue for personal injury damages under the section of the Trade Practices Act relating to misleading and deceptive conduct.

The federal law will effectively close a legal loophole that allowed some plaintiffs to attempt to circumvent state and territorial laws enacted over the past several years aimed at curbing escalating liability costs.

Under the bill, which passed on Feb. 28, the Trade Practices Act was amended to prevent people from using the act as a way of bypassing state tort reform laws.

The measure follows tort reforms enacted in all states and territories in Australia since 2002. Those changes reformed processes for calculating personal injury damages and imposed caps on negligence and other awards, among other things.

As a result of the reforms, defendants are now liable only for risks that are foreseeable, awards for lost earnings are capped and courts are allowed to bar damages for plaintiffs whose actions contributed their injuries. In addition, under the various state laws, claims for psychiatric harm can be made only if a plaintiff has suffered a recognized mental illness.

However, plaintiffs who could prove false and misleading conduct

by a defendant possibly were able to get more favorable treatment by suing under federal law.

As a result, the federal government introduced the Trade Practices Act (Personal Injuries and Death) Bill in December 2003 to close that loophole.

The bill was rejected by the Senate but was later reintroduced after Prime Minister John Howard's Liberal Party regained control of the Senate in 2004.

Insurers welcomed the bill. "Insurers have already passed on savings to consumers through premium reductions in public liability insurance as a

result of earlier reforms...and by closing this loophole, insurers will have more certainty about the cost of claims, which will keep downward pressure on public liability premiums," said Alan Mason, executive director of the Insurance Council of Australia in Sydney.

But the law could have a limited effect on commercial policyholders, said Fred Hawkes, a partner with Melbourne-based law firm Clayton Utz.

There have been only a few cases where plaintiffs have sought to use the misleading and deceptive conduct section of the Trade Practices Act to pursue damages for industrial injuries and in each case, the court said those claims were under the domain of state workers compensation law.

"Although these actions failed, the possibilities of legal action still remained, and it was considered that many more actions would be forthcoming," he said.

See CLAIMS / page 39

Former Gen Re execs drop APRA appeals

SYDNEY, Australia—Two former senior executives at General Re Corp.'s Australian operations last Wednesday withdrew their legal challenge to their disqualification by the country's insurance regulator because of their role in an improper financial reinsurance transaction.

The Australian Prudential Regulation Authority announced that Geoffrey Barnum and Christopher Byatt had dropped their appeal to the Administrative Appeals Tribunal of their October 2004 disqualification from being or acting as a director or senior manager of a general insurer.

The two were banned by APRA because of their role in a financial reinsurance contract between their former employer General Cologne Reinsurance Australia, and Australian insurer FAI General Insurance Co. Ltd., which they knew had "an improper purpose," APRA said

in a statement.

According to APRA, the reinsurance deal improperly boosted FAI's profits for the 1997/1998 year by being disguised as a traditional reinsurance contract that hid the fact that the risks assumed by GCRA had been removed by side letters.

Mr. Barnum was managing director of GCRA at the time of the deal, and Mr. Byatt was general manager finance and secretary.

In October 2004, six former executives of GCRA were banned by APRA because of their role in the deal. All six lodged an appeal with the Administrative Appeals Tribunal in December of that year, although four of those later withdrew their appeals.

Messrs. Barnum and Byatt withdrew their appeal on Wednesday, APRA said.

—By Sarah Veysey



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REQUEST FOR PROPOSALS

Port of Seattle

The Port of Seattle is seeking a Request for Qualifications from licensed insurance brokers for the purpose of placing the Port's liability insurance program on 10/1/2006. A complete announcement is available on the Port's web site at: <http://portseattlecontracting.ebidsystems.com/default.asp>. Submissions are due on March 24th.

REQUEST FOR PROPOSALS

The Medical Malpractice Joint Underwriting Association of Rhode Island

Request for Proposals
("RFP")—Servicing Carrier

The Medical Malpractice Joint Underwriting Association of Rhode Island ("JUA") was established by the laws and regulations of Rhode Island for the purpose of providing medical malpractice insurance for licensed physicians, hospitals and other licensed health care providers.

The JUA is seeking proposals to secure an entity to act as a Servicing Carrier, Central Processing Agent, and Manager for the JUA, for a three (3) year term, commencing on January 1, 2007, in return for mutually agreed upon compensation.

To secure a copy of the RFP, please send an e-mail message to David P. Whitman, Esq., Counsel to the JUA, at dpw@hansoncurran.com or a written request may be sent to David P. Whitman, Esq., Hanson Curran LLP, 146 Westminster Street, Providence, RI 02903.

To place your announcement,
Contact Tina at 312-649-5340.

LEGAL NOTICE

IN THE MATTER OF

NEW CAP REINSURANCE CORPORATION (BERMUDA) LIMITED (IN LIQUIDATION)

AND IN THE MATTER OF SECTION 99 OF THE COMPANIES ACT 1981 OF BERMUDA

AND IN THE MATTER OF SECTION 425 OF THE COMPANIES ACT 1985 OF GREAT BRITAIN

NOTICE OF EFFECTIVE DATE & FINAL FILING DEADLINE

NOTICE IS HEREBY GIVEN that, by Orders dated February 23, 2006 made in the above matter, the Supreme Court of Bermuda and the High Court of Justice of England and Wales respectively sanctioned a scheme of arrangement (the "Scheme") between New Cap Reinsurance Corporation (Bermuda) Limited (the "Company") and the Scheme Creditors (as defined in the Scheme) of the Company pursuant to Section 99 of the Companies Act 1981 of Bermuda and Section 425 of the Companies Act 1985 of Great Britain. Copies of the Orders sanctioning the Scheme were delivered to the respective Registrars of Companies in Bermuda and England on February 23, 2006 and the Scheme became effective in both Bermuda and England on that date.

Any person who believes that it may be a Scheme Creditor of the Company and has not received a copy of the Scheme should contact the Joint Liquidators at the address and contact details set out below.

A Final Filing Deadline of 5.00 pm Bermuda time on May 31, 2006 has been established. Scheme Creditors are required to submit a completed Notice of Claim form to the Joint Liquidators of the Company by facsimile transmission, email in pdf format, or by registered post, hand delivery or courier at the address, facsimile number or email address set out below so that it is received by the Joint Liquidators at or before the Final Filing Deadline. Copies of the Notice of Claim forms may be obtained from the Joint Liquidators at the address and contact details set out below.

Any Scheme Creditor who does not return a completed Notice of Claim form to the Joint Liquidators at or before the Final Filing Deadline will have no right to file a Notice of Claim or to receive any payment under the Scheme and any liabilities of the Company to that Scheme Creditor will be deemed to have been satisfied in full under the Scheme.

Notice of the Effective Date and Final Filing Deadline has been sent by the Joint Liquidators to all known Scheme Creditors at their last known address. Any person who believes himself or herself to be a Scheme Creditor who has not received notice of the Effective Date and Final Filing Deadline and a Notice of Claim form should contact the Joint Liquidators at the address specified below.

Any questions relating to the Scheme or this notice, or the action Scheme Creditors are required to take, should be directed to the Joint Liquidators c/o Ernst & Young, Reid Hall, 3 Reid Street, Hamilton HM 11, Bermuda to the attention of John C. McKenna telephone 441 295 7000, fax 441 294 5318, e-mail john.mckenna@bm.ey.com.

DATED this 6th day of March, 2006

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Claims: Difficult to bring suit

Continued from page 37

Other legal experts criticized the measure.

According to Australian Lawyers Alliance president, plaintiffs' attorney Richard Faulks, who is also managing partner of Canberra-based law firm Sneddon, Hall and Gallop, removing the ability to sue for personal injury or death under the deceptive and misleading conduct provisions is a huge mistake.

"While people can sue for personal injury in relation to other breaches of the Act, such as unsafe and defective goods, for example, (under the new law) they would be confined to the same outcome as they would get under the state tort reform system," he said. "If a defendant breaches the deceptive and

misleading conduct provisions, they should be responsible and have to pay damages and there should be no cap on that amount."

Mr. Faulks said the amendment could make it more difficult for asbestos sufferers to pursue companies.

"Lawyers representing asbestos victims, who have amended their actions to try and bring actions under the misleading and deceptive provisions of the Trade Practices Act to gain fair compensation...will no longer be able to do so," Mr. Faulks said. "There are numerous potential claimants out there who have asbestos-related injuries which haven't yet shown, and it is very difficult to prove that they contracted the disease prior to the passing of this bill."

Letters

Continued from page 8

the top. I, too, have been reading the insurance press for some 30 years, and went back to read your editorial again and was left wondering just what was "blatantly incorrect" in your editorial.

First, you referred to the \$1.64 billion settlement, which AIG publicly acknowledged itself by stating "Providing incorrect information to the investing public and regulators was wrong and is against the values of our current leadership and employees."

You appropriately used the word "alleged" to reference the New York attorney general's charges two times in the editorial. You then went on to compliment AIG's track record by stating AIG's "enviable financial record, besting the industry average for years...leader in product development and sophisticated services...AIG set the standard for the rest of the industry."

The editorial then observed that there is an impression that some managers had ethical lapses. This is not an unreasonable view in light of the indictment and dismissals of several AIG executives for complicity in fraudulent transactions. The balance of the editorial was complimentary to AIG, quoting the current CEO's pledge to pursue transparency and fairness, stating "That's a welcome commitment, and there's no reason to doubt that AIG's current management will honor it." No "jettisoning of our republic's safeguards" in this editorial, nothing "blatantly incorrect"—in fact exactly half the print was either laudatory or sympathetic to AIG.

Mr. Sullivan must have been reacting to something elsewhere. I read a balanced *BI* editorial.

Robert MacGuffie
Norwalk, Conn.

AIG future blurred by Sullivan

To the editor: Reading through your Feb. 27 interview with newly appointed American International Group Inc. Chief Executive Officer

Martin Sullivan, one gains no particular insights as to the company's strategies and future. What stands out starkly is Mr. Sullivan's handling of your editor's final query: "Having worked at AIG for nearly 35 years, what are some of the most valuable lessons you learned from Maurice Greenberg?" Responding, Mr. Sullivan rambles through vague recollections of another man who hired him at age 17, how someone else taught him "to have standards and never let those standards drop," how "we all shared a common passion" and so forth.

One need not lionize Mr. Greenberg, a man widely known for his imperious, often ruthless deportment. Nonetheless his principal life's work of establishing AIG as the world's largest property/casualty insurer is inarguably that of a brilliant mind—one plainly adept at identifying emergent talents such as Mr. Sullivan. Thus I'll submit that Mr. Sullivan was, during much of his career at AIG, brought along by Hank Greenberg; that Sullivan's significant personal wealth and his rise to near the top of AIG's command during Mr. Greenberg's tenure were natural byproducts of that beneficial relationship; and that his refusal now to so much as speak that benefactor's name to your editor shows Mr. Sullivan to be at heart a small-minded, appallingly ungrateful fellow.

Howard Deever
Omaha, Neb.

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High court ruling lowers award in sexual harassment case

SAN DIEGO—Plaintiffs in a sexual harassment case should receive punitive damages that represent a 6-to-1 ratio between punitive and compensatory damages, and not a much larger amount awarded by a jury, a California appeals court found.

The ruling in *Dianne Gober et al. vs. Ralphs Grocery Co.* stems from a case in which a store director at the grocery chain "engaged in inappropriate touching, used profanity, made inappropriate comments on some of the plaintiffs' sex lives and threw various objects at some of the plaintiffs," court records state.

A jury awarded the female

plaintiffs compensatory damages ranging from \$50,000 to \$200,000. Later, during a retrial over punitive damages, a second jury awarded six plaintiffs \$5 million each in punitive damages, which amounts to ratios ranging from 25-to-1 to 100-to-1 when compared with the compensatory damages.

California's 4th District Court of Appeals in San Diego, however, found those ratios excessive. It noted that the U.S. Supreme Court has ruled that a 4-to-1 ratio "might be close to the line of constitutional impropriety." The appeals court lowered the punitive damages to six times the compen-

satory awards for each plaintiff.

The appeals court also noted that the specific facts of the case do not justify more than a single digit ratio. In an earlier ruling involving the case, the appeals court concluded that the grocery chain acted in a "reprehensible manner" by failing to respond to the store director's actions.

But in Wednesday's ruling, the appeals court found that Ralphs did not act with "extreme reprehensibility," nor did the director's conduct result in significant personal injury or a substantial threat to the plaintiffs' health and safety.

—By Roberto Cenicerros

Pensions: Actuaries may meet scrutiny for pension schemes

Continued from page 37

first go through an internal dispute resolution process, said Paul Victory, a partner at Watson Wyatt Worldwide in Dublin.

In cases where there is "clearly

At least 10% of internal actuaries' work will be reviewed by external actuaries, as part of a move to strengthen the review process, said Ms. Brennan.

The Society of Actuaries in Ireland welcomed the proposal.

In a statement, Liam Quigley, chairman of the society's pensions committee, said: "Actuarial certification of pension scheme liabilities is of vital importance to the regulation of defined benefit schemes and it is, therefore, appropriate that this work should be subject to independent review."

Another proposed change would allow employers to enroll certain employees into overseas pension plans, experts noted.

Currently, employers in Ireland must enroll staff that have been employed for six months or more into low-cost personal pension plans if they do not offer more generous occupational pension plan benefits to employees.

But under changes proposed in the bill, employers could enroll staff into any overseas pension plans they run, Aon's Mr. Irvine said.

"Actuarial certification of pension scheme liabilities is of vital importance to the regulation of defined benefit schemes."

Liam Quigley
Society of Actuaries (Ireland)

nothing to be gained from this process," cases will be sent directly to the pensions ombudsman, according to the Department of Social and Family Affairs statement said.

The bill also proposes that actuaries for pension plan be subject to peer review.

Marsh: Staff facing benefit changes

Continued from page 37

and would not affect benefits accrued before that date.

A career-valued pension plan bases benefits on how much employees have earned during each year of their employment. Under the Marsh Ltd. plan the value of the pension is increased in line with inflation up to a 5% cap each year.

A supplementary benefits pension plan that previously was available to middle managers at Marsh Ltd. will only be available to very senior staff in the future, according to the brokerage.

All employees will be eligible for a new flexible benefits plan, Marsh Ltd. said.

The new move requires changes to employees' contract terms; any employee who does not sign a new contract will have their existing contract terminated April 1, and a new contract will be issued.

Marsh Ltd. said that 99% of the U.K. staff already have agreed to the new contract terms.

—By Sarah Veysey

BIE: Delivers risk management analysis to E.U.

Continued from page 3

ed to the European risk market," said Mr. Ross. "The addition of *Business Insurance Europe* allows us to not only deepen our coverage in Europe but to, more importantly, serve as a working tool that the European market demands. By creating a newspaper that focuses on the European risk market, we can provide the hard news and information they need to continue to raise their professional standards and capabilities."

Among the many topics *Business Insurance Europe* will cover: news of property/casualty insurance market

conditions; European risk analyses; trends impacting multinational risk management programs; legislative and regulatory developments; and profiles of the latest lessons, innovations and leading personalities from the business insurance market in Europe.

Headquartered at Crain Communications' London office, *Business Insurance Europe* will be a business tabloid printed on high-quality, matte-finished paper. Distribution will be controlled and paid to a tightly qualified circulation of 15,000 readers, comprising senior executives responsible for

risk management, analysis and financing within Europe's largest corporations and public entities, as well as executives from Europe's leading brokers, insurers and risk management service providers.

Geographically, the publication will be distributed to members of the European Union, as well as to such non-E.U. countries as Switzerland, Norway and Russia. The subscription price will be €150 (\$177) per year.

The Internet address for *Business Insurance Europe* is www.businessinsuranceeurope.com.

Summit: Federal charter bill expected

Continued from page 4

retary of the Treasury for financial institutions pointed out, the optional federal charter is one of three broad proposals for insurance regulatory reform that have been floated before Congress during the past decade or so.

The first, broad federal pre-emption of state regulation as advocated by former House Energy and Commerce Committee Chairman John Dingell, D-Mich., in the early 1990s, currently has "little support."

The second approach—the proposed SMART Act backed by House Financial Services Committee Chairman Michael Oxley, R-Ohio, and Capital Markets, Insurance and Government Sponsored Enterprises Subcommittee Chairman Rep. Richard Baker, R-La.—would prod states to change regulation. The SMART Act has not been introduced.

The optional federal charter forms the third proposal.

"At this point, the Treasury has not taken a formal position" on the optional federal charter, said Mr. Henry. He said the department will consult with all sides in the issue.

Sen. Sununu's legislative director, Jamie Burnett, told the gathering that the senator is currently reviewing draft language of an optional federal charter bill.

"We're moving fairly quickly," Mr. Burnett said. He could not provide a date for the bill's introduction, but added that he thinks "it will be soon."

Glenn E. Westrick, counsel to the House Financial Services Committee, noted that the committee has held 17 hearings or roundtables on insurance regulation since 2001. "The current system is inefficient," he said.

The SMART Act won't create an optional federal insurance charter, he said. Although the idea of an optional federal charter for life insurers "is being discussed," Rep. Oxley doesn't think there's sufficient support in the current Congress for such a move, said Mr.

Industry must prepare for sunset of TRIA

The insurance industry needs to prepare for the end of federal involvement in terrorism insurance.

Emil Henry, assistant secretary of the Treasury for financial institutions, made it clear that the Bush administration continues to view a government role in backstopping terrorism insurance as temporary. Mr. Henry was addressing the Networks Financial Institute at Indiana State University's annual insurance summit in Washington last week.

The backstop created by the Terrorism Risk Insurance Act of 2002, which was designed to help insurers cope with losses from future catastrophic terrorist attacks, was intended as "a bridge to allow the marketplace to adjust" to the dislocations that followed the terrorist attacks of Sept. 11, 2001, he said.

While TRIA helped make terrorism coverage available and af-

fordable, the administration believes that it crowded out private market solutions to insuring against terrorism-related losses, he said.

A scaled-back version of the backstop will run through the end of 2007, and a presidential working group—in consultation with policyholders, regulators, insurers and others—must make a report to Congress on the state of terrorism insurance marketplace by Sept. 30. "All viewpoints on these issues will be useful," said Mr. Henry.

But the administration remains committed to having the private sector develop long-term solutions to the problem of underwriting and providing terrorism coverage, said Mr. Henry. He said the Bush administration expects the insurance industry to step up and "prepare the marketplace for the inevitable disappearance of TRIA."

—By Mark A. Hofmann

optional federal charter.

"I'm looking more optimistically to the 110th Congress," which will convene in 2007, said Rep. Kanjorski. He said he thinks Congress will be more inclined to take up the issue if the Democrats win control of the House as a result of the November elections.

Rep. Kanjorski called for insurance industry input as the debate over a possible federal regulatory role increases.

"You are going to have a very growing federal presence in the insurance industry during the next 20, 30, 40 years," Rep. Kanjorski said. The insurance industry can help determine whether that presence has a positive or negative impact, he said.

"You are going to have a very growing federal presence in the insurance industry during the next 20, 30, 40 years."

Rep. Paul Kanjorski, D-Pa.

Westrick.

On that point, he had the agreement of Rep. Kanjorski, who had made clear that he does not support the SMART Act but does favor an

Rosenbaum: Captives expert to receive honor for service

Continued from page 4

Kloman at Risk Planning Group in the late 1970s, "but I helped turn it into a reference" that included all captives except those considered to be potentially suspect, Mr. Rosenbaum noted. Tillinghast published the annual directory for many years before that project was taken over by A.M. Best Co.

Mr. Rosenbaum's work on the directory garnered attention. "I then became the person that everybody called to find out where the captive movement was going," he said.

Convincing "unfriendly regulators, uncooperative captive managers and super-conservative risk managers" to provide the information for the directory was not easy, said Mr. Rosenbaum. He said he was able to get that information because "I made the point that allowing the information to appear would be contributing to the cause of the original insured."

The directory, established in the early days when captives were not as widely accepted as they are to-

day, was part of his effort in "improving the breed," Mr. Rosenbaum said, and "bringing captive insurance out of the sleaze pits and into the cold hard light of financial reality."

Mr. Harwick noted that Mr. Rosenbaum can be persistent and blunt about his captive insurance beliefs and has sometimes taken CICA to task for not taking up positions that Mr. Rosenbaum is passionate about. "You either love him or hate him in terms of his forceful positions. But everyone respects him."

"You either love him or hate him in terms of his forceful positions. But everyone respects him."

Dennis P. Harwick
Captive Insurance Cos. Assn.

Known not only for his expertise in captive matters, Mr. Rosenbaum has become recognized for his trademark

bowtie.

And, as a frequent speaker at industry events, he has gained fame as a poet of sorts, ending many of his presentations with a limerick related to the session topic.

As to whether he will have a limerick ready for the awards ceremony, Mr. Rosenbaum was quick to reply, "You bet." But he declined to release details of the rhyme.

RRGs: Mississippi licensing bill

Continued from page 4

largely pre-empted."

Shortly after the letter was mailed, the Mississippi Senate Insurance Committee, where the House bill was sent, amended the measure to delete the licensing requirement. Instead, the amended bill would eliminate the \$500 annual registration fee an out-of-state RRG now must pay Mississippi.

Mississippi Deputy Commissioner of Insurance Lee Harrell said it was the intent of the department from the beginning to eliminate the registration fee, noting that similar

fees in other states have been successfully challenged. For example, in 2001, a federal judge in Michigan struck down a 0.5% fee on premiums paid by Michigan policyholders covered by out-of-state RRGs.

Mr. Myers said he appreciates "the responsiveness of Mississippi regulators when we alerted them to the problem. We like to work with states to solve problems."

The full Mississippi Senate still must consider the amended bill. Then the House could accept it or a conference committee could work out the differences in the two bills.

Trucks: Union, advocacy groups attack new rules on driving hours

Continued from page 3

prevent cheating by drivers who are required to keep logbooks detailing their hours on the road.

Insurers, though not a party to the court action, agree that the new rule is simply a rehashed version of the old one and will not make the highways safer.

"We just don't understand how that's an improvement," said David Snyder, vp and assistant general counsel at the Washington-based American Insurance Assn. The 2003 rule was "simply retooled and brought out again by the FMCSA," he said.

The FMCSA in a statement said the rule "addresses safety through science-based standards that are understandable and enforceable, and we will work with the Department

of Justice to vigorously defend this position to the court."

Under the rule, which took effect in October, truckers can drive 11 hours straight, whereas before 2003 they were permitted to drive no more than 10 consecutive hours without a break. The new rule also increased the number of hours per week that truckers are allowed to drive from pre-2003 levels, Ms. Robin-Vergeer said. "It's quite similar to what emerged in 2003," she said.

A summary on the FMCSA Web site of the differences in the 2003 and 2005 rules shows no change in the maximum number of hours that can be driven following off-duty time or in the maximum number of hours that can be driven over seven or eight days.

But an FMCSA spokesman disputed charges by the rule's opponents that the regulations are very similar to the ones struck down. "There are significant differences," the spokesman said in an e-mail response to questions regarding the controversy. "For example, the new rule requires truckers to rest for at least 10 hours between shifts and provides a 34-hour period to recover from cumulative fatigue."

The agency considered "thousands of comments received from drivers, truck companies, safety advocates and researchers before settling on the 2005 rule," the spokesman said. The FMCSA also consulted with driver health and safety experts to review more than 1,000 health- and fatigue-related articles when developing the regula-

tions, he said.

Ms. Robin-Vergeer said the FMCSA does give some attention to health effects in the new version of the rule. "They've discussed it," she said. "Whether that will stand up is another matter."

Joan Claybrook, president of Public Citizen, said in the joint statement that the FMCSA's move to expand driving hours is "astounding, given its statutory mandate to make safety its highest priority and Congress' specific directive to the agency to reduce fatigue-related accidents."

The Teamsters union also is unhappy about the rules' effect on drivers and is "stepping up the fight against these regulations that put Teamster drivers at great risk," Jim Hoffa, the Teamsters' general presi-

dent, said in the statement.

Fred C. Burns, president and chief executive officer of Burns Motor Freight Inc. in Marlinton, W.Va., said he believes the FMCSA did consider health effects when drafting the new rule and he has only one concern with it.

The rule calls for long-distance drivers in trucks equipped with sleeper berths to spend 10 hours in the berths as part of their off-duty time. Those hours may be split into two periods, provided neither is less than two hours.

"There's no way that drivers are going to spend 10 hours in a sleeper berth," said Mr. Burns. "If they're not tired, they're not going to lay there."

"Other than that, I agree with the rule as it is," Mr. Burns said.

Converium: CFO notes firm no longer buys finite reinsurance

Continued from page 1

ating with ongoing investigations.

Converium Chief Financial Officer Andreas Zdrenyk noted in a conference call that many of the affected transactions had expired or been commuted—as part of the runoff of certain of Converium's operations, including its U.S. reinsurance arm—before March 31, 2005.

Mr. Zdrenyk said that the company could not give any further information about the cost of the restatement or the outcome of pending regulatory investigations. He did note, however, that the company no longer purchases finite retrocessional cover.

Some questions resolved

Chris Waterman, senior director in Fitch Ratings' insurance group in London, said that the restatement announcement did not provide any "major shock," although "stripping out those reinsurance contracts was clearly going to create more volatility in prior years' results."

Fitch is maintaining its BBB- rating—and negative outlook—on Converium for the time being, he noted, because although the restatement didn't erode any of the company's capital, questions still remain about the potential damage to Converium's franchise, among other things.

Converium's seven years of restatements

Period	Restated profit (loss)	Previous
Second quarter 2005	\$46.9 million	\$70.8 million
First quarter 2005	(\$5.5 million)	(\$61.8 million)
2004 (full year)	(\$582.5 million)	(\$760.8 million)
2003	\$177.9 million	\$185.1 million
2002	\$35.8 million	\$106.8 million
2001	(\$355.6 million)	(\$367.4 million)
2000	(\$112.1 million)	(\$29.3 million)
1999	\$58.1 million	\$57.8 million
1998	\$116.8 million	\$116.3 million

In addition, Mr. Waterman noted, there still is uncertainty about regulatory investigations into the reinsurer's past use of finite reinsurance, and the ratings agency has concern about "Converium's position in the spotlight" with regulatory bodies. "Regulators historically have scrutinized more closely companies that have had to restate financials," he said.

Converium could face an increased risk of fines for the use of inappropriate accounting, and there is also the potential for shareholder lawsuits from investors who may have lost out due to the restatements, he said. Mr. Waterman stressed, however, that Converium is not cur-

rently the subject of any such suit.

Neither Oldwick, N.J.-based A.M. Best Co. nor New York-based Standard & Poor's Corp. have announced any changes in their financial strength ratings of Converium.

Because Converium's recent restatements were not as drastic as some thought they might be, the announcement does go some way to reassure observers about the strength of the company, noted Tim Dawson, an analyst at Helvea S.A. in Lausanne, Switzerland, but he added that the company still had to note that investigations are ongoing.

Converium may now have put the issue of finite reinsurance and restate-

ments behind it, noted Ben Cohen, an analyst at UBS Ltd. in London.

"Really what is driving (the company) now is what happens over the next few months—their results on a quarterly basis have been so volatile that it is what" observers will be watching, he said.

In 2004, Converium announced huge reserve boosts for U.S. casualty business (*BI*, July 26, 2004) and subsequently was downgraded by rating agencies and placed its U.S. reinsurance arm into runoff (*BI*, Sept. 27, 2004), among other changes.

In addition to the restatements, Converium last week gave more detail on its results for the third quarter and first nine months of 2005.

The reinsurer posted a loss of \$6.9 million for the three months ending Sept. 30, 2005, compared with a restated net loss of \$88.2 million for the comparable period in 2004.

Converium said the loss in the third quarter of 2005 was largely due to claims from U.S. hurricanes and European flooding, as well as costs of \$9.5 million associated with the company's restructuring.

For the first nine months of 2005, Converium posted a restated net income of \$34.5 million, compared with a restated net loss of \$593.4 million for the same period in 2004.

Converium will publish its full 2005 results on March 15.

Converium says insufficient risk transferred

By SARAH VEYSEY

ZUG, Switzerland—In announcing its restatement of results for several years, Converium Holding Ltd. acknowledged that it had determined that several nontraditional reinsurance transactions had to be reclassified as deposits for accounting purposes, as they did not include sufficient risk transfer.

In one such deal, Converium said that Zurich Reinsurance (North America) Inc.—which later became Converium's now-defunct U.S. reinsurance arm, Converium Reinsurance (North America) Inc.—in 1998 entered into a series of transactions with Armonk, N.Y.-based bond insurer MBIA Inc. that consisted of an excess-of-loss contract and a quota-share contract assumed by Converium. The liability arising from those contracts was then retroceded to third parties, Converium said in a statement de-

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Starr: International growth planned for second quarter

Continued from page 1

said AIG Global Energy will manage accounts formerly underwritten by Starr Tech on AIG's behalf.

Starr Technical also announced last week that it plans to expand internationally during the year's second quarter. Starr Tech President and Chief Executive Officer Richard Shaak said in a statement, "Our agreements with ACE and Berkshire Hathaway offer Starr Tech \$200 million of in-house underwriting capacity that we can access today to write business."

Starr Tech said the relationships with Philadelphia-based ACE USA and Omaha, Neb.-based Berkshire Hathaway will enable it to continue to provide comprehensive first-party property and machinery breakdown insurance coverage to new and existing clients in the industries it serves, which include oil, gas, chemical, petrochemical, utilities, power generation, construction and other complex-process industries.

Sandy Vietor, vice chairman of Willis Risk Solutions in New York, said, "I think the interesting thing is that Berkshire Hathaway's capacity that they're putting up is really new capacity in this area that's being written by an MGA. While Berkshire has done some big deals, to the best of my knowledge this is the first time they've committed capacity to an MGA in this manner, and so that's good news for buyers."

Mr. Vietor said he does not know

if this also represents additional capacity for ACE, but, if it does, "again, that's good for clients, and I think generally competition's always good for clients," with AIG setting up its own operation to write business formerly handled by Starr Tech.

The move will increase competition in the market, agreed John A. Rathmell Jr., president of Lockton Marine & Energy, a unit of the Lockton Cos. Inc., in Houston. The deal "certainly brings up a little more competition in an area that probably needs some competition," he said.

"Starr Tech was very dominant with the AIG paper, and Starr Tech was a leader for a number of our energy accounts. So now you've got a split, and you essentially have a new set of capacity in Starr Tech's hands wanting to keep their position on energy accounts, while AIG, at the same time, doesn't want to lose what they had," said Mr. Rathmell.

"It's going to create an interesting dynamic, and I've got to believe it'll create a little competition for accounts that both companies are familiar with," he said. "There's no doubt there's going to be a little bit of a turf war."

Neil Davis, president of the Houston-based Petro-Chem Insurance Group Inc., said, though, "I don't think it's going to be much of an impact." Most accounts, he said, will remain with AIG, "because AIG ultimately had the paper, so if you're going to gravitate to anybody, you're

Greenberg must wait for AIG report

NEW YORK—A New York judge last week delayed the release of an internal American International Group Inc. report to Maurice R. Greenberg, AIG's former chairman and chief executive officer, after a federal prosecutor sought to keep the report private.

In a letter to New York State Supreme Court Justice Charles E. Ramos, Paul J. McNulty, U.S. attorney for the Eastern District of Virginia, argued that releasing the report—which examines the insurer's accounting problems and was prepared by AIG's lawyers and its auditor, PricewaterhouseCoopers L.L.P.—would undermine the U.S. Department of Justice's criminal case against three former executives of General Re Corp. and a former AIG officer, court documents said.

All four have pleaded not guilty to charges of conspiracy to commit fraud and will face trial in May.

Lawyers for Mr. Greenberg, who resigned from AIG amid mounting investigations into the insurer, expected to receive the report this week, under earlier rulings upheld by Judge Ramos and Justice James Catterton of the New York state appeals court, which ordered AIG to turn over the report by March 6.

But after receiving the prosecutor's letter, Judge Ramos in a hear-

ing late last week said he would examine the documents and make a final decision on March 6, a source familiar with the matter said.

Mr. Greenberg's legal team is seeking the report to help prepare a defense of civil charges by New York Attorney General Eliot Spitzer, who has accused Mr. Greenberg and former AIG Chief Financial Officer Howard I. Smith of orchestrating sham reinsurance deals to inflate AIG's financial results.

"All AIG wishes to do is block Mr. Greenberg's access to materials that will support his dismissal from this case," Lee S. Wolosky, a partner at Boies, Schiller & Flexner L.L.P. who represents Mr. Greenberg, said in a statement.

"We don't comment on ongoing litigation," an AIG spokesman said. AIG last month settled charges of bid rigging and fraud brought by Mr. Spitzer by agreeing to pay \$1.64 billion and to reform its business practices.

While the New York attorney general has said he won't pursue criminal charges against Mr. Greenberg, it is unclear whether the Justice Department will bring a criminal probe against him.

The Department of Justice declined to comment.

—By Rupal Parekh

gong to gravitate to the actual underwriter, which was AIG itself."

Furthermore, AIG can offer coverage in complementary lines of business such as directors and officers li-

ability, which Starr Tech cannot, said Mr. Davis. "AIG's a very shrewd competitor, and to have them work against you is not a good place to be," he said.

Meanwhile, AIG has formed a new national underwriting unit to handle hard-to-place risks and to assume all business previously handled by San Francisco-based C.V. Starr & Co., another of the four Greenberg-controlled MGAs.

AIG Specialty Excess will concentrate on insuring specialty and hard-to-place classes of business, including construction, transportation, public entities and educational institutions. Beginning May 15, the unit "will respond to all in-force business, as well as new and renewal business currently handled" by Starr, AIG said in a statement.

Chris Maleno, president of AIG's excess casualty unit, will serve as AIG Excess Specialty's president.

Separately, a federal court hearing last week focused on AIG stock owned by Starr International. As part of its lawsuit against Starr, AIG has demanded that Starr forfeit control of its AIG holdings under certain "agreements and understandings" whereby it "promised to use its AIG stock to fund a deferred compensation program for AIG employees."

In a Feb. 24 letter to the court, Starr attorney Christopher M. Green of Boies, Schiller & Flexner L.L.P. in Armonk, New York, said that though it agrees to AIG's discovery request, Starr intends to continue selling AIG shares and will not consent to use these proceeds to benefit AIG or its employees.

U.S. Securities and Exchange Commission filings indicate that in February, Starr International sold 2 million AIG shares in several transactions, for total proceeds of \$134.4 million. Starr International still owns 308.9 million AIG shares, which had a value of \$20.23 billion as of Friday.

Integro: Aon suit charges that subordinates followed practice leader

Continued from page 1

who joined Integro in August. The suit accuses Mr. Marchitello of "inducing" Mr. Finnis to breach his employment agreement, which among other things restricted him from soliciting other Aon employees for at least two years after leaving the company.

According to the complaint, between October and December of 2005, Messrs. Marchitello and Finnis either directly or indirectly recruited 13 Aon employees, mainly from Aon's national property practice group in Atlanta and New York.

"After starting at the top, Integro apparently worked with Marchitello to recruit his Aon subordinates, including Finnis, intending to convert Aon's National Property Practice into Integro's National Property Practice," Aon charges in the complaint.

In addition, the suit charges that Aon lost one of its biggest accounts as a result of the staff changes, when Nashville, Tenn.-based HCA Inc. moved its business to Integro, court papers say.

Representatives of Aon and Integro declined to comment.

The suit seeks an injunction barring Integro and Messrs. Finnis and Marchitello from soliciting Aon employees. Aon also is seeking compensatory and punitive damages.

Many former Marsh employees also have joined Messrs. Garvey and Egan at Integro.

Where some key Integro staff came from

Integro staffer	Formerly worked for
Private Equity Practice Leader Robert P. Williams	Aon
Property Practice Leader Gary Marchitello	Aon
Casualty Practice Leader Alexandra Littlejohn	Marsh
New York Office Head Frank Gundersen	Marsh
Chicago Office Head Nancy Aque	Marsh
San Francisco Office Head Marc Kunney	Marsh
Atlanta Office Head Frank Kinnett	Marsh

Mr. Garvey, who is Integro's president, in April of last year left Marsh, where he was co-president. Mr. Egan, Integro's chief executive officer, was forced to resign as president and chief operating officer of Marsh in November 2004 in the wake of New York Attorney General Eliot Spitzer's suit against the company. He was not implicated in any wrongdoing at the brokerage.

Noncompetes common

A spokeswoman for New York-based MMC, which observers say is known to aggressively enforce employment agreements, declined to comment on whether the brokerage plans to litigate over staff defections to Integro.

Most brokerages require their producers to adhere to restrictive noncompetition pacts as part of their employment agreements as a means to protect their interests and will move to enforce them should a key employee leave and other employees and clients follow them, observers say.

In most cases, the brokerages will reach a settlement rather than try the case in state court, observers note.

One person familiar with such arrangements and lawsuits said that in many cases these lawsuits are viewed as a cost of doing business.

"You have to weigh whether you have someone violate their employment agreement and what that will cost you," the person said. "And if

the business that comes over compensates you for what you have to pay to settle the lawsuit, then it makes business sense."

"I don't think any of the brokers naively think it's not going to happen," the person said. "The Integro guys had to know who had restrictive covenants and who controlled how much business and what likely was going to happen if they took it from a competitor."

"A lot of it ends up being a function of the situation and whether or not the firm that loses people sees that as a precedent being set and they need to make a statement," said Bobby Reagan, president of Reagan Consulting Inc.

He said that due to the time, effort and cost involved in litigating employment agreements, such suits often are settled out of court, and settlements in some cases are reached even before a lawsuit is formally filed.

But there are instances where "folks are threatened enough that they have no choice but to litigate...and take a hard stand," he said.

Gretchen Roetzer, a credit analyst with Fitch Ratings in Chicago who follows Marsh and Aon, said she was somewhat surprised that Marsh hasn't pursued litigation, given the number of people who have left for Integro.

She noted, though, that not everyone who moved over may have had

employment contracts with restrictive covenants. And "given what's going on in the rest of their world, this might not seem so critical," she said.

At the same time, "it may not just have happened yet," she said.

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Transfer: Converium says deals had little risk

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tailing the restatement.

Converium said that its internal review of those contracts concluded that, at their inception, they did not include sufficient risk transfer to be accounted for as reinsurance and should have been booked as deposits. The accounting treatment for the retrocession of those liabilities was also corrected, Converium said.

In addition, Converium said that in 2003, it entered into a stop-loss reinsurance agreement with an unnamed third party that provided Converium with coverage of \$75 million in excess of reserves for losses arising out of guaranteed minimum death benefit reinsurance written or bound by Converium before 2003.

Converium said that its review has shown that a related ceded property catastrophe contract with the same third party, a "master profit-sharing agreement" with the party and certain other transactions between the two were not reflected in the accounting treatment of the stop-loss policy.

Also, Converium said it entered into a combined excess-of-loss agreement with another unnamed party, which inceptioned in October 2002 for a three-month policy term and subsequently was renewed for the 2002, 2003 and 2004 years. Coverage for guaranteed minimum death benefit liability was included in that contract in 2003. "Based on evidence from the internal review,

(Converium) determined that the initial risk transfer analysis did not include evaluation of the entire agreement between the parties, and that there is a likelihood that a side agreement was consummated," Converium said in its statement.

The accounting treatment for that policy has been changed to reflect the likelihood that it included insufficient risk transfer to be accounted for as reinsurance.

Converium revises figures

Restated shareholders equity in bold

2004	\$1.73 billion	\$1.72 billion
2003	\$1.93 billion	\$2.08 billion
2002	\$1.60 billion	\$1.74 billion
2001	\$1.50 billion	\$1.57 billion
2000	\$1.01 billion	\$1.09 billion
1999	\$1.22 billion	\$1.22 billion
1998	\$1.23 billion	\$1.23 billion

In addition, restatements were made for certain agreements between Zurich Financial Services—the former owner of Zurich Re, which was the predecessor company to Converium—and Converium Reinsurance (North America).

From "at least 1998 on, ZFS subsidiaries have provided, and continue to provide, coverage to CRNA, including stop-loss coverage relating to losses attributable to the settlement of litigation with the Unico Pool"—a pool for U.S. workers compensation carve-out busi-

ness—as well as coverage for structured finite risks contracts and aggregate excess-of-loss coverage.

Those ZFS subsidiaries, Converium said, then ceded a "substantial portion" of those liabilities to third parties.

Converium said that its cessions to ZFS have been accounted for—and continue to be accounted for—as reinsurance. However, the company said that as part of the "transac-

tions pursuant to which Converium was formed," Converium accepted financial benefits and risks relating to these transactions. Converium said it had accounted for the cessions made by ZFS to third parties as if those cessions had been made directly by Converium Reinsurance (North America) to third parties. However, it said that certain related agreements involving those third parties meant that the initial risk transfer analysis of the contracts did not include an evaluation of the entire agreement and that there was "a reasonable possibility of side agreements." There was, therefore, insufficient risk transfer at inception for the contracts to be classed as reinsurance, and certain of the contracts have been restated in part.

In addition, Converium said that six other contracts had been restated because the review showed they did not include sufficient risk transfer to qualify as reinsurance, including certain cessions to a Bermuda reinsurer that is 9.0% owned by Converium.

Late News

Continued from page 1

quarter 2005 net loss of between \$40 million to \$45 million reported today, which included unexpected loss reserve development for hurricanes Katrina and Rita, as well as other actuarial reserve adjustments and reported charges." Quanta said it will continue to operate in lines that do not require it to have A-level rating.

London beats early contracts target

The London insurance market has beaten its first target in a series aimed at meeting a regulatory deadline of Jan. 1, 2007, for all contracts placed in the market to be certain for buyers. According to the Market Reform Group, a Lloyd's of London and London insurance company market body set up to oversee the modernization, 65% of all contracts finalized during December were certain, beating a target set by the MRG and the Financial Services Authority for 30% of all contracts placed in December to meet certainty requirements. The MRG defines contract certainty as "complete and final agreement of all terms (including signed lines) between the insured and insurers before inception."

N.J. bill calls for naming employers of uninsured

Employers with 50 or more employees or worker dependents enrolled in a New Jersey low-income health insurance program would be listed in an annual public report under legislation that passed the New Jersey Senate earlier this week, S. 539, which now goes to the Assembly for consideration, comes in response to the growing number of working uninsured who are receiving coverage from the state's FamilyCare program, designed to be an insurance safety net for families living just above the poverty line, said one of its sponsors, Sen. Barbara Buono, D-Edison.

Lockton opens New York office

Lockton Cos. Inc. last week announced the opening of a New York retail office to target complex middle-market clients and Fortune 1000 companies. Kansas City, Mo.-based Lockton has staffed its new office with former executives of several of its brokerage competitors. Michael Calabrese, former head of Chicago-based Aon Corp.'s mergers and acquisitions practice, and Garrett Mathieson, former vice

chairman of Willis Risk Solutions North America, have been appointed co-presidents to lead Lockton New York.

NYC overrides veto of grocer cover mandate

The New York City Council has voted to override Mayor Michael Bloomberg's veto of amendments to 2005 law that would require grocery stores and other retailers selling groceries to make substantial contributions toward their employees' health insurance coverage costs. The measure would apply the health care contribution mandate to grocery stores with at least 50 employees. It also would exclude temporary and seasonal workers in calculations of how many employees a store has. The law, scheduled to take effect July 1, requires affected employers to contribute an amount equal to the prevailing employer contributions New York City grocers now make toward their employees' health insurance coverage. The city will conduct surveys to determine this amount.

Hurricanes spur cat bond growth

Hurricanes that battered the southeastern United States spawned booming growth in the catastrophe bond market, according to a report by Guy Carpenter & Co. Inc. and its MMC Securities Corp. According to the report, the catastrophe bond market recorded total issuance of \$1.99 billion in 2005, a 74% increase over the amount issued in 2004. The report also stated that total risk capital had increased to \$4.90 billion by the end of 2005, a 21% jump over \$4.04 at year-end 2004. The report is available at www.guycarp.com.

St. Peter's College offering ERM program

St. Peter's College in Jersey City, N.J., this week begins offering an enterprise risk management course for students pursuing a master of business administration or a master's degree in accounting. Students also have access to a related course in business ethics and legal liability. A risk management and insurance course will begin in June. The ERM course is taught by John J. Hampton, who was executive director of the Risk & Insurance Management Society Inc. from 2000 to 2004, and focuses on the emerging discipline of ERM, including the role of chief risk officers and the need for chief strategy and chief nonfinancial risk officers. All the courses can be taken for credit toward a degree or audited.

BI Stock Index [2/27 - 3/3]

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

Percentage change of BI Stock Index vs. key indicators

BI Stock Index	2928.45	-0.82
Dow Jones	11021.59	-0.36
S&P 500	1287.23	-0.17

Largest gains

Tower Group Inc.	11.79%
ProAssurance Corp.	5.48%
Marsh & McLennan	4.17%
SCOR S.A.	3.85%
Brown & Brown	3.81%

Largest losses

PXRE Group Ltd.	-16.80%
Vesta Insurance Group	-7.53%
Philadelphia Consolidated	-5.05%
United Fire & Casualty	-4.76%
Humana Inc.	-4.40%

Weekly change by market segment

Brokers	0.54%
Insurers/Reinsurers	-0.74%
Managed Care Organizations	-2.02%

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

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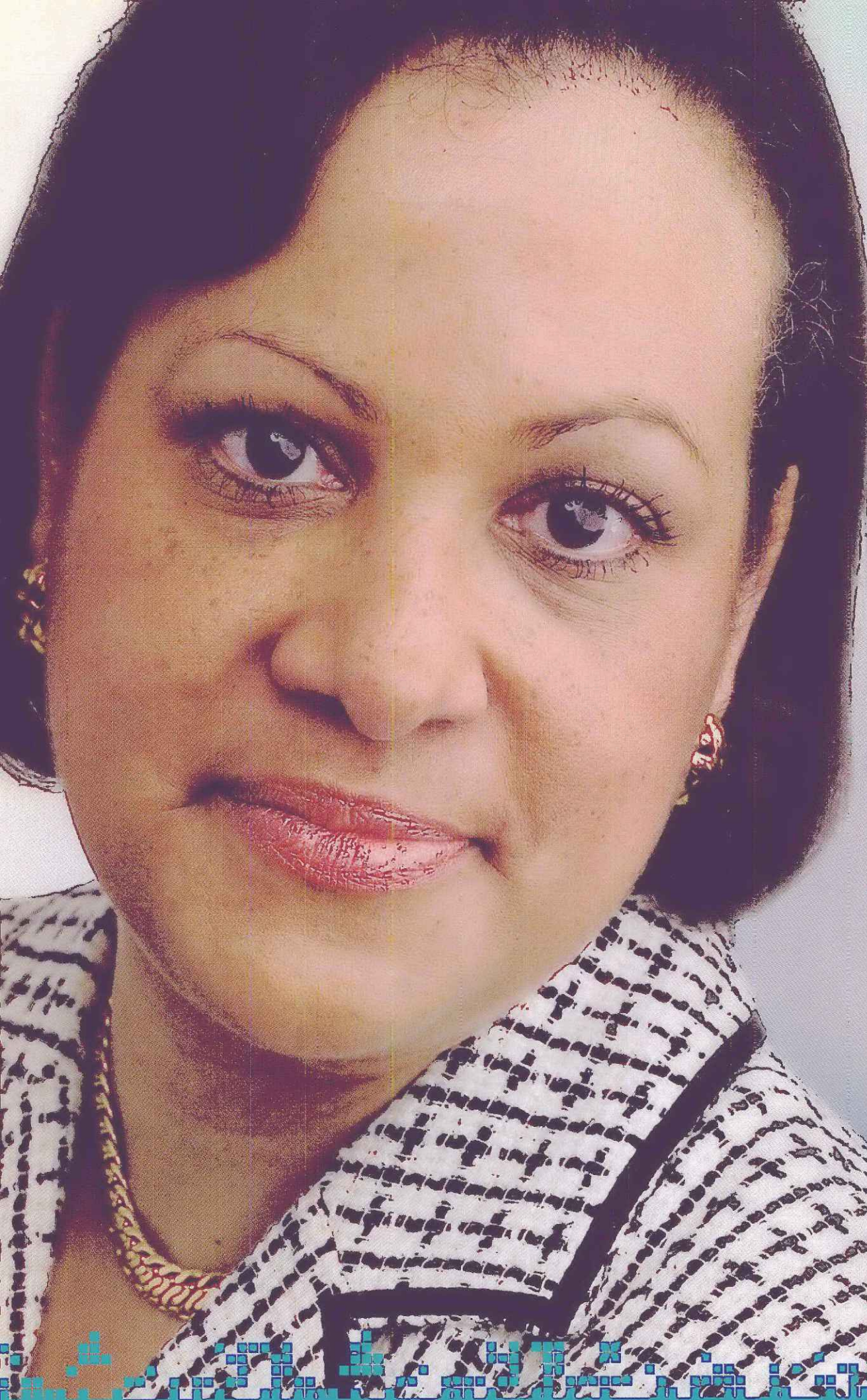
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New Online Poll: How effective are wellness programs in reducing health care costs and improving productivity at your organization?

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

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