

Business Insurance

May 7, 2007

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**ARIZONA SEEKS TO LURE
EMPLOYEE BENEFIT CAPTIVES
THROUGH LAW CHANGE / PAGE 3**



**PATENT LIABILITY SUITS
SEEN AS HARDER TO WIN
AFTER RULING / PAGE 3**

**Q&A: JOE PLUMERI OF WILLIS
TALKS ABOUT IMPROVEMENTS
INDUSTRY MUST MAKE / PAGE 6**

In Brief

**Bank deal unites
Wells Fargo Insurance, ABD**

ABD Insurance & Financial Services will become part of Wells Fargo Insurance Services Inc. under an all-stock deal, valued at about \$1.5 billion, that was announced last week by parent companies Wells Fargo & Co. and Greater Bay Bancorp. According to *Business Insurance's* 2006 brokerage rankings, Wells Fargo was the world's fifth largest broker—and fifth largest broker of U.S. business—based on \$959.4 million in 2005 brokerage revenues. ABD was the 15th largest broker of U.S. business, based on \$165.0 million in 2005 brokerage revenues from U.S. clients. "We look forward to welcoming ABD's more than 700 team members to Wells Fargo Insurance Services Inc.," Dave Zuercher, chairman and chief

See **IN BRIEF** page 30



EVOLUTION OF ROTH 401(K) ACCOUNTS

Roth 401(k) accounts are named after the late Sen. William Roth, R-Del., (left) former chairman of the Senate Finance Committee, and a champion of 401(k) plans and individual retirement accounts.

2001: Accounts authorized as part of the Economic Growth and Tax Relief Reconciliation Act

2006: Employers first allowed to offer Roth 401(k) accounts

2006: Congress makes the accounts permanent
Internal Revenue Service resolves many questions about the accounts through proposed rules

2007: IRS finalizes its rules

NEWS.COM

IRS move boosts Roth 401(k) plans

*But wide acceptance
still some years away,
experts say*

By **JERRY GEISEL**

WASHINGTON—Another obstacle blocking employers from adding Roth 401(k) plans has been lifted, but widespread employer adoption of the plans is at least several years away.

Last week, the Internal Revenue Service finalized regulations that largely mirror rules it proposed early last year shortly after a provision in the 2001 federal tax law that authorized Roth 401(k) plans went into effect.

The final rules, though, do clarify several points affecting the arrangements under which employees make after-tax contributions—unlike traditional 401(k) plan contributions. Then, as long as certain

conditions are met, employees can withdraw investment income earned on the contributions tax-free.

One clarification involves employees who terminate employment and have small balances in their traditional 401(k) and Roth 401(k) accounts.

Under federal law, if a pension or savings plan distribution is between \$1,000 and \$5,000 and the employee hasn't told the employer what to do with the money, the employer—unless it decides to keep the money in the plans—must transfer the funds to an individual retirement account it selects.

The final regulations make clear that terminating employees' Roth 401(k) and traditional 401(k) account balances can be kept separate to determine if the \$1,000 rollover threshold was hit.

For example, if a terminating

See **ROTH** page 29

Marsh, Aon still mull new insurer payments

*Decision by Willis
may pressure rivals
to spurn supplements*

By **DOUGLAS MCLEOD**

NEW YORK—While large brokers may have a tougher time accepting supplemental commissions from insurers in the wake of Willis Group Holdings Ltd.'s decision to reject the proposed payments, it's unclear whether other brokers will follow Willis' lead, industry observers say.

London-based Willis announced last week that it will not take supplemental compensation of the type proposed in recent months by Chubb Corp. and Travelers Cos. Inc. The supplemental payments are aimed at replacing contingent commissions that the largest brokers stopped accepting—and that some insurers have been forced to stop paying—following state inves-

tigations of broker compensation practices.

Although state attorneys general have raised no objections to the Chubb and Travelers payments, Willis concluded that such payments don't avoid the conflicts created by contingent compensation.

"They have performance-driven elements that make lump-sum payments contingent on factors such as retention, growth and profitability—features that rendered contingent commission plans incompatible with conflict-free transparency and our clients' best interests," Willis said in a statement.

Marsh & McLennan Cos. Inc. and Aon Corp. are still reviewing the structure of the Chubb and Travelers plans and have not decided whether to participate, spokesmen for the brokers said. By contrast, Arthur J. Gallagher & Co. has embraced supplemental plans as

See **SUPPLEMENTAL** page 28

Crump to combine with rival wholesaler

*Investor owner pays
\$650 million in deal
for BISYS units*

By **JUDY GREENWALD**

NEW YORK—BISYS Group Inc.'s wholesale brokerage operations will be combined with Crump Insurance Services Inc. under a deal in which Crump's owner, private equity firm J.C. Flowers & Co. L.L.C., is to purchase those operations as well as BISYS' retirement services business for an estimated \$650 million.

Under terms of the deal announced last week, New York-based Citigroup N.A. is to acquire and retain BISYS, which also provides outsourcing solutions for the financial services sector, in a transaction valued at about \$1.45 billion. Simultaneously, Citi is to sell

BISYS' Retirement and Insurance Services division to New York-based Flowers, making the net cost of the transaction to Citi about \$800 million.

Flowers plans to combine Crump's commercial insurance business with BISYS Commercial Insurance Services to create an operation with greater scale, Roseland, N.J.-based BISYS said in a statement.

The combination of the Crump and BISYS operations "will introduce an element of stability into the overall market" and is positive for both the market and the ultimate insurance buyer, said John L. Ward, chief executive officer of Cincinnati-based Cincinnati Partners L.L.C., an insurance industry adviser.

In addition, Flowers' acquisition of BISYS' life insurance and retire-

See **BISYS** page 29

SPOTLIGHT

RIMS 2007 CONFERENCE NEWS

RIMS president urges risk managers to focus on quality; industry CEOs face barrage of questions over relations between brokers and buyers; sports events raise money for Spencer scholarships; William J. Kelly honored with top award. **Page 11**



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INDEX

Advertiser Index	29
Business Resources	14
End Page	31
International	25
Opinions	8
Perspective	27
Products & Services	26
Professional Marketplace	24
Stocks	30

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On the Web

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QUESTIONS & ANSWERS

Willis chief sees room to improve industry

Willis Group Holdings Ltd. Chairman and CEO Joe Plumeri is outspoken on industry



practices. In an interview, he tells why he's passionate about a principles-

based regulatory system, broker compensation by the client, and why the industry should focus on creativity and imagination. Read his remarks at www.BusinessInsurance.com/QandA.

RISK MANAGER OF THE YEAR®

See 30 years of risk excellence online

A special online section features profiles of all 30 winners of the Risk Manager of the Year® award since 1978, as well as summaries and insights of their successful programs since the award's creation. For this special package as well as more coverage of this year's awards ceremony, visit www.BusinessInsurance.com/RMOY2007.

BENEFIT MANAGER OF THE YEAR®

Deadline for BMOY nominations is near

Business Insurance is seeking nominations for the magazine's 2007 Benefit Manager of the Year® award to recognize excellence in benefits management. To nominate a candidate by June 1, download a form at www.BusinessInsurance.com/BMOY.

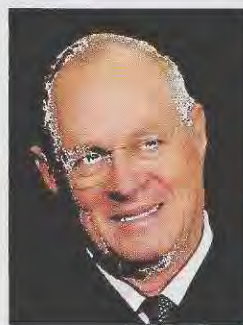
High court ruling may boost patent litigation

Case eases standard for legal challenges to existing patents

By MARK A. HOFMANN

WASHINGTON—Although the full impact of a U.S. Supreme Court decision exposing patents to broader legal challenges won't be clear for years, holders of existing patents may have a tougher time defending them in court, legal experts say.

At the same time, future patents issued in accordance with the high court's ruling in *KSR International Co. vs. Teleflex Inc.* would meet



REUTERS

'The results of ordinary innovation are not the subject of exclusive rights under the patent laws.'

Anthony Kennedy, U.S. Supreme Court

stricter criteria and thus be less likely to be voided, patent litigation experts note.

One thing that does seem certain is that last week's ruling, which scaled back patent protections, will

have little if any immediate impact on the patent infringement insurance market. The market is a very small one that underwriters have shunned as they've suffered losses in recent years.

The case involved a dispute over a gas pedal that was produced by Canadian manufacturer

KSR of Ridgetown, Ontario. The pedal combined two elements—the pedal itself and an electronic sensor. Limerick, Pa.-based Teleflex sued KSR, claiming the device infringed on a patent it held for a pedal

equipped with a sensor. KSR countered that merging the two components was "obvious" and therefore not subject to patent infringement litigation.

A federal court in Michigan agreed with KSR, but the U.S. Court of Appeals for the Federal Circuit, which has sole jurisdiction over patent issues, disagreed and upheld Teleflex's claim. KSR appealed to the Supreme Court, which held in a technologically detailed opinion that the appeals court had applied too rigid a standard in upholding Teleflex's suit.

"As progress beginning from

See **PATENTS** page 28

Arizona makes changes to lure benefit captives

Domicile could attract offshore facilities looking to expand

By JERRY GEISEL

PHOENIX—Employers with captive insurance companies domiciled outside the United States will be able to set up branch captives in Arizona to fund employee benefit risks under legislation signed last week by Gov. Janet Napolitano.

The branch captive concept is appealing to employers that want to fund benefit risks through captives, but want to continue to sponsor captives outside the United States. U.S. Department of Labor rules stipulate that captives used to fund benefit risks of U.S. employees must, among other things, be licensed in a domestic state.

For example, when Sun Microsystems Inc. decided several years ago to fund employee benefit risks through a captive, it didn't have time to move its Bermuda-domiciled captive program to a U.S. captive domicile, said

Suzanne Gallie, Sun's senior risk manager in its corporate risk management department in Broomfield, Colo.

Instead, it set up a Vermont branch of Solarius Indemnity Ltd. to reinsure life insurance policies written by AIG Life Insurance Co. Ltd., a unit of American International Group Inc.

Branch captives face fewer regula-

tory requirements than stand-alone captives. For example, under the new Arizona law, which takes effect in early September, a branch captive would not have to file separate financial reports.

"It is less expensive and less difficult, generally," for companies to form a branch captive than a new onshore captive, said Rod Morris, captive insurance administrator with the Arizona Department of Insurance in Phoenix.

To date, only a handful of companies, including Sun Microsystems, have set up branch captives

to fund employee benefit risks.

See **CAPTIVES** page 28



'It is less expensive and less difficult, generally' for companies to form a branch captive than a new onshore captive.

Rod Morris, Arizona Department of Insurance

Calif. ruling clarifies comp apportionment

Decision seen saving hundreds of millions in employer costs

By ROBERTO CENICEROS

SAN FRANCISCO—The California Supreme Court handed employers a victory Thursday, ruling that workers compensation reforms adopted in 2004 did not alter apportionment of employer responsibility for permanent disability injuries.

The decision settles a two-year battle between applicants and their attorneys on one side and employers on the other over the apportionment issue.

Numerous employer associations weighed in with amicus briefs on the consolidated case of *Stan Brodie vs. Workers' Compensation Appeals Board and Kenneth Dee Welcher vs. Workers Compensation Appeals Board*.

Apportionment addresses employer and insurer responsibility for a current permanent disability claim when an applicant also suffered a previous injury, either while working for a former employer or while away from work.

The court unanimously found that employers should not be liable for the combined disability, but only for the portion due for the later injury as if a prior disabling injury did not exist.

"Thus, a worker with a 60%

industrial disability, 30% current and 30% pre-existing, and a worker with a 60% current disability, 30% industrial and 30% nonindustrial, should each be treated the same as a worker with a 30% industrial disability," the court's opinion states.

The ruling maintains a formula for determining apportionment that the state Supreme Court previously upheld in 1976 in *Fuentes vs. Workers' Comp Appeals Board*.

However, Senate Bill 899, the workers comp reform bill signed into law in 2004 by Gov. Arnold Schwarzenegger, created doubt over whether the apportionment formula adopted in *Fuentes* had been superseded, the court noted in its decision.

Three separate appeals courts came to differing conclusions on the issue, with two of them agreeing that the passage of S.B. 899 had changed the formula.

The state Supreme Court justices reasoned, however, that *Fuentes* stands as law and that the reforms had not superseded it.

Adoption of a different formula favored by applicants would have significantly increased the amount of disability awards charged to employers and insurers, the court noted.

Thursday's ruling will result in hundreds of millions of dollars in savings for employers across the

See **COMP** page 6

Business Insurance®

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

Business Insurance (ISSN 0007-6864) Vol. 41, No. 19, 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 © 2007 by Crain Communications Inc.



ON OCT. 8, 2007, *Business Insurance* will celebrate its 40th anniversary of publication. Each week until then, BI will offer a peek at news we reported during the past four decades.

MAY 12, 1969 Missouri's attorney general sought to suspend the charter of a "mini-mutual" insurance company after *Business Insurance* reported that the company exceeded the limitations of its charter, writing commercial risks outside the state. An assistant to the attorney general credited BI with bringing the matter to light.

MAY 26, 1969 The president of the Connecticut Union of Telephone Workers criticized American Telephone & Telegraph Co. for creating a savings plan exclusively for its management-level employees. AT&T's plan permitted eligible salaried employees to invest in company stock, federal government obligations and other investments.

Two more employers freeze defined benefit pension plans

By JERRY GEISEL

PHILADELPHIA and TROY, Mich.—Two large employers, Lincoln Financial Group and ArvinMeritor Inc., last week said they will freeze their defined benefit pension plans and enhance their 401(k) plans.

Effective Jan. 1, 2008, employees of Philadelphia-based Lincoln Financial no longer will accrue benefits in the pension plan. The life insurer will improve its 401(k) plan in two ways: by providing an automatic contribution equal to 4% of employee pay, and by matching 100% of employees' salary deferrals up to the first 6% of pay. Currently, Lincoln matches 50% of deferrals on the first 6% of pay.

Philadelphia-based Lincoln Financial, which last year reported net income of about \$1.32 billion on revenues of just over \$9 billion, said the retirement plan

changes were driven by the "changing dynamic of the retirement landscape, and the greater need by today's employees for flexibility and portability of their retirement assets."

The pension plan freeze at ArvinMeritor, a Troy, Mich.-based automotive components manufacturer, will affect about 3,800 salaried and other nonunion employees and will occur in two stages. The first stage of the freeze will begin Jan. 1, 2008, but will exclude older employees with at least 10 years of service, who will continue to accrue benefits under the pension plan.

But after June 30, 2011, those older employees—workers of at least age 50 with 10 years of service and employees with at least 20 years of service as of Dec. 31, 2007—will cease accruing benefits under the plan.

While phasing out the defined benefit plan, ArvinMeritor, which last year

reported a net loss of \$175 million on sales of about \$9.2 billion, is sweetening its 401(k) plan. The company will make an automatic contribution that increases with age. The contribution will be equal to 2% of pay for employees younger than age 30, with the contribution gradually increasing with employee age until topping off at 4% for employees age 60 and older.

Those contributions will come on top of ArvinMeritor's 401(k) plan matching contributions. Currently, the company matches 100% of employees' salary deferrals, up to the first 3% of pay, and matches 50% of deferrals on the next 3% of pay.

The changes will enable the company to offer a retirement savings program that will meet employee needs while allowing the company to better manage ongoing funding requirements, a spokeswoman said.



Detroit workers are among those affected by ArvinMeritor's decision to freeze DB pensions and sweeten its 401(k) plan.

BI seeking nominees for 2007 award in employee benefits

Business Insurance is inviting nominations for its 2007 Benefit Manager of the Year award.

The competition seeks to recognize excellence and innovation in employee benefits management. Any full-time employee of a corporation, nonprofit organization or government entity who oversees or administers employee benefit functions is eligible for the award. A nominee need

not manage benefits as a sole responsibility but must be a full-time employee of the organization.

An independent panel of judges will score nominees on how well he or she:

- Solved one or more major problems for his or her employer.
- Innovatively applies benefit programs to his or her organization's needs.
- Effectively uses benefit programs to help control costs.
- Exhibits leadership in achieving change within his or her organization.

- Established an effective system for communicating benefit programs to employees.

- Skillfully administers benefit programs through application of technology.

- Develops in his or her career and promotes advancement of the benefits profession.

The value or generosity of specific benefits will not be judged; the award is intended to honor outstanding performance in managing and administering employee benefit programs overall.

The highest-scoring candidate, as determined by the judges, will be named Benefit Manager of the Year and will be profiled in the Sept. 17, 2007, issue of *Business Insurance*.

The deadline for nominations is June 1, 2007.

To nominate a candidate for Benefit Manager of the Year, please download a form at www.BusinessInsurance.com/BMOY or request one from BI Editor Regis Coccia at rcoccia@businessinsurance.com.



Security breach charges settled

CS STARS: No customer data used inappropriately in computer theft

By MARK A. HOFMANN

NEW YORK—CS STARS L.L.C. has settled with the New York attorney general's office over alleged failure to comply with the state's security breach notification law.

According to the attorney general's office, the case arose on May 9, 2006, when an employee of the Marsh Inc. affiliate noticed that a computer containing personal material on workers compensation beneficiaries was missing. The data belonged to the New York Special Funds Conservation Committee, a nonprofit entity that assists in providing workers compensation benefits.

The attorney general's office said CS STARS did not notify proper authorities of the security breach

until June 29, 2006. It began notifying the approximately 540,000 potentially affected people of the security breach in July, and authorities recovered the missing computer later in the month. The Federal Bureau of Investigation determined that the personal data had been improperly accessed.

New York's Information Security Breach and Notification Law holds that any business that maintains private information that it does not own must notify the owner of the data as soon as a breach is discovered and must notify all affected consumers in the "most expedient time possible," according to the attorney general's office.

Under a settlement announced on April 26, CS STARS—which had cooperated fully with the state

investigation and which did not admit to any violation of the law—agreed "to implement precautionary procedures and comply with New York's notification law in the event of a security breach," said the attorney general's office in a statement announcing the settlement. The state said that CS STARS also agreed to pay the attorney general's office more than \$60,000 for costs related to the investigation.

"CS STARS is pleased that no customer data was used inappropriately by the individual who stole the computer from our premises and that there is no assertion of guilt leveled by the New York attorney general's office," said a spokesman for CS STARS. "We are pleased to now have this matter behind us and have no further comment."

Tough exposures test risk managers

Pharmaceutical, financial service industries seek nontraditional cover

By GLORIA GONZALEZ

Risk managers must be increasingly creative in seeking coverage solutions for exposures with potential losses that are so large or immeasurable that they are difficult to insure in the traditional markets.

The pharmaceutical and financial service industries in particular have major exposures that force risk managers at those companies to seek alternative risk financing solutions, risk managers said at an Assn. of Professional Insurance Women's panel discussion, "Surviving and Thriving in an Era of Creative Risk Financing," last month in New York.

The pharmaceutical industry faces risks as diverse as reputational risk, tort litigation and professional liability claims, said Diane Askwyth,

senior director, risk management and insurance for Kenilworth, N.J.-based Schering-Plough Corp.

"Our risks are unusual and very specific to the pharmaceutical industry," she said. "Many of the risks aren't even insurable. Some are insurable only at very high catastrophic levels above jaw-dropping size deductibles."

For example, a key risk pharmaceutical companies face is the possibility of their prescription drug products causing injury or death. Even if only 1% of patients suffer side effects from a medication, a pharmaceutical company could face a situation similar to what Whitehouse Station, N.J.-based Merck & Co. Inc. has encountered with Vioxx, with Merck facing thousands of lawsuits alleging the anti-inflammatory drug caused

heart problems or fatalities. "That's just a tremendous risk," she said.

The difficulty in insuring its risks was the reason Schering-Plough created a captive insurance company, Ms. Askwyth said. "We run a lot of expected losses though our captive because we frankly don't have a choice," she said. "We have to be the kings of alternative risk financing."

Another potential solution for difficult-to-insure exposures involves risk financing arrangements using the capital markets, although the structure of these arrangements is still developing, risk managers say.

Marlene Debel, a managing director with New York-based Merrill Lynch & Co. Inc., who is responsi-



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APIW: Tough risks challenge creativity

CONTINUED FROM PAGE 4

ble for the firm's capital management and global insurance and risk groups, has spent a great deal of time exploring how to use the capital markets to cover risks. When a security is sold to an investor, though, the potential payoff must be clear, which is difficult to establish for certain risks and complicates the possibility of using capital markets to address those risks, she said.

Ms. Askwyth has explored the possibility of using the capital markets to address product liability risks, given that only about five insurance companies still write the risk for pharmaceutical companies and the most capacity generally available is about \$250 million, but she has not seen an appetite for the risk. "The capital markets can not model product liability risks," she said. "And that's the scary one."

With various stakeholders considering the possibility of using the capital markets in risk financing arrangements, Ms. Debel said she would not be surprised to see products developing with the aim of using the capital markets to develop capacity that does not exist in the insurance market. "I think the market needs to evolve a bit before it becomes a good risk alternative," she said.

For risk managers today, it is critical that they understand the various operations of their company so that they can translate those operations into the language of risk and insurance, said Janice Ochenkowski, managing director at Chicago-based Jones Lang LaSalle Inc. This is important in not only finding the appropriate vehicles to manage risks, but in helping senior management understand and discuss the transfer or acceptance of risk, she said.

Many risk managers spend a great deal of time understanding insurance products, but risk managers have excellent resources in brokers and underwriters who understand the nuances of these products, Ms. Ochenkowski said. Instead, they should focus on understanding their company's operations so that they can raise the impact of risk management within the organization and be seen as having a vital role in the operation of the company, she said.

In addition to understanding the insurance market, risk managers expect their brokers to understand their business and what services they are expected to provide, Ms. Ochenkowski said. "If we're clear in telling you what we expect from you, then you need to be honest with us about whether you can deliver that or not," she said. "I think communication needs to be open and honest on both sides."

Comp: Court clarifies payment duties

CONTINUED FROM PAGE 3

state, added a spokesman for the Workers' Compensation Action Network, a Sacramento, Calif.-based employer and insurer coalition.

"It's a major decision," said Steve Suchil, assistant vp in Sacramento, Calif. for the American Insurance Assn. "Had the court ruled the other way it would have vastly increased the dollars paid by employers."

Gov. Schwarzenegger in a prepared statement called the ruling a huge victory in protecting the workers comp reforms. "Thanks to these reforms, we have eliminated a poison to our economy and cut premiums by almost 65%—resulting in more than \$15 billion in savings," the governor said in the statement.

Following the conflicting appeals court decisions over apportionment, the California's Workers' Compensation Appeals Board in

October 2006 placed a moratorium on hearing all apportionment-related cases pending direction from the Supreme Court.

The decision handed down on Thursday stems from the consolidation of five different cases. Each had differing facts, but in all of them the injured worker's permanent disability level was attributed to one or more previous injuries.

California Supreme Court, S146979.

Questions & Answers



Since 2004, Willis Group Holdings Ltd. Chairman and Chief Executive Officer Joe Plumeri has been outspoken in his opposition to contingent compensation for placing risks with underwriters. State attorneys general recently approved a new form of supplemental compensation developed by a few national insurance companies. However, Willis was the first major broker to swear off contingent payments, and last week announced it would not accept the new form of compensation, either. Mr. Plumeri spoke about Willis' position on this and other topics with BI Editor Regis Coccia.

Time to avoid conflicts

Q: Why is Willis not accepting supplemental compensation?

The whole supplemental compensation issue, in my opinion, is much more than just supplemental compensation. It's much more than whether supplemental compensation feels and looks like contingents. And it's much more than a sense of somebody saying from a regulatory point of view they're OK. It's much more than somebody saying it's legal.

I think the industry has got to rise above all of that and begin to define and describe what it is from a principles point of view. Do you feel that it's the right thing to receive compensation and be in conflict with your clients? That's really the issue here. When I was little, we used to say as kids when we did things, "There's no law against it," immediately suggesting that because there's no law against it, that makes it OK....

When I look at supplemental compensation, I say to myself, irrespective of what a regulator said you can do, in my opinion, it's the same as a contingent. Whether it's prospective or retrospective, the fact of the matter is you're getting paid to do something that rewards you for doing more business with a carrier. The reward, if we're building a great business, a value-driven business, should ultimately come from the client. If you do a good job, the client should pay you. If you do a really good job, the client should pay you more. If you are innovative and you are imaginative and do all the kinds of things that will make the industry better, then the client will pay you.

Q: What will it mean for Willis if its competitors accept supplemental compensation?

I don't think it will mean a thing. What people decide to do is their business. They have a set of values. We have a set of values. They're going to go to what they think in their hearts is the right thing to do....I can't answer why other people may or may not take them, I can only tell you why we don't. We shouldn't be making decisions based on what other people do. We should be making decisions based on what we think the right

thing to do is, and that's one of the ingredients of leadership....I also think (accepting supplemental compensation) stunts our growth. If you think there are all sorts of ways you're going to get paid, it stunts our growth as it relates to being imaginative, creative and understanding fully that the person who pays you at the end of the day is your client.

Q: What are some obstacles to innovation and creativity in the industry?

You've got to start with service. I just don't think service has been a big deal in this industry. I don't know why. Who knows? There's such movement of people in the industry and in accounts that you have to ask yourself why does that

THE FULL TEXT of this abridged BI interview is at www.BusinessInsurance.com/QandA

Rewalk the red carpet.

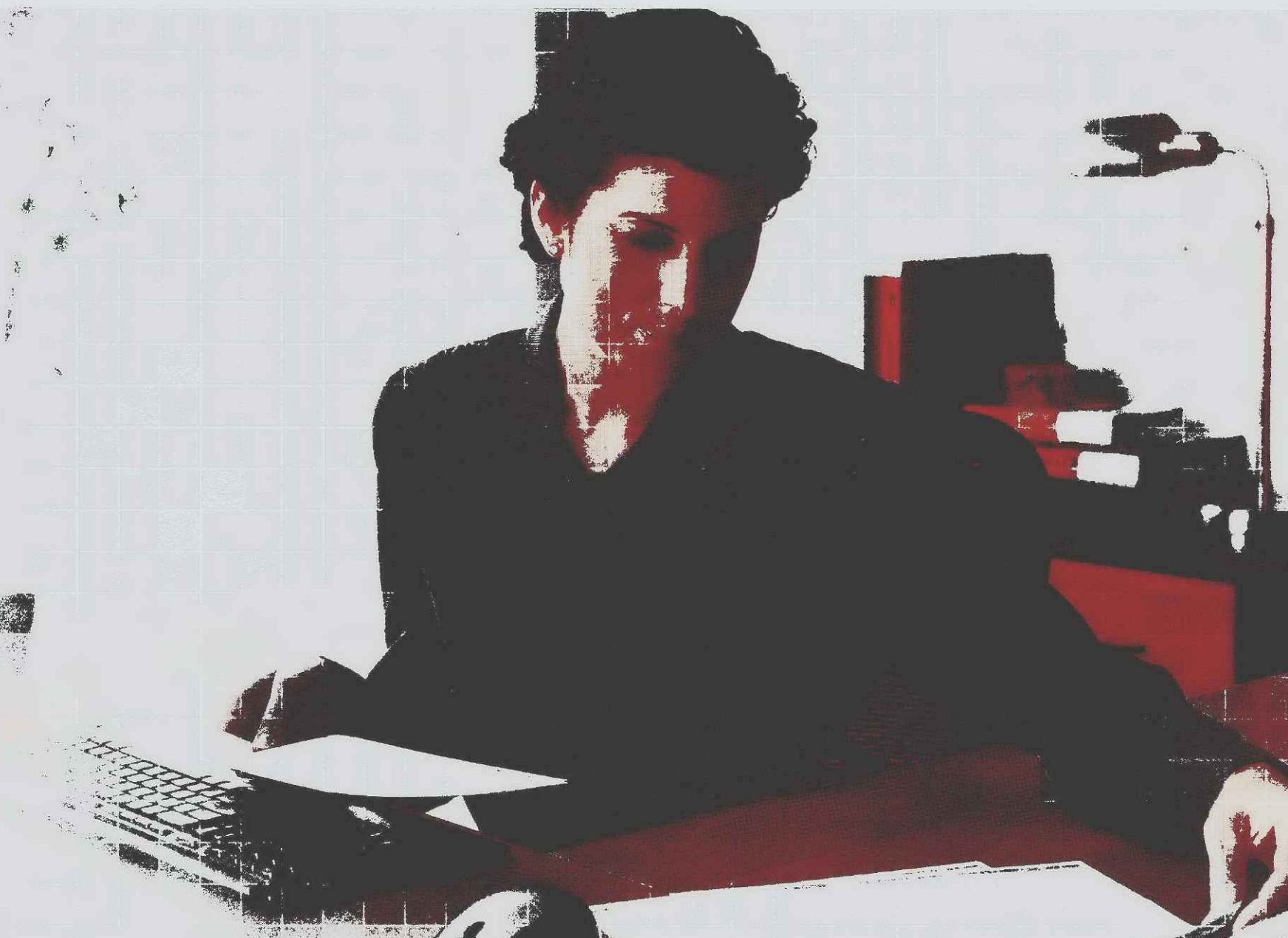
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A high-contrast, black and white photograph of a worker in a steel plant. The worker is in the foreground, silhouetted against a bright, glowing background of molten metal. The worker is wearing a hard hat and a dark shirt. The background shows industrial structures and bright light from the molten metal.

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President Michael Liebowitz opens RIMS 2007.

Risk managers' top priority: quality

President urges efforts to improve practices and relationships

By JOANNE WOJCIK

NEW ORLEANS—Risk managers should make quality improvement a top priority in their business practices and in their relationships with their service providers, said Michael Liebowitz, president of the Risk & Insurance Management Society Inc.

Insurers and brokers have been responding positively over the past year to the challenge laid out by RIMS to improve their processes and deliver timely and accurate policies to risk managers, he said. Now, it's time for risk managers to do their part to streamline and expedite the insurance transaction, Mr. Liebowitz said.

"What is desperately needed to ensure quality and top-of-the-line service is for you, as the risk manager, to command your providers to meet your expectations," he said

during a speech that opened the RIMS 2007 Conference & Exhibition, held April 29-May 3 in New Orleans. "You have the power. Risk managers must provide the timeline, lay your expectations upfront, and they will strive to meet them."

At the same time, however, "risk managers must strive to provide complete information so (providers) are best equipped to perform," said Mr. Liebowitz, who also is director of insurance and risk

See **CHALLENGE** page 12

Compensation issues dominate Q&A with CEOs

Executives differ on what's appropriate in the relationship among buyers, brokers and insurers

By JOANNE WOJCIK

NEW ORLEANS—Chief executives of the nation's leading insurers and brokers had their feet put to the fire during a panel discussion, when risk managers barraged them with questions on such pressing issues as transparency in insurance placements, supplemental and contingent commissions, post-Katrina catastrophe modeling and industry consolidation.

Last week's panel discussion at the Risk & Insurance Management Society Inc.'s 2007 Conference and Exhibition in New Orleans was only

the third time this type of free-ranging panel has been held at the annual conference.

Though the executives often traded good-natured barbs, the majority of the questions, which were submitted on index cards by members of the audience—and answers to those questions—were serious.

The makeup of the panel also changed shortly before the session.

Joseph Plumeri, chairman and chief executive officer of London-based Willis Group Holdings Ltd., withdrew earlier from the panel "in the interest of fostering (a contemplative) dialogue," a company

spokesman said. "We feel it's better to give more voice to fewer people."

Mr. Plumeri last week announced that his firm would not accept the new form of broker compensation, saying it is too similar to the contingent commissions they are meant to replace (*BI*, April 30).

Mr. Plumeri's absence from the panel discussion was pointed out by Brian Storms, chairman and CEO of Marsh Inc., before responding to a question whether brokers should take supplemental commissions.

"Joe should comment, but I don't see him on the panel," Mr. Storms said. Then, responding to the ques-

tion, he said it was a complicated issue "that should not be addressed in sound bites on a panel."

"Marsh is going to take its time with this issue," he said. "We will come to a conclusion that's good for the industry, not just for Marsh."

Martin J. Sullivan, president and CEO of American International Group Inc., said brokers should only have two forms of compensation: straight commissions and client fees.

But John Amore, chief executive, general insurance, at Zurich Financial Services Group, said the rules

See **CEOs** page 14

SPOTLIGHT

SPENCER CREATES SCHOLARSHIP HONORING XL EXEC
PAGE 18

RIMS' HIGHEST AWARD BESTOWED ON WILLIAM J. KELLY
PAGE 20

RISK MANAGERS URGED TO TAKE THEIR CASE TO LAWMAKERS
PAGE 21

AMERICAN AIRLINES FLIES TO SAVINGS WITH PILOT PROGRAM
PAGE 22

RETURN-TO-WORK PROGRAMS HELP EMPLOYER, WORKER
PAGE 23

PHOTOS: MICHAEL MARCOTTE

Challenge: RIMS backs permanent solution to federal terror backstop

CONTINUED FROM PREVIOUS PAGE

management for New York University.

"In some cases, this is easier said than done," he said. "In some cases, we are gathering data globally that arrives to us in various formats and languages. Time is an issue as well. But until we can streamline this process, learn to adequately

gather data that brokers and insurers require, we cannot expect them to meet our expectations and cannot hold them to our time limits."

To help risk managers rise to the challenge, RIMS has developed resources that are available on its Web site, he said.

"RIMS leadership and the Quality Advisory Council have worked dili-

gently to develop a set of quality guidelines to better prepare you for this process. They are best practices and industry standards. You need them to get this done. I urge you to assess the guidelines," Mr. Liebowitz said.

Also during his address, he said RIMS is opposed to merely extending the federal Terrorism Risk Insurance Act.

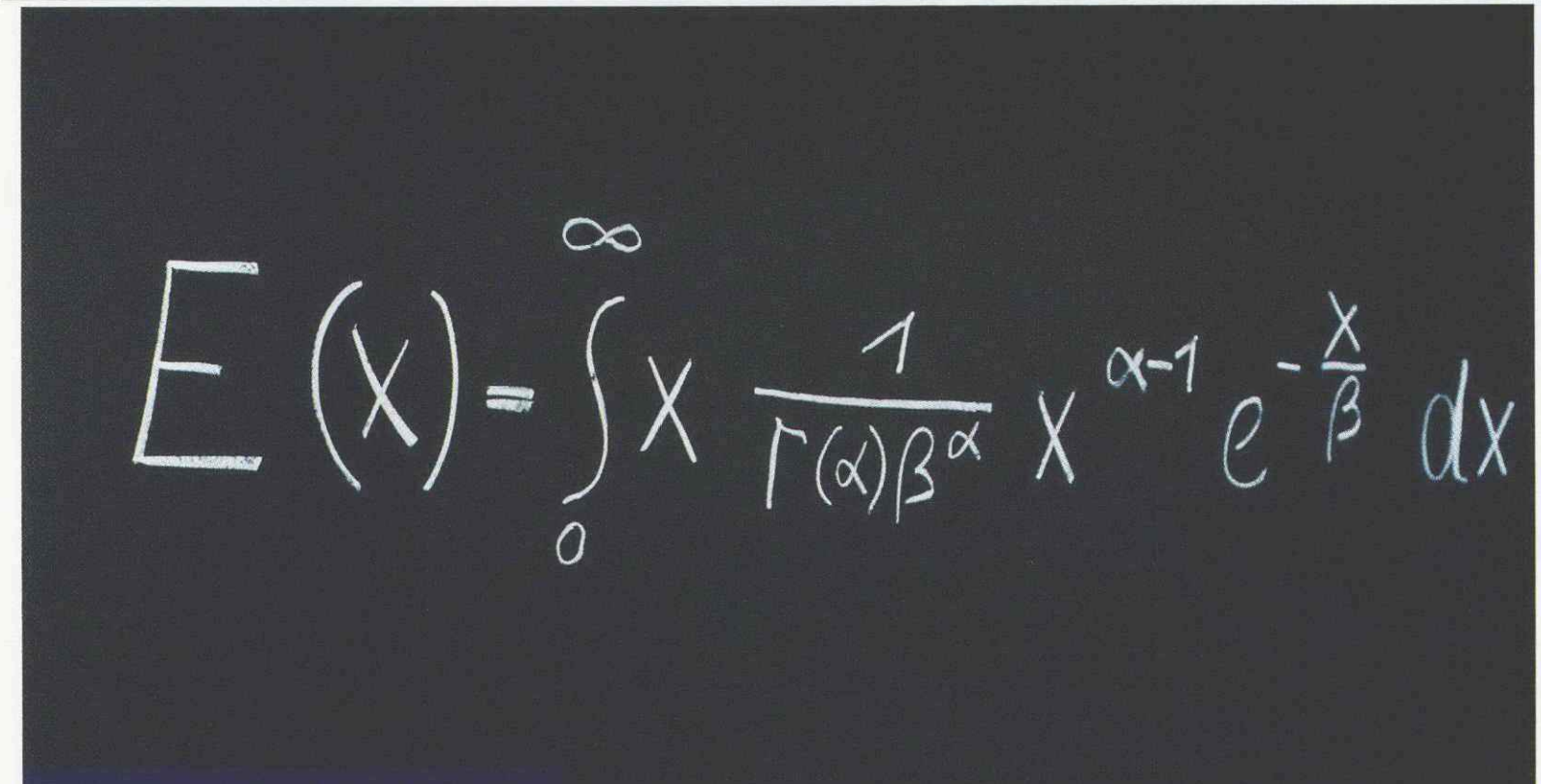
"We call for no more extensions. We call for a permanent solution," he said. "We need to protect ourselves from potentially disastrous situations. We must ensure the availability and affordability of insurance coverage for nuclear, biological, chemical and radiological events caused by terrorism. It isn't an issue that can be brushed aside."

Although RIMS already expressed

this sentiment last month at a congressional hearing on TRIA in Washington, Mr. Liebowitz urged RIMS members to contact their individual congressmen to reinforce this message.

Get involved

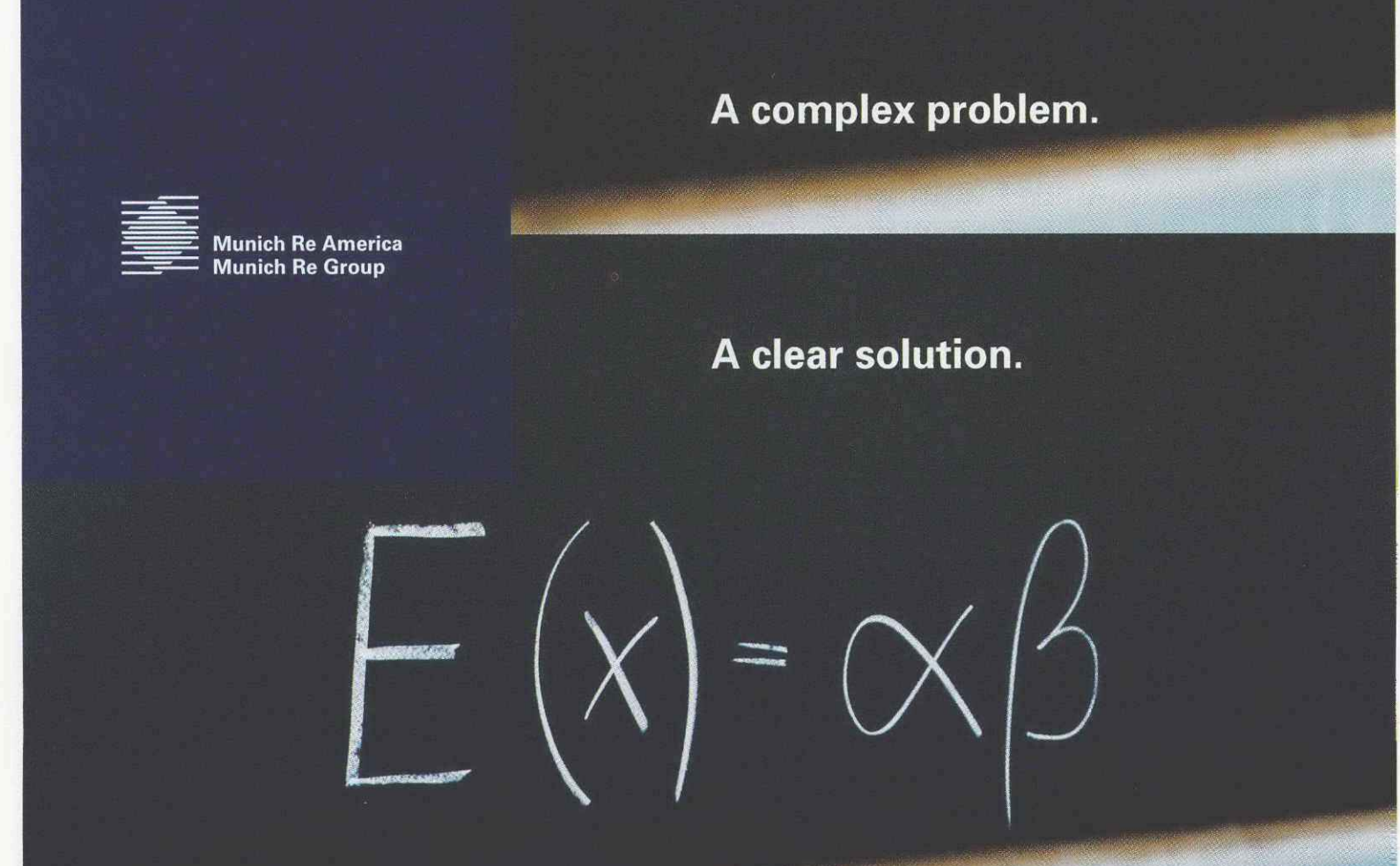
Mary Roth, RIMS' executive director, also encouraged members to become more involved in gov-



A complex problem.



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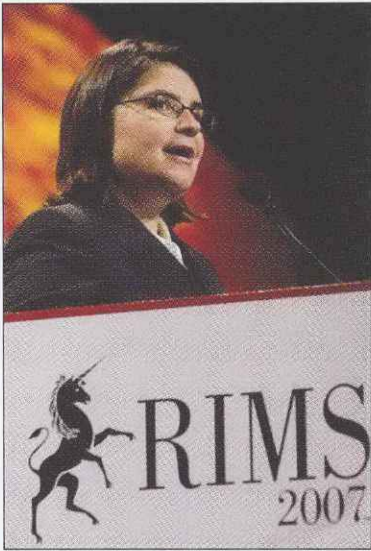
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MICHAEL MARCOTTE

RIMS' Mary Roth encouraged risk managers to get involved in the state and federal legislative process.

ernmental affairs during the opening session.

"Just this week we have launched RIMS Legislative Action Center," which will update members on key state and federal legislation affecting risk management and insurance, Ms. Roth said. The site will also provide links to lawmakers' Web sites, enabling risk managers to contact them directly, Ms. Roth said.

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CEOs on a panel that discussed industry issues included, top row, from left: Martin J. Sullivan, American International Group Inc.; Shivan Subramaniam, Factory Mutual Insurance Co.; Evan Greenberg, ACE Ltd.; and John Amore, Zurich Financial Services Group. Front row: Myron Picoult, consultant; Brian Storms, Marsh Inc.; J. Patrick Gallagher Jr., Arthur J. Gallagher & Co.; and Greg Case, Aon Corp.

CEOs: Panel discusses broker compensation

CONTINUED FROM PAGE 11

for remuneration should vary based on the sophistication of the client.

Evan Greenberg, president, CEO and director of ACE Ltd., received a round of applause from the audience when he said supplemental commissions create conflict-of-interest issues, even when such payments are made known to the client.

"It may create more transparency, but transparency does not eliminate conflict. If it's a broker, I don't think there are contingent forms of payment, unless it's between a broker and the client, and the client is

paying. Otherwise, you are establishing a conflict. And, frankly, it is a little cynical to me given what the industry has just gone through in the last few years," Mr. Greenberg said.

The broker executives tried to dodge a question from a risk manager in the audience concerning why should he allow his broker to keep his premium payment for several months before it is due. It was later reintroduced when Ron Stasch, a former RIMS president who co-moderated the panel with Steve Wilder, vp, risk management, at Walt Disney Co. in Burbank, Calif., received an index card from

an audience member asking, "Why did you let the brokers off the hook?"

"In a transparent world, our terms of trade should be your terms of trade," said J. Patrick Gallagher Jr., chairman, president and CEO of Itasca, Ill.-based Arthur J. Gallagher & Co., in response to the fiduciary question.

Greg Case, president and CEO of Chicago-based Aon Corp., said, "We'd love to have the dialogue as well." (See story, page 16)

Answering questions on enterprise risk management, nearly all of the panelists agreed that the process could provide solutions for companies facing uninsurable risks, but they also acknowledged that it is no "silver bullet."

"I think it's a great opportunity for risk managers," said Shivan Subramaniam, chairman and CEO of Johnston, R.I.-based Factory Mutual Insurance Co, which does business as FM Global. He said now that high-level managers are looking more closely at risk in their organizations in response to the federal Sarbanes-Oxley Act and other regulations, "it gives risk managers a much higher profile in an organization."

Marsh's Mr. Storms said that, in recent discussions with large multinational clients, it was noted that a growing number of the risks the companies faced were uninsurable.

Before the CEOs' discussion, insurance consultant Myron Picoult took the industry to task on several fronts ranging from questionable quarterly results and poor customer service to too much "dead wood" serving on industry boards of directors.

"I come in peace, but I also take a no-hostages approach," he warned.

Mr. Picoult also criticized the industry for not having a single leader "who can try to get you industry folks together to speak in unison."

He said when he tried to think of what the industry was doing right, he could only come up with two things: product development and investment in information technology. "Then I hit a wall," he said.

The panel was introduced by Roger Andrews, the director of risk management at E.D. Bullard Co. in Cynthiana, Ky.

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Risk manager
wins *BI* drawing
for booth prize



Business Insurance conducted a drawing during the RIMS 2007 Conference & Exhibition in New Orleans last week for a Bose Wave Music System, pictured above. The lucky winner was Greg Dodd, risk manager at Perot Systems Corp. in Plano, Texas.

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Buyers advised to discuss brokers' use of premium float

By SALLY ROBERTS

NEW ORLEANS—Risk managers should take advantage of the world's largest brokers' offers to sit and discuss the interest income the brokers receive on risk managers' premiums before remitting them to insurers, according to Janice Ochenkowski, vp of the Risk & Insurance Management Society Inc.

After being asked a second time during last week's CEO leadership panel luncheon, Brian M. Storms, chief executive officer of Marsh Inc.; Gregory C. Case, CEO of Aon Corp.; and J. Patrick Gallagher Jr., CEO of

Arthur J. Gallagher & Co., said they would be willing to discuss the issue with clients.

"When we at RIMS talk about transparency, we talk about total transparency," said Ms. Ochenkowski, who also is a managing director at Jones Lang LaSalle Inc. in Chicago, during a press conference with RIMS leaders after the luncheon. "I was very pleased to hear all the brokers



'When we talk about transparency, we talk about total transparency.'

Janice Ochenkowski,
Risk & Insurance
Management Society Inc.

invite their clients to come discuss the matter with them on an individual basis. I would hope that all of our members would take them up

on that."

This interest income, she noted, is not considered when risk managers sit down with their brokers to evaluate the revenues and compensation earned on their accounts.

"Some risk managers may not choose to sit down and discuss it with their brokers because the insurance premium being paid is not going to be signifi-



'We really haven't changed our position. Full transparency is what we advocate.'

Michael Liebowitz,
Risk & Insurance
Management Society Inc.

cant" if it is "floated" for 30, 60 or even 90 days, she said. "There are other members who have larger premium bills" so the amount floated is more significant, she said.

When asked what risk managers can do about the situation, Terry Fleming, director of external affairs for RIMS and director of risk management for Montgomery County, Md., said that he reached an agreement with his broker whereby he gets billed directly from the insurer and pays the insurer directly.

When it comes to another form of brokerage compensation, namely the new supplemental commissions introduced into the market to replace contingent commissions, RIMS said it's following the issue but remains committed to transparency.

"We really haven't changed our position. Full transparency is what we advocate," said Michael Liebowitz, RIMS president and director of risk management for New York University.

Mr. Liebowitz said at this point it is "very premature" to say whether the new supplements are the same as contingent commissions. "It all depends on how it's packaged and what's communicated to risk managers."

"If you have an open dialogue with the risk manager...and the risk manager is knowledgeable and knows of all the fees and all the commissions being paid, then that is an open transaction that meets our statement of transparency," Mr. Liebowitz said.

"We'll have to see how that is going to be structured and what is going to be communicated by the various brokers. Up until this point with the big three, all we've heard from is Willis," he said, referring to the London-based broker's announcement last week that it will not accept the new incentive payments (BI, April 30).

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MICHAEL MARCOTTE

Several fund-raising events at RIMS, including the Spencer/Gallagher Golf Tournament, raised money for risk management education efforts.

Sports events raise education funds

XL Capital donates \$100,000 to fund memorial scholarship

By SARAH VEYSEY

NEW ORLEANS—The Spencer Educational Foundation Inc. last week announced the creation of the XL Ian R. Heap Memorial Scholarship, a merit-based scholarship in memory of XL's first chairman and chief executive officer, who died late last year.

XL Capital Ltd. donated \$100,000 to the foundation, which will enable

Spencer to award scholarships in \$5,000 increments to students of risk management or insurance in the United States.

"It is a real pleasure to memorialize Ian, who really put XL on the map," said Brian O'Hara, president and CEO of Hamilton, Bermuda-based XL.

Mr. O'Hara, who described the late Mr. Heap as a mentor and his "greatest supporter, even in tough times," said XL is pleased to be able to do something of benefit to the industry and to contribute to raising the professionalism of the industry.

Students who receive funds from

the XL donation, which will be contributed over a four-year period beginning in 2008, will be known as XL Scholars.

The Spencer Foundation, established in 1979 and administered by the board of directors of the Risk & Insurance Management Society Inc., also shared information on fund-raising activities associated with RIMS' annual conference.

The 16th annual Spencer/Gallagher Golf Tournament, held at two area courses on April 29, attracted 240 people and raised about \$65,000, according to the foundation.

Figures were not available immedi-



MICHAEL MARCOTTE

The 13th Spencer/Logic Tennis Tournament helped kickoff RIMS 2007.

ately for the 13th annual Spencer/Logic Tennis Tournament, though it typically has raised \$6,000 to \$8,000, a representative said.

Participation in those fund-raising events was not greatly affected by several volunteer community service events for RIMS conference attendees, said Donna L. Galer, the new chairwoman of Spencer's board of directors. (See Ms. Galer in a video interview at www.businessinsurance.com/rimsvideo.)

In addition to the funds raised by those two sporting events, the RIMS Los Angeles chapter recently informed the Spencer foundation that it had raised \$25,000 at a "day at the races" event at Santa Anita race track in late March, said Angela Sabatino, administrative manager of the foundation.

Last year was a special one for Spencer, said Ms. Galer, as it awarded 57 scholarships totaling about \$400,000—the largest amount in its history—and presented about \$150,000 in grants and scholarships to schools and universities.

Ms. Galer, formerly an executive vp of Zurich Financial Services Group who began her career in 1973, was named chairwoman of the foundation last week.

In addition, Roger L. Andrews, director of risk management for E.D. Bullard Co., a Cynthiana, Ky.-based, manufacturer has been named president of the Spencer Foundation.

Also named were four new Spencer Foundation board members: Margaret Accordino, vp and director of risk management for National Financial Partners; Jim Blinn, a principal at Advisen Ltd.; Anthony Kyasky, a senior vp, strategic brokerage, for AIG Domestic Brokerage; and Rocco Maggiotto, executive vp and director of customer development for Zurich Financial Services.

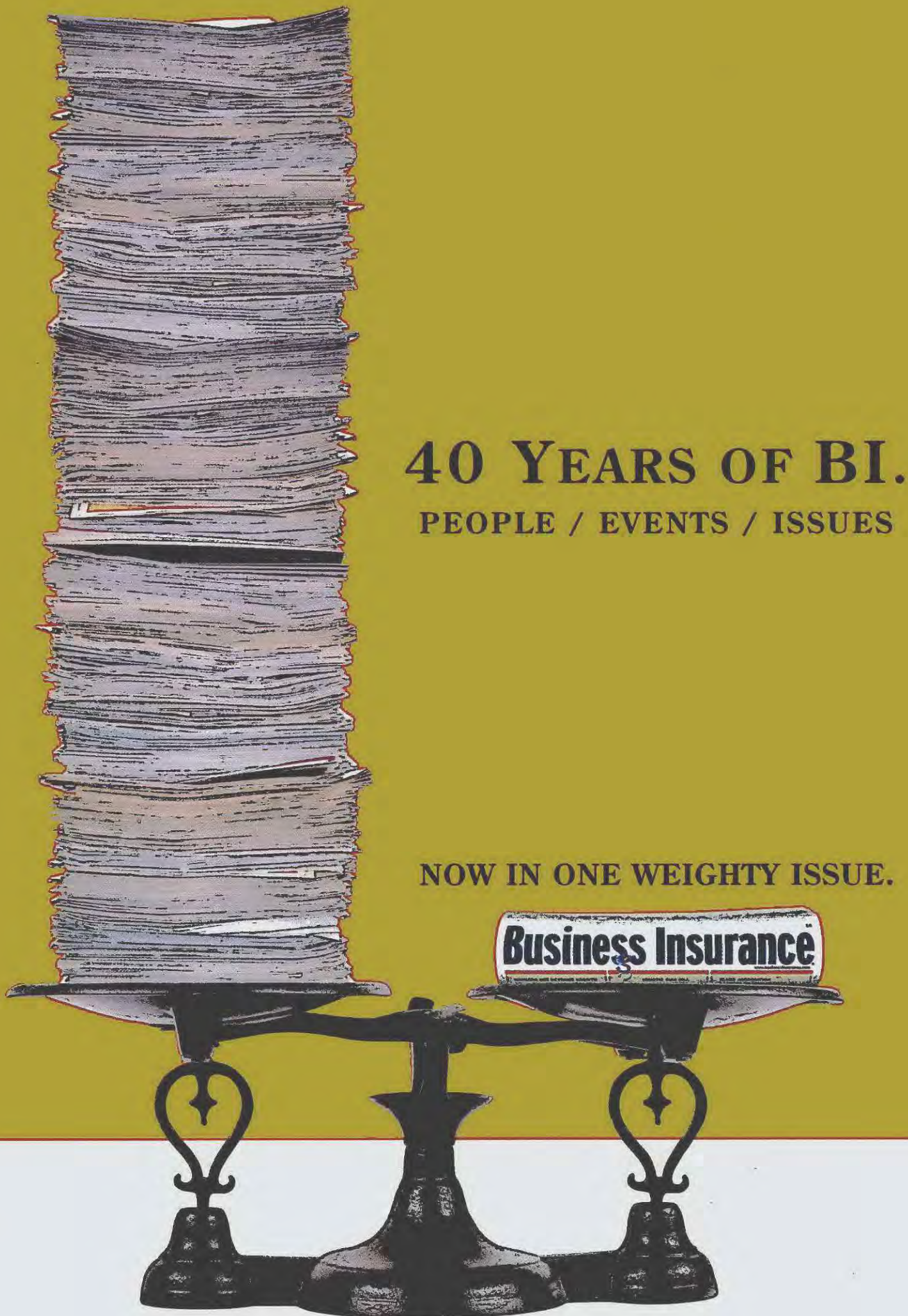


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William J. Kelly (right), president of WJK Advisory L.L.C., received the Harry and Dorothy Goodell Award, the highest honor presented by RIMS. He is pictured with RIMS President Michael Liebowitz.

PIECE OF MIND.

An illustration of a man in a dark suit and hat standing next to several large, interlocking puzzle pieces. The puzzle pieces are yellow and blue, and some are floating in the air. The background is a gradient of yellow and orange.

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RIMS presents annual awards

By GAVIN SOUTER

NEW ORLEANS—William J. Kelly, president of WJK Advisory L.L.C. and former president of the Risk & Insurance Management Society Inc., was awarded the Harry and Dorothy Goodell Award during the opening session last week.

The award is the highest honor bestowed by RIMS and is presented to an individual who has advanced the goals of RIMS and risk management as a discipline.

Before setting up his advisory company, Mr. Kelly was a director at PricewaterhouseCoopers L.L.C., an executive vp at Willis Group Holdings Ltd. and prior to that served as managing director at J.P. Morgan & Co. in New York, among other risk management positions in the financial services industry.

In addition to serving as president of RIMS in 1995-1996, Mr. Kelly also is a former chairman of the International Federation of Risk & Insurance Management Assns. and former chairman of the insurance committee of the American Bankers Assn.

Mr. Kelly began his career as an underwriter with INA in 1972.

RIMS presented several other awards during the opening session and at the April 30 luncheon.

The Arthur Quern Quality Award was presented to San Ramon, Calif.-based StructuredRisk Inc. which was recognized for developing risk management software designed to refine and improve construction best practices.

The Ron Judd Heart of RIMS Award was presented to Mary Lynn Bangs, director of risk management for Omni Hotels Corp. and a member of the Dallas-Fort Worth RIMS chapter. The award recognizes an individual for outstanding performance in furthering risk management at the chapter level.

The Cristy Award was presented to Scott M. Lee, associate risk manager at Harrah's Entertainment Inc. The award honors the individual who earned the highest marks on the three exams for the Associate in Risk Management designation.

RIMS also recognized several chapters during the award ceremonies. "Chapters are the building blocks of the society who donate their precious time to the many members they serve," said Janet

Barnes, risk manager for Public Utility District No. 1 of Snohomish County, Wash., and a member of the RIMS Board of Directors.

Outstanding chapter programing awards were presented to the following RIMS chapters: Chesapeake; Greater Quad Cities; Houston; Minnesota; Orange County; Palm Beach; San Diego; and South Texas. Chapters of distinction were Oregon and Rocky Mountain.

Awards for advancing the risk management profession were presented to the following RIMS chapters: Dallas-Fort Worth; Hawaii; Orange County; Palm Beach; and San Diego. Chapters of distinction were Greater Quad Cities, South Texas, Houston and Rocky Mountain.

Chapter awards for outstanding member services went to: Chesapeake; Dallas-Fort Worth; Greater Quad Cities; Orange County; Palm Beach; Rocky Mountain; San Diego; and South Texas chapters.

Delaware Valley was named chapter of distinction in the category.

Overall chapter excellence awards went to Orange County, Palm Beach and San Diego.

2007 RIMS AWARDS

The Cristy Award was presented to Scott M. Lee, associate risk manager at Harrah's Entertainment Inc. Mr. Lee was awarded for earning the highest marks on the three exams for the Associate in Risk Management designation.



MICHAEL MARCOTTE



MICHAEL MARCOTTE

Michael Liebowitz, president of RIMS, is pictured with Mary Lynn Bangs, director of risk management for Omni Hotels Corp., and a member of the Dallas-Fort Worth Chapter. Ms. Bangs received the Ron Judd Heart of RIMS Award for her outstanding performance in furthering risk management at the chapter level.



MICHAEL MARCOTTE

Members of the RIMS board of directors, including RIMS President Michael Liebowitz, honored representatives from the San Diego, Palm Beach and Orange County chapters with the overall chapter excellence award.

Risk managers should step up lobbying efforts

Few buyers realize potential to influence political process

By DAVE LENCKUS

NEW ORLEANS—Risk managers are missing a big opportunity to shape law on a state and national level, and their organizations' public and governmental affairs office could significantly help them change that, according to a panel of risk management experts.

Well-articulated ideas are not enough to win support among lawmakers, the experts noted during a session at the Risk & Insurance Management Society Inc.'s conference in New Orleans last week.

Those ideas must be presented jargon-free and in a manner that demonstrates how supporting them would earn lawmakers political capital, the experts said.

'You have to put it in political terms.... You have to recast it into politically effective language that will move votes in the legislature.'

Joseph A. Edwards, Former Maine insurance commissioner

Influencing lawmakers is "a good opportunity that risk managers should want to seize," and their public and governmental affairs colleagues should be heavily involved all along the way, said session moderator Richard G.M. Marko, a senior vp-national market administration with Liberty Mutual Group Inc. of Boston.

Many risk managers, however, are not aware of the influence they could wield with lawmakers, the panelists said.

But those with competing interests are aware, said Joseph A. Edwards, a Readfield, Maine, workers compensation consultant and a former Maine insurance commissioner.

Mr. Edwards recounted a discussion he had with a labor lobbyist he encountered at a state capital. The lobbyist said that having failed to pressure employers to voluntarily take some action to benefit his group, he was trying to persuade lawmakers to pass legislation that would achieve the employees' goal.

"Specifically, what is it you want?" Mr. Edwards asked the lobbyist.

"All we want is more," the lobbyist replied.

Employers can achieve their goals as well but they are most successful when they band together in coalitions of large and small employers, panelists said.

"Not only the big companies

need to do the heavy lifting," said Linda MacLean, vp-finance with United Parcel Service Inc. of Atlanta.

Tim East, director of risk management at Walt Disney Co. of Burbank, Calif., agreed.

Referring to lawmakers, Mr. East said: "We don't get a good reception by ourselves." But, for example, when seeking reforms in workers compensation law alongside charities and school districts, "you can say workers comp is not just affecting us."

First, however, "we need to think carefully about our language before

we go up there" to meet with lawmakers, Mr. East said. Often, employers speak in jargon, acronyms and vague industry-specific references, all of which make lawmakers' eyes glaze over, he said.

"You have to talk in simple terms and break things down into bite-sized pieces of language that real people use," Mr. East said.

"But you have to put it in political terms," Mr. Edwards said. "What makes you think your logic and brilliance is connected to politics? You have to recast it into politically effective language that will move

votes in the legislature."

For example, he said lawmakers are sensitive to how their actions affect jobs, so employers should frame their requests in those terms when appropriate.

The "job is not done," however, when lawmakers hand employers a victory, Mr. Edwards said. "There's a lot more that needs to be done" to ensure that the victory is not diluted or taken away later, he said.

In a state issue, resources need to be marshaled statewide to deliver the message about the importance of retaining employers' hard-fought legislative victories, he said.



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Program helps American Airlines reduce workers comp costs

Lifestyle and other data helps direct loss control efforts

By ROBERTO CENICEROS

NEW ORLEANS—American Airlines Inc. delved into socioeconomic, demographic and lifestyle data in a pilot program designed to learn how the company might tailor its future workers compensation loss prevention efforts.

Traditional analytical approaches to understanding the drivers of workers comp claims limit the focus

to data from sources such as medical and indemnity claims, prescriptions and job types, speakers told attendees during a session at the Risk & Insurance Management Society Inc.'s annual conference in New Orleans.

But American teamed with Ingenix—an Eden Prairie, Minn., unit of UnitedHealth Group Inc. that provides software, data, and consulting services—in the pilot program to refine a holistic understanding of employees and factors that might predict future workers comp claims activity, the speakers told RIMS conference attendees.

American employs the equivalent

of 66,000 full-time workers in 37 states, said Misti Jeffryes, a workers compensation manager for American in Fort Worth, Texas.

According to an actuarial estimate, the airline will incur \$93 million in workers comp costs during 2007. That's down from the roughly \$100 million annually spent in recent years, Ms. Jeffryes said.

American's fleet service workers are the No. 1 group in annual workers comp costs, accounting for about \$45 million in costs a year. Flight attendants account for another \$21 million followed by workers in other occupations. Cargo workers, for instance, incur \$5

million in annual claims costs, Ms. Jeffryes said.

To help reduce those costs, the company employs a variety of measures that include worker and union safety education programs and a transitional duty program.

Still, workers comp costs impact the company's bottom line, such as the \$361 million in claims collateral that American must post, Ms. Jeffryes said.

"So there is a lot of incentive there to improve our work comp claims exposure," Ms. Jeffryes said.

To that end, American is working with Ingenix to see how it might reduce its costs in the future.

Ingenix provided its services for free to test its product that the company expects to be available this summer, the speakers said.

Ingenix looked at data from 7,000 American workers comp claims along with socioeconomic, demographic and lifestyle information for a population similar to American's workforce, said Andrea Comporato, a managing consultant for Ingenix in San Francisco.

The demographic information, taken from publicly available sources, included data on education, household size, income, lines of credit, net worth and age, but was not derived from American employees. Ingenix applied an algorithm model to the information to make it representative of America's

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FOR STRATEGIC DECISION-MAKERS IN COMMERCIAL INSURANCE



American Airlines achieved workers comp savings of at least \$7 million in a program aimed at capping costs.

population, Ms. Comporato said.

The 7,000 sample claims are representative of all claims filed by American workers.

Among with other findings, the study revealed that age became a significant cost driver for American employees earlier than expected, said Phyllis A. Ruez, senior consultant for Ingenix in Rocky Hill, Conn.

Such findings would differ among employers, depending on the specific demographic characteristics of their employees.

For American, the airline found that its employees older than 35 are more likely to incur higher-cost workers comp claims.

That finding was a surprise, Ms. Ruez said, since she had not expected age to be a factor until American's workers were in their 40s.

Given the newness of the findings, American had not yet applied the information to develop loss prevention programs, Ms. Jeffryes said.

But such data can be used to tailor claims management strategies for specific groups of employees, Ms. Ruez said.

"If I have a knee injury and I'm 37, is there something different we need to do to manage that than if I have a knee injury and I'm 30?" Ms. Ruez asked.

The study also found that most workers suffering head injuries had only minor claims. Therefore, an employer with a similar experience could put its resources toward mitigating other types of claims, speakers said.

Return-to-work strategies benefit employer and employee

The best programs balance workplace costs and connections

By GLORIA GONZALEZ

NEW ORLEANS—Good return-to-work programs can have a positive impact on both employers and their injured workers, helping employers control escalating benefits costs while enabling employees to remain connected to the workplace.

For employers, return-to-work programs can provide significant workers compensation savings because they expedite closing workers comp claims and contain medical costs, said Susan Shemanski, director of claims, risk management, for national staffing company Spherion Corp. in Alpharetta, Ga.

About 85% of the company's claims close within a year of an employee's accident, contributing to sizable savings for Spherion's workers comp program, Ms. Shemanski said.

In addition, such programs allow employers to retain productive and valuable employees and minimize the strain on their departments, she said.

Employees participating in a

return-to-work program shift their focus from pain to recovery and regain the confidence that they will be able to get back to work, Ms. Shemanski told attendees during a session last week at the Risk & Insurance Management Society Inc.'s 2007 conference in New Orleans.

"A lot of times people do want to get back, but they just don't know how to go about it without the employers helping them get back into that recovery phase," she said.

A critical aspect of Spherion's effort is on-the-job rehabilitation that reinforces employees' habit of going to work rather than sitting at home watching television or doing other things unrelated to their injury that make it more difficult for them to re-enter the workforce. "They actually keep in that work-force routine," she said. "It's good for you as an employer, but it's also good for your employee."

A successful return-to-work program has several key elements, including defining eligibility and establishing time frames for providing employees with transitional work duties, Ms. Shemanski said.

A good program also sets defined roles for the execution of the various facets of the program and accountability for implementing its goals. For example, the company charges branches that fail to pro-

vide transitional duties to injured workers \$2,500 for every 30 days the employee is out of work, she said.

'A lot of times people do want to get back, but they just don't know how to go about it without the employers helping them get back into that recovery phase.'

Susan Shemanski
Spherion Corp.

The company also worked with its third-party administrator, Memphis, Tenn.-based Sedgwick Claims Management Services Inc., to develop a job database that doctors can use to determine an appropriate transitional job for an employee whose injury does not allow the employee to perform his or her current job. Spherion found that 72% of its doctors believed that a detailed job description assisted

them in getting injured employees back to work, she said.

Spherion's return-to-work program has reduced lost-time days by 85%, workers comp costs by 60% and saved \$12 million annually since it was implemented in 1999, she said.

Honickman Affiliates, a company that bottles and distributes soft drinks, also had major concerns about its workers comp program, said Jeffrey Brody, corporate director of environmental safety and health based in College Point, N.Y.

Claims were not closing quickly enough, the duration of claims was disproportionate to the severity of the injuries, the number of repeat injured workers was high and the amount of lost-time days was "staggering," he said.

The company found that returning injured employees to work with modified duties was a cost-effective option in many situations. For example, when a veteran employee was injured on the job, the company considered paying him 70% of his salary to stay at home or 100% of his salary to return to work with restrictions that the company, doctor and employee all approved. The company decided the 30% difference would be made up by the employee doing meaningful work in a transitional position rather

than replacing the employee with a temporary worker who does not know the operation as well as the injured worker, he said.

Employers implementing return-to-work programs say they have faced numerous challenges.

Securing employee and union acceptance of Honickman Affiliates' program was a complicated but critical task, Mr. Brody said. Employees are suspicious of these programs, but employers can take steps to alleviate those concerns, he said.

During transitional work assignments, for example, the employee's benefits accrue normally so employees maintain seniority and vacation time. "This is how you secure union buy-in to the program," Mr. Brody said.

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LEGAL NOTICE

IN THE HIGH COURT OF JUSTICE (ENGLAND & WALES)
CHANCERY DIVISION
COMPANIES COURT
Claim No. 1773 of 2007
IN THE MATTER OF
GREAT LAKES REINSURANCE (UK) PLC
and IN THE MATTER OF THE COMPANIES ACT 1985

NOTICE IS HEREBY GIVEN that, by an Order dated 23 April 2007 made in the High Court of Justice of England and Wales (the "English Court") in the matter of Great Lakes Reinsurance (UK) PLC (the "Company") and in the matter of the Companies Act 1985 of Great Britain, the English Court has directed that a meeting (the "Scheme Creditors' Meeting") of the Scheme Creditors (as referred to below and as more particularly defined in the Scheme) of the Company be convened for the purpose of considering and, if thought appropriate, approving (with or without modification) a scheme of arrangement (the "Scheme") proposed to be made between the Company and its Scheme Creditors pursuant to section 425 Companies Act 1985.

The Scheme Creditors' Meeting will be held at PricewaterhouseCoopers LLP, Plumtree Court, London EC4A 4HT, United Kingdom on 18 June 2007 at 11.00 a.m. (London time) at which time and place Scheme Creditors are requested to attend. Scheme Creditors will be required to register their attendance prior to the commencement of the Scheme Creditors' Meeting. Registration will commence at 10.30 a.m. (London time). Scheme Creditors are creditors of the Company's Scheme Business which, broadly, comprises those liabilities of the Company under contracts and policies of reinsurance and retrocession entered into by the Company on a treaty basis, with excess of loss and proportional, between 1 January 1988 and midnight on 1 October 2004 and excludes the Excluded Business. A full description of the Scheme Business and the Excluded Business can be found in the Scheme Document.

Copies of the Scheme, the Explanatory Statement required to be provided pursuant to section 425 Companies Act 1985 and Form of Proxy and Voting Table for use at the Scheme Creditors' Meeting can be downloaded from the website at www.gluksolventscheme.co.uk (the "Website"). Alternatively, hard copies can be obtained, free of charge, by contacting the Company at the contact details set out below.

Scheme Creditors may attend and vote in person (or, if a corporation, by a duly authorised representative) at the Scheme Creditors' Meeting or they may appoint another person, whether a Scheme Creditor or not, as a proxy to attend and vote in their place.

Whether or not Scheme Creditors are intending to be physically present at the Scheme Creditors' Meeting, they are requested to complete the Form of Proxy and Voting Table in accordance with the General Notes and Instructions for Completion contained therein and paragraph 8 of the Explanatory Statement and return them (and any supporting information) to the Company as soon as possible at the address below and, in any event, so that they are received by 5.00 p.m. (London time) on 15 June 2007. Forms of Proxy and Voting Tables may also be handed in at the registration desk prior to the commencement of the Scheme Creditors' Meeting. The Company will accept faxed or emailed Forms of Proxy and Voting Tables (in the latter case in portable document format (pdf)) provided that the originals are delivered to the Company within seven days of the Scheme Creditors' Meeting.

By the same Order, the English Court has appointed Duncan Cornwell or failing him Peter Greenwood (both senior employees of the Company) to act as Chairman of the Scheme Creditors' Meeting and has directed the Chairman to report the results of the Scheme Creditors' Meeting to the English Court.

If approved by the requisite majority of Scheme Creditors, the Scheme will be subject to the subsequent sanction of the English Court. Any Scheme Creditor who is unclear about or has any questions concerning the action it is required to take should contact the Company at the contact details set out below.

DATED 30 April 2007
The Company
Great Lakes Reinsurance (UK) PLC
1 Minster Court, Mincing Lane, London EC3R 7YH, United Kingdom
Contact: Peter Greenwood or John Thillthorpe
Tel: +44 (0)20 7375 9811 or +44 (0)20 7975 6537
Fax No: +44 (0)20 7623 6159
Email: gluksolventscheme@greatlakes.co.uk
Solicitors to the Company
Mayer, Brown, Rowe & Maw LLP
30 St Mary Axe, 31st Floor, London EC3A 8EP, United Kingdom
Contact: Ian McKenna or Ravi Suchak
Tel: +44 (0)20 7398 4611 or +44 (0)20 7782 8718
Fax: +44 (0)20 7623 7965 or +44 (0)20 7782 8943
Email: imckenna@mayerbrownrowe.com or rsuchak@mayerbrownrowe.com

Need to publish a Legal Notice, Announcement or RFP?
Contact Tina Vasilakis at 312-649-5340.

LEGAL NOTICE

IN THE SUPREME COURT OF BERMUDA
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IN THE MATTER OF LASALLE RE LIMITED
AND IN THE MATTER OF THE COMPANIES ACT
1981, SECTION 99

SCHEME EFFECTIVE DATE AND CLAIMS SUBMISSION DATE

NOTICE IS HEREBY GIVEN that the Scheme of Arrangement (the "Scheme") between LaSalle Re Limited ("LaSalle" or the "Company") and its Creditors became effective on 2 May 2007.

In accordance with the terms of the Scheme, Creditors are now required to file with the Company a Claim Form, plus supporting materials, on or before the Claims Submission Date which is 30 August 2007 (being 120 days following the Effective Date i.e. 2 May 2007). THESE FORMS MUST BE RECEIVED BY THE COMPANY PLUS SUPPORTING DOCUMENTATION ON OR BEFORE THE CLAIMS SUBMISSION DATE UNLESS YOU HAVE ALREADY FILED A SCHEME VOTING FORM AND MARKED THAT FORM AS YOUR CLAIM FORM.

Claim Forms are being forwarded to all non-SVF Scheme Creditors (i.e. those Scheme Creditors who did not mark their Scheme Voting Form as their Claim Form) by post and are also available from the Company website - www.lasallerescheme.com. If you have not received a Claim Form and you are a creditor of the Company, you may obtain one from the website or the offices of the Company, 44 Church Street, Hamilton HM 12, Bermuda, attention LaSalle Scheme Administration.

Scheme Creditors who marked the Scheme Voting Form (filed with the Company in connection with the Scheme Creditors' Meeting) as their Claim Form are able to resubmit their Scheme Claim by completing a new Claim Form (available from the Company or the Company website).

Creditors must return the completed Claim Forms so as to reach the offices of the Company on or before the Claims Submission Date in accordance with the terms of the Scheme. This rule also applies to amendments to or resubmissions of Claim Forms.

Claim Forms (plus attachments) can also be faxed to the Company on the fax number: +1 441 294 6496 (attention: LaSalle Scheme Administration); provided however that the Company receives an original signed copy of the faxed documents within three Business Days of the fax being received (but in no event later than 5 September 2007). Instructions on the completion of the Claim Form are provided with the form.

Failure to file a Claim Form by the Claims Submission Date will result in Scheme Creditors receiving distributions under the Scheme equal to Agreed Claims (as defined in the Scheme) only.

Timothy R Graham, President and Chief Restructuring Officer, 3 May 2007



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REQUEST FOR PROPOSALS

NOTICE TO PROSPECTIVE PROPOSERS
RFP 07-07

ACTUARIAL STUDY OF THE SELF-INSURED PUBLIC LIABILITY/PROPERTY DAMAGE AND WORKERS' COMPENSATION PROGRAMS

The Santa Clara Valley Transportation Authority (VTA) seeks proposals from qualified firms to perform all work necessary to provide an Actuarial Study of the Self-Insured Public Liability/Property Damage and Workers' Compensation Programs.

Parties interested in obtaining a copy of this Request for Proposals may do so by accessing the VTA website at www.VTA.org and clicking on Procurement (preferred method). Requests for hard copy of the RFP may be e-mailed to michael.galbo@vta.org or may be faxed to (408) 955-9729. Please include the following information:

Name and Address of Firm

Contact Person

Telephone AND Fax Numbers

Ref: Request for Proposal (RFP) 07-07

A pre-proposal conference is scheduled for Thursday, May 17, 2007 at 1:30pm, in Building A, Conference Room A106, 3331 N. First Street, San Jose, CA.

Proposals are due by close of business, on May 31, 2007.

REQUEST FOR PROPOSALS

CALL FOR INTEREST

The Pan American Health Organization (PAHO) will be issuing a tender in June 2007 for a multi-year, extra-territorial contract for the administration of its self-funded group Staff Health Insurance (SHI) plan in the USA.

The plan provides comprehensive coverage for hospital, physician, medicine, and laboratory services including limited coverage for dental, physiotherapy, psychiatric, vision and hearing aids. The plan covers 1,200 active and retired staff and their dependents (totaling about 2,600 persons) located throughout the USA, but with about 75% in the Washington, DC metropolitan area.

In order to pre-qualify for an invitation to bid, interested insurers and/or claim administrators (no brokers) should respond to this Call for Interest by submitting no later than 29 May the following information to:

Area Manager, Procurement Services
PAHO
525 23rd St. N.W.
Washington, D.C. 20037
USA

Qualifying Criteria:

1. Evidence of US\$250 million minimum processed medical claim volume per annum.
2. Evidence and contact information for customer portfolio that includes at least two (2) international organizations or multinational corporate clients with at least 2,500 participants.
3. Evidence of an extensive preferred provider network (with substantial discounts off normal fees) in Washington D.C. Metropolitan Area, and throughout the USA.
4. Provide dedicated claims processing staff to answer claim inquiries in English (and Spanish would be desirable), and to guarantee 10 working day maximum turn-around time on 90% of claims presented.
5. Ability to make direct deposits into participant's bank accounts is desirable.

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TO RESERVE SPACE IN AN UPCOMING ISSUE CONTACT TINA VASILAKIS AT 312-649-5340.

International NEWS

Few E.U. members meet pollution law deadline

BRUSSELS, Belgium—E.U. legislation relating to liability for damage to the environment came into force last Monday, but only three member states had complied with the



REUTERS

European Commissioner for environment Stavros Dimas is concerned about slow take-up of legislation.

requirement to transpose the directive into their national law.

Italy, Latvia and Lithuania are the only member states to have implemented the directive, which is the first E.U. law specifically based on the "polluter pays principle." It is designed to ensure that environmental damage is prevented or remedied, and that those who cause it are held responsible. Environ-

mental damage includes damage to water resources, natural habitats, animals and plants as well as contamination of land which causes significant harm to human health.

European Commissioner for Environment Stavros Dimas expressed his dismay at the widespread failure of member states to implement the required legislation.

"I am very concerned that only three member states have transposed this vital legislation so far. If the others do not follow suit very soon, the Commission will have to consider starting legal action," he said.

Public authorities will be responsible for ensuring that responsible operators undertake themselves—or finance—the preventative or remedial measures. Public interest groups, such as nongovernmental organizations, will be allowed to require public authorities to act and to challenge their decisions before the courts.

The directive does not oblige operators to ensure coverage of their potential liabilities by financial security products, such as insurance, but member states are required to encourage operators to do so.

U.K. hikes employer pension levy

Move made to shore up resources of backstop for defined benefit plans

By JONATHAN GARDNER

LONDON—Britain's pension safety-net agency will boost the levy imposed on companies with defined benefit pension plans over the next year as it tries to make up for a revenue shortfall of £251 million (\$501.4 million) last year.

How the Pension Protection Fund's new levy calculations, published last week, affect individual companies will depend on their pension assets, liabilities and risk of company insolvency, all of which factor into their PPF levy.

The PPF has made clear that it hopes to avoid a repeat of its 2006-2007 fiscal year, in which it collected less than three-fifths of its target of £575 million (\$1.15 billion) because of poor data, along with miscalculations about the market and company behavior.

"We have to make up for undercollections," a PPF spokesman said of the fund's 2007-2008 target of £675 million (\$1.35 billion) in revenue.

Created by a 2004 law, the fund provides pension benefits to the members of defined benefit plans that have gone insolvent since April 2005. To finance the fund, the government assesses levies on existing plans based on their liabilities, their underfunding risk and their risk of insolvency.

Companies can avoid the levy if they have funded more than 125% of their liabilities, and an employer can pay no more than 1.25% of their pension liabilities. Five percent of companies are capped at 1.25%.

One-fifth of the levy is a 0.0195% tax on an employer's total liabilities

under the pensions law. The remainder is a risk-based levy, taking into account the company's total underfunding and its risk of insolvency based on the assessment of the market analysis firm Dun & Bradstreet. The formula gives companies an incentive to completely fund their defined benefit pension

the London office of Arlington, Va.-based Watson Wyatt Worldwide.

But he added that the levy increases are likely to be burdensome for many companies and could cause some to go under.

While the increases will vary because of differing liability and risk levels of different companies, they could end up costing certain companies as much as five times more in 2007-2008, Mr. Yeo said. He noted that likely candidates for such an increase are those rated by Dun & Bradstreet as having a high risk of failure of its pension fund or business operations, as well as having moderate-to-high underfunding pensions and having made no moves to improve the balance of liabilities and assets.

Manufacturing companies, particularly ones that have reduced operations in recent years, are likely to fit that profile, he said.

The PPF spokesman said, though, that the cap of 1.25% of defined benefit liabilities has been put in place to protect such weak companies.

"If a company is saying that it can't afford to pay the levy, I think there are more fundamental problems with the company," he said. "The levy is there to make sure that the less risk you pose to the system, the less you pay. The companies that are at the most risk of insolvency are the companies coming under our cap."

Correcting some of the errors of the 2006-2007 cycle is still an issue the agency faces, the spokesman said. The risk-based assessment is the world's first, and the data necessary to levy an accurate tax is probably a year away, he said.

PENSIONS LEVIES GO UP

The U.K. pension backstop is making efforts to improve its funding.



plans by reducing the taxes on them if they do.

The PPF spokesman said the levy revenue equals about 0.09% of the total assets of the pension plans that pay into the government fund. The agency could not, however, provide estimates on how much the average company will pay in 2007-2008.

An industry consultant said the 2007-2008 adjustments are likely to help the Pension Protection Fund's outlook.

"I think the chance of them undershooting is a lot less," said Stephen Yeo, senior consultant in

Insurer won't recover sunken ship

By MICHAEL BRADFORD

ARENDAL, Norway—Assuranceforeningen Gard will not cover costs to raise the Bourbon Dolphin, a task the protection and indemnity club says is probably not possible and would be insured only if the shipowner is forced by authorities to raise the ship.

Eight crew members died when the Bourbon Dolphin, an anchor-handling and supply vessel, sank April 12 in about 1,100 meters of water in the North Atlantic Ocean.

Arendal, Norway-based Gard said

in a statement that it was advised by London Offshore Consultants Ltd. that it is "extremely uncertain that it is technically possible to raise the ship."

Any method to bring it up would be untried and require significant engineering resources because, among other factors, the wreckage is at a depth greater than any vessel has been raised from and is in an area exposed to harsh winds and currents, the statement noted.

Gard said it can only be liable for costs to raise the Bourbon Dolphin if the ship's owner, Paris-based

Bourbon S.A., is ordered by authorities with jurisdiction in the area of the sinking to remove the wreckage, a move that would only be taken if the ship posed a danger to navigation or the environment, neither of which appear likely.

Removal of the wreckage will not fall to hull and machinery insurers, Gard concluded. "The Bourbon Dolphin is regarded as a total loss, which means that the hull and machinery insurers will have to pay the sum insured, but they are not responsible for taking other measures," the statement read.



AP PHOTOS

Eight crew members died when the Bourbon Dolphin sank in deep water in the North Atlantic on April 12. Gard, the vessel's P&I insurer, says it is unlikely that the ship can be raised and that it does not plan to finance an attempt.

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Commentary

Gray America presents challenge, opportunity

Rita is a 35-year veteran of Scottsdale Healthcare, where she works full time as a medical technician in the hematology team.

She's an active participant in the local symphony, delivers food every week to the homeless, and is an avid gardener who mows her own lawn and walks the hospital stairs every day for exercise.

She is usually the first person to volunteer for training on new lab equipment and coworkers describe her as "dedicated and loyal," "good natured," "wise," and "motivated."

Rita is 80 years old.

Corporate America is becoming grayer every year, which poses some significant challenges and opportunities for employers. And nowhere is it more apparent than in the impending labor shortage.

The oldest of the roughly 76 million or so baby boomers turn 61 this year and are beginning to retire, leaving the significantly fewer—46 million, according to one estimate—of Generation Xers to fill those spots. The Employment Policy Foundation, for one, estimates that the United States will be 10 million workers short by 2015 and 35 million workers short by 2030.

While it is clear that employers are at risk of a serious "brain drain," the good news is that employers have a growing pool of mature workers as potential hires. The number of workers 55 years and older, for example, is expected to grow from 15.6% of the workforce in 2004 to 21.2% in 2014, according to the Department of Labor.

But if employers want to take advantage of this pool of skilled and experienced labor, they need to do more to attract and retain them, and that means creating an age-friendly culture and offering various benefits that a more mature workforce would want, such as flexible work arrangements.

Of the 100 human resource executives Ernst & Young L.L.P. surveyed in late 2005, 42.2% agreed that the aging workforce is an issue that must be dealt with, and more than half of those said it would lead to a labor shortage. Additionally, 62.5% said they believed that expected retirements over the next five years at their companies would cause a talent gap. But only 17.8% said the aging of their workforce is an issue that is strategically very important to them.

One employer that seems to get it is Scottsdale Healthcare, which actively recruits and retains mature and experienced



SALLY ROBERTS

Senior Editor Sally Roberts can be reached at: sroberts@businessinsurance.com

workers like Rita.

The Arizona health care provider, for example, offers a variety of benefits that are attractive to mature workers. The benefits include a seasonal leave program in which employees can work full- or part-time for six months of the year and then take the remaining six months off and still receive full medical, dental, life and disability benefits.

All employees working at least 16 hours a week are eligible for

Corporate America is becoming grayer every year.

tuition reimbursement benefits as well as medical, vision, dental and long-term care coverage. Employees working at least 30 hours a week receive short- and long-term disability.

It also offers a 403(b) retirement savings plan to all of its full- and part-time employees—with a 100% match on the first 4% of a workers' contribution.

Not surprisingly, Scottsdale Healthcare has been among the AARP's Best Employers for Workers Over 50 ranking for each of the past four years. Twenty-seven percent of its 6,000 employees are over the age of 50.

While the health care provider has not conducted any internal studies to determine the benefit and compensation cost implications of retaining a large percentage of older workers, any additional costs are more than offset by the company's savings in retention, said Douglas Maxwell, director of employee relations and human resources, who noted that turnover costs are estimated at about 30% of the annual salary of the person leaving.

"A 2% reduction in voluntary turnover equates to more than \$1 million saved for the company," Mr. Maxwell said.

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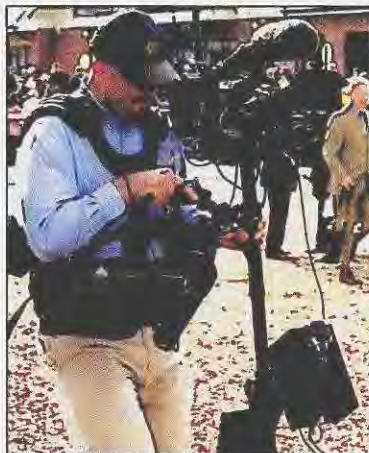
AIG Specialty Excess raises capacity for public entity

NEW YORK—AIG Specialty Excess, an umbrella and excess casualty underwriting unit of American International Group Inc., has increased its capacity of excess liability insurance for public entities to \$25 million from \$15 million.

AIG Specialty Excess will offer the increased capacity on all commercial umbrella and excess casualty policies for public entities. The new capacity will be available for states, counties, cities, educational institutions, transit authorities, utilities and other public agencies.

The \$25 million capacity will be available on a broad occurrence-based form.

For more information, contact Todd Germano, executive vp of AIG Specialty Excess, at 212-820-2637, or at todd.germano@aig.com.



Hiscox USA offers media liability coverage

NEW YORK—Hiscox USA is now providing media liability coverage on both an admitted and nonadmitted basis to U.S. businesses, including publishers, broadcasters, production companies, and marketing and advertising agencies.

The nonadmitted insurance will be written on Hiscox paper from its three U.S. locations in Armonk, N.Y.; New York; and San Francisco.

The stand-alone product is designed to complement Hiscox USA's existing technology errors and omissions product.

Features of the insurance include: broad all-risk coverage and the ability to write media and technology coverage under one policy form.

Limits up to \$10 million are available for admitted coverage and up to \$30 million for nonadmitted coverage.

For further information, contact Joanne Richardson, managing director, U.S. media, at 646-452-2355, or at joanne.richardson@hiscox.com.

PERI publication highlights risk management resources

FAIRFAX, Va.—The Public Entity Risk Institute, a nonprofit risk management training and educational organization, has launched a publi-

cation that features a large listing of risk management resources.

PERI's 2007 Risk Management Resource Guide is an aggregation of references and training sources intended to advance the practice of risk management.

The guide's 194 pages cover subjects ranging from benchmarking and performance management, disaster management and hazard mitigation, to workers compensation and occupational therapy.

The publication also contains information on credentialing agencies; educational institutions offering degrees in emergency management, homeland security and risk management; and relevant publications and publishers.

Also detailed in the guide are sources for information relating to environmental liability, human resources and employment practices, risk financing and insurance, risk management, and safety and health.

To purchase the \$20 guide in book form or on a CD-ROM, click the "Bookstore" link at www.riskinstitute.org/per.

RiskMeter expands storm surge report

BOSTON—CDS Business Mapping L.L.C. has added a new storm surge report to its RiskMeter Online real-time natural hazard risk report service.

The report is available for the following states: Alabama, Connecticut, Florida, Georgia, Louisiana, Maine, Massachusetts, Mississippi, North Carolina, New Hampshire, New York, Rhode Island, South Carolina and Texas.

RiskMeter Online's Storm Surge report is based upon the SLOSH (Sea, Lake, and Overland Surges from Hurricanes) storm surge model. This report will let users know if a property falls within an area likely to flood from a hurricane of a specific strength, as well as the maximum storm surge height for each category of storm.

For more information about this report, contact Dan Munson, founder of RiskMeter Online, at 617-737-4444 or at dmunson@cdisys.com.



Cybersettle upgrades online claim system

WHITE PLAINS, N.Y.—Cybersettle Inc. has launched Cybersettle 6.0, an online double-blind settlement system that allows users to resolve a greater number of dis-

putes, including unrepresented claims and complex multidefendant claims.

The system enables insurance adjusters and claimants to work together online to settle small claims. By allowing direct access between insurance adjusters and claimants, Cybersettle's interface lets both parties resolve claims that are often considered too small to warrant attorney representation but that are important to the claimant.

According to Cybersettle, the system streamlines the settlement process for these claims, cutting time from the settlement process and lowering administrative costs on thousands of cases while helping adjusters handle a larger caseload.

Cybersettle's system allows several defendants to collaborate on a single offer to a claimant while negotiating the division of responsibility among themselves. The system allows parallel blind bidding, which simplifies the process.

For more information, contact Maryann Jennings, senior vp, at 914-286-5665, or at mjennings@cybersettle.com.

ACE USA launches M&A liability product

PHILADELPHIA—ACE USA Legacy Liability, a new product from Philadelphia-based ACE USA, offers coverage for transactions related to merger and acquisition activity or historical and future liability issues of policyholders.

This product is aimed at organizations going through the merger and acquisition or divestiture transaction process.

The program offers primary and excess limits, with minimum account premiums starting at \$25,000. Coverage is customized to exposures including, but not limited to: mergers and acquisition liabilities; isolated liability exposures, which include discontinued products/services coverage; and retroactive limits of liability, adding limits to past policies and replacing coverage for insolvent insurers.

The coverage includes a single aggregate limit provided over a policy period of up to five years. It can be tailored not only for future events from past operations, but also future claims from past events.

The policy is noncancelable once bound.

The Legacy Liability Insurance Coverage product is underwritten by ACE Custom Casualty, part of ACE USA's casualty risk division. For more information or to submit an account, contact Mitchell Schmidt, senior vp at ACE Custom Casualty, at 215-640-1816 or mitchell.schmidt@ace-ina.com.

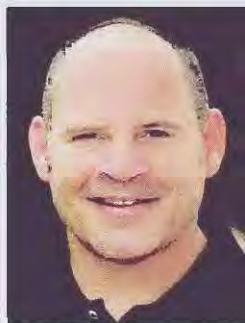
TO SUBMIT ITEMS

Business Insurance wants to report on new risk management and employee benefit products and services. Please send news of your company's offerings to: Joe Walker, *Business Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; e-mail: jwalker@businessinsurance.com.

Business Insurance PERSPECTIVE

How to keep new moms a part of the workforce

By Aaron Crecy



Aaron Crecy is chief executive officer and cofounder of Maternity-Care Direct in San Diego.

Demographic trends underscore the need for human resources departments to support the employee maternity population, not only to reduce health care costs but to address a host of related expenses such as turnover, absenteeism, leave time and productivity.

The United States is among just five of 173 nations that do not guarantee paid maternity leave, according to a recent study by Harvard University and McGill University researchers.

The study suggests that U.S. workplace policies are the weakest link among wealthy nations and aren't as strong as many low- and middle-income countries.

There has been a nearly 13% increase in the number of children being cared for by stay-at-home moms in less than a decade as well as a drop in the percentage of new mothers returning to work, from 58.7% in 1998 to 54.6% in 2004, according to the U.S. Census Bureau, though it is unclear

whether the drop was caused by lifestyle factors or employers' policies.

Maternity, which can account for half of all employer annual health care costs, presents a valuable opportunity for employers to build loyalty while affecting a range of related costs. Perhaps because maternity-driven expenses are ineffectively benchmarked, most employers simply hand over responsibilities for managing these programs to their health care provider. In turn, health plans often allocate the bulk of resources to the identification and case management of high-risk pregnancies, which account for less than 10% of all employee pregnancies.

It is a strategy designed to reduce provider costs while generating revenue via case management fees. Ultimately, the average prenatal education program is limited in scope, content and incentives, failing to meaningfully engage and support employees and altogether ignoring organizational goals. Many health plans do not proactively communicate the availability of such programs, while others imple-

ment opt-out enrollment strategies that do little to encourage participation.

Erasing the stigma

While employers have made great strides in the availability of post-delivery benefits such as additional leave time, flexible scheduling and telecommuting, employees who utilize these benefits often face a stigma. Most employers would deny it, but women remain reluctant to tell their bosses about pregnancy for fear of losing their job or falling off the career fast-track. It is an unfortunate reality that can trigger a sense of isolation and lack of trust.

It should come as no surprise then that the U.S. Census Bureau reports 40% of full-time employees fail to return to their prepregnancy employer within a year of a first birth.

Moreover, nearly one in four new mothers who do not return to their employer join another company, often transitioning laterally to a competitor with similar compensation, hours

and responsibilities.

This means that human resources departments, already facing with a bevy of related logistical challenges, must guess about whether a pregnant employee will return to work. When she doesn't, they must then recruit and hire a replacement. It's a laborious, redundant cycle that must be addressed.

Employers conduct only cursory exit interviews, if at all, with employees who do not return from maternity leave. When queried, the simplest explanation for a departing employee is that she is staying home to care for her child, an answer that employers accept readily because it enables them to tweak the data favorably.

However, the reality is that turnover and the burden on the HR staff can be reduced by delivering meaningful support to employees, from the time the pregnancy is announced, through a comprehensive opt-in program that utilizes compelling, condition-specific incentives to encourage employee participation and reward those who return to work.

Need for incentives

The aim is to deliver consumer-directed content in various media formats—including online content, telephonic support, onsite forums, books and literature—with compelling incentives to ensure enrollment and engagement.

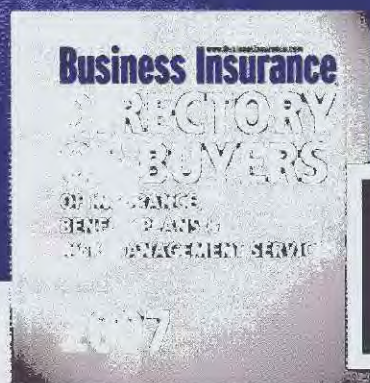
Employers also must communicate the availability of post-leave benefits—such as flexible scheduling, onsite child care and lactation support—early in pregnancy to encourage utilization. Furthermore, annual executive sensitivity training can reinforce an inclusive culture and help improve relationships between middle management and pregnant employees.

Employers that have implemented aggressive maternity benefits management interventions can expect anywhere from a 2-to-1 to 5-to-1 return on investment for health care costs alone. In addition, higher retention, less absenteeism, greater productivity and reduced stress will increase the overall return on investment.

According to talent management experts Bliss & Associates Inc., it costs companies as much as \$75,000 to replace an employee with a \$50,000 annual salary. Considering that an employee who departs at the conclusion of pregnancy leave can trigger a range of additional costs resulting from medical claims, job coverage, absenteeism, staffing and, potentially, productivity loss, maternity management must become a priority in every organization.

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Supplemental: Willis forgoes new commissions

CONTINUED FROM PAGE 1

long as they are fully disclosed to clients, Gallagher President and CEO J. Patrick Gallagher said in March.

Chubb and Travelers have not released details of the commission plans' structure, saying the information is proprietary, but sources familiar with the Chubb plan outlined some elements (see related story).

Whether Willis' decision will prompt its larger competitors to follow suit and reject supplemental commissions remains to be seen.

Brokerage rivals will have a harder time taking the incentive payments because of Willis' move, "especially in a (request for proposal) situation, as Willis will point to this factor to convince clients that they have best-in-class corporate governance practices," noted David Small, an analyst with Bear Stearns in New York in a research note.

"It makes it more difficult for them to come out and say they will" accept the payments, agreed Gregory Dickerson, an analyst who covers Marsh for Fitch Ratings in New York.

Other observers, though, say the major brokers may go their separate ways on the issue.

Soon after the broker compensation controversy erupted in 2004, many predicted that contingent commissions would disappear and the industry would move toward more uniform compensation practices, said Bruce Ballentine, lead broker analyst for Moody's Investors Service in New York.

Instead, those practices diverged, with numerous insurers continuing to pay contingent commissions and

several brokers continuing to accept them, he noted.

Referring to the Willis decision, Mr. Ballentine said: "This is a sign that we are farther from common ground, that different companies are going to follow their own paths."

Marsh, Aon and Willis already compete on specialty practices and price, and compensation practices may simply become "one more variation in the marketplace," he observed.

Gretchen Roetzer, a Chicago-based Fitch analyst who covers Aon, said it's hard to predict how—or whether—the Willis decision will influence competitors. The other brokers want to do what's right for their clients and do not want to stand out too much on compensation matters, but also do not want to pass up revenue, she said.

"I don't think any of them would increase the ill will that they have had to get over," she added.

Several observers, meanwhile, noted that Willis earned far less contingent commission revenue than its larger competitors, and that it has less to lose by forgoing supplemental compensation.

Marsh agreed to pay \$850 million and Aon \$190 million—roughly the equivalent of their 2003 contingent commission revenues—to settle client-steering and other charges brought by state attorneys general. Willis paid \$51 million to settle similar charges.

It is not clear whether supplemental commission plans would pay brokers as much as previous contingent agreements did.

Sally Roberts contributed to this story.

Captives: Arizona targets employee benefit risks

CONTINUED FROM PAGE 3

But with more employers likely to fund employee benefit programs through captives, the change in Arizona's law will ensure that the state remains competitive with other domiciles, such as Hawaii and Vermont, that now permit funding of benefit risks through branch captives, according to Arizona captive experts.

Other provisions in the legislation include:

- Reducing the minimum capital and surplus a cell captive insurer must maintain to be licensed to \$500,000 from \$1 million.

- Making it clear that captives can directly insure commercial motor vehicle risks.

- Specifying that a captive must obtain written approval of captive regulators before implementing any material change in its plan of operations.

- Stipulating that captive information submitted to the state Insurance Department is confidential and generally cannot be released

without the permission of the captive.

The changes come at a time of rapid captive growth in the state. Last year, Arizona licensed 23 captives to bring its year-end total to 74. That total makes it the fifth-largest captive domicile in the United States and one of the fastest growing. Arizona currently has 78 captives.

State captive experts attribute Arizona's rapid captive growth to factors that include an attractive law and an Insurance Department that is strongly supportive of captives.

For example, Arizona does not impose premium taxes on business written by captives, said Michael Mead, president of Sonora Captive Management L.L.C. in Scottsdale, Ariz.

"We have a friendly department that is pro-captive," added Michael Low, a senior partner with insurance regulatory law firm Low & Childers P.C. in Phoenix and a former director of the Arizona Department of Insurance.

Chubb's supplemental commissions based on performance for the previous year

WARREN, N.J.—Chubb Corp.'s supplemental compensation plan for agents and brokers would split commissions into two categories: standard commissions paid upfront and a later lump-sum supplemental check for all of a broker's business with the insurer, sources familiar with the program say.

Chubb announced the plan last December in conjunction with its \$17 million settlement of state probes into its compensation practices. It also agreed to halt contingent commission payments.

The insurer has not offered details of how the commissions are calculated, and a Chubb spokesman declined to comment on the plan's structure.

Sources who have reviewed the program, though, say that a fixed supplemental commission is calculated by taking into

account the broker's prior-year performance in such areas as premium volume growth, retention rate and business profitability.

Chubb would then tell a broker, for example, that, based on its 2007 performance, its commission on property business for 2008 would be 15%, consisting of a 12% upfront commission payable as business is produced and a 3% supplemental commission payable at or after year-end on all business produced that year.

Chubb would cut a separate, lump-sum check to the broker for the supplemental commission, and the broker would have to allocate shares of the total to individual clients to provide those clients with compensation reports, sources explain.

The Chubb plan is aimed largely at regional and local agents that split their commis-

sions with subproducers, one source said. Those agents would continue sharing their standard commission, but would retain control over the supplemental commission and could share it or keep it as they see fit, the source said.

Willis Group Holdings Ltd. announced last week that it would not accept supplemental commissions, finding that they present the same conflicts of interest as the contingent commissions they are designed to replace.

A Chubb spokesman said the supplemental plan has been "overwhelmingly accepted by our independent agents and brokers," but that "we respect Willis' right to request its compensation be structured in a way that is consistent with its own internal operating guidelines."

—By Douglas McLeod

Patents: Ruling may increase litigation

CONTINUED FROM PAGE 3

higher levels of achievement is expected in the normal course, the results of ordinary innovation are not the subject of exclusive rights under the patent laws," wrote Associate Justice Anthony Kennedy for the unanimous court. "Were it otherwise, patents might stifle, rather than promote, the progress of useful arts."

"KSR provided convincing evidence that mounting a modular sensor on a fixed pivot of the Asano pedal was a design step well within the grasp of a person of ordinary skill in the relevant art," he added.

Reacting to the ruling, Cynthia E. Kernick, a patent attorney who was not involved in the case said: "KSR addresses patents that are combination patents. The question is: Was it obvious to put them together? If it's obvious, it's not patentable." Ms. Kernick is a partner in Reed Smith L.L.P.'s Pittsburgh office.

"The standard now is very broad," said Ms. Kernick. She said the impact of the decision will take time to sort out. "It's an over time issue—in the near run, the first year or 18 months—there's still going to be a lot of sparring. There are a lot of cases in the pipeline."

"This is pretty bad actually for the patent owners," said Michael Fein, a partner at Cozen O'Connor P.C. in Philadelphia. "It's really weakening patents."

But what could be bad news for existing patent holders might be good news for those whose applications win approval under the Supreme Court's new guidance, said another patent attorney.

"Initially, the risk of a defendant in a patent litigation lawsuit may decrease slightly because current patents may be easier to invalidate and fewer pending patent applica-

tions may be allowed to become patents," said Chuck Warner, a partner in the Atlanta office of Powell Goldstein L.L.P. "In the long term, however, the risk of a defendant in a patent litigation lawsuit may increase slightly as those patents" which are issued may be stronger.

Although the decision is "very interesting," it "probably will not have a great impact on the market for intellectual property insurance," including patent infringement coverage, said Robert W. Fletcher, president of Louisville, Ky.-based Intel-

'I'm not anticipating that the decision's going to have any immediate impact on the current insurance offerings.'

John Brosnan, Aon Corp.

lectual Property Insurance Services Corp., a managing general agent that represents one of the few markets for patent infringement coverage.

Mr. Fletcher said only about 10% of all patents issued are commercially feasible, and only 3% to 4% are actually marketable. "There's an awful lot of defensive patenting going on," he said.

George Stewart, another partner in Reed Smith's Pittsburgh office, said the decision should have an impact on the patent insurance marketplace eventually.

"I think that with the enhanced availability of this defense, you are going to see a decline in the number

of patent infringement claims that are filed, and thus less in the way of underwriting loss experience over time," Mr. Stewart said. "One would think that one would see a corresponding decrease in the costs of premiums charged for policies that defend against claims would drop."

There's no short-term impact for the patent infringement insurance marketplace "because there isn't one," said Chad Milton, senior vp and national practice leader-media liability and intellectual property in Marsh Inc.'s Kansas City, Mo., office. "There is virtually no patent marketplace because of historical losses," he said.

Limits are low and tend to be attractive only to smaller companies, he said. The decision could, however, "help create one."

"There are some bits and pieces" of coverage available, noted John Brosnan, senior vp and director-media and intellectual property practice for Aon Corp. in Chicago. "It's certainly a very limited marketplace. I'm not anticipating that the decision's going to have any immediate impact on the current insurance offerings."

And risk managers seeking patent infringement coverage under commercial general liability policies could be in for a disappointment, Marsh's Mr. Milton said.

"The new versions of the CGL make clear that all intellectual property is excluded except for copyright infringement in advertising," he said. "Under new policies the CGL underwriters have made it clear there is no coverage for patent infringement," although "under older policies, it is ambiguous," he said.

KSR International Co. vs. Teleflex Inc. U.S. Supreme Court. No. 04-1350. Decided April 30, 2007.

Roth: Employer adoption seen increasing but only slowly

CONTINUED FROM PAGE 1

employee had \$800 in his or her Roth 401(k) account and \$600 in his or her traditional 401(k) account, the employer would not have to transfer the balances to an IRA. Instead, the employer could simply cut distribution checks to the employee.

The other clarification involves 401(k) catch-up contributions. Under federal law, employees 50 and older can contribute an extra \$5,000 a year to their 401(k) plans. The final regulations make clear that catch-up contributions can be made to Roth accounts. The \$5,000 limit would remain the same and employees would decide what portion, if any, of their catch-up contribution would go to their Roth or

traditional 401(k) account.

With final rules in place, employ-

'Other projects have had a higher priority. That doesn't mean Roth adoption won't happen, it just isn't going to happen overnight.'

Rachel Kugelmass,
Affiliated Computer Services Inc.

ers now have the regularity certainty they need to operate the plans.

That comes about nine months after Congress eliminated the biggest obstacle that stalled adoption of the plans: making the plans permanent, which legislators did last year as part of a pension funding reform bill.

Without the change, the provision in the 2001 law (see sidebar) creating the accounts would have expired at the 2010. That uncertainty about the accounts' future had resulted in many employers staying on the sidelines.

"You wouldn't want to do all the work knowing that Roth plans could sunset in a few years," said Kyle Brown, an attorney with Watson Wyatt Worldwide in Arlington, Va.

With the future of the plans decided and final rules in place,

experts expect employer adoption of the plans to pick up, though only slowly.

The plans will "become more mainstream," but it will take a while, said Pam Hess, director of retirement research at Hewitt Associates Inc. in Lincolnshire, Ill.

So far, the employer takeup rate has been "pretty slow," said Michael Weddell, a principal at Mercer Human Resource Consulting in Detroit. Experts put the employer adoption rate between 5% and 15%.

Others factors holding back employer adoption of Roth plans have been time constraints as they have had to deal with other more pressing pension-related issues, such as evaluating whether they should freeze their defined benefit plans and enhance their 401(k) plans or add an automatic enrollment feature to their 401(k) plans.

"Other projects have had a higher priority. That doesn't mean Roth adoption won't happen, it just isn't going to happen overnight," said Rachel Kugelmass, a director with Affiliated Computer Services Inc. in New York.

Low participation rates

Still, some employers have shied away from the plans because they are not convinced that a meaningful percentage of employees would participate.

For lower-paid employees, potential tax savings in the future pale in comparison with the need to use current income for more immediate family needs, said Lea Gerber, director of risk management and benefits at Elixir Industries, a diverse manu-

ADOPTION OF ROTH ACCOUNTS*

Among Vanguard Group clients

Number of 401(k) or 403(b) participants	Adoption rate
Fewer than 500	16%
500-999	12%
1,000-4,999	8%
More than 5,000	8%

*As of Dec. 31, 2006

Source: Vanguard Group Inc.

facturer in Mission Viejo, Calif.

Employers that have added Roth accounts to their traditional 401(k) plans report very low participation. For example, at Chicago-based Hartmarx Corp., only about 3% of eligible participants made contributions to Roth accounts last year, despite a robust communications program. Possible reasons for the low participation rate include the newness of the program and that employees tend to be more focused on immediate tax deductions, said Michael Pikelnny, corporate actuary and employee benefit consultant.

Other employers, though, report higher participation rates. For example, at A.G. Edwards & Sons Inc., 11.3% of eligible employees made Roth contributions last year, with employees contributing an average 8.3% of pay to the accounts compared vs. an average 8.9% in the company's traditional 401(k) plan, said Roger Elbert, manager of employee benefits in St. Louis.

BISYS: Proposed sale clears uncertainty

CONTINUED FROM PAGE 1

ment services business could create a leading integrated provider of wholesale insurance brokerage and retirement services, according to BISYS.

BISYS, which said the deal is subject to shareholder approval and regulatory approval in the United States, Ireland and Bermuda, said the deal is expected to close in the second half of this year.

In its annual report for the year ended June 30, 2006, BISYS' insurance services segment reported \$246.8 million in revenues and \$62 million in operating earnings. Its investment services unit segment reported \$596.1 million in revenues and \$71.6 million in operating earnings.

BISYS Commercial Insurance Services ranked No. 6 among U.S. wholesale insurance brokers, with \$1.02 billion in 2005 wholesale premium volume, according to *Business Insurance's* 2006 ranking. It was just behind Crump, which had an estimated \$1.25 billion in 2005 wholesale premium volume.

Among 401(k) administrators, BISYS ranked No. 3 as of June 30, 2006, with 1.7 million unbundled participants, according to another

BI ranking.

Observers point out that BISYS said last August that it was exploring "strategic alternatives," and the deal announced last week took an unusually long time to complete.

This "tells me that there were relatively few buyers that came to the table and took a serious look at the operation," said Mr. Ward.

In recent years, BISYS has faced

This 'tells me there were relatively few buyers that came to the table and took a serious look at the operation.'

John L. Ward,
Cincinnati Partners L.L.C.

legal and regulatory issues.

The company reached a settlement with the Securities and Exchange Commission last year following an investigation of its marketing and distribution arrangements in its mutual funds services business, under which it agreed to pay \$25.1 million in disgorgement and prejudgment interest, according to its annual report.

It also faced shareholder litigation concerning its 2004 restatement of several years' of earnings, which led to a \$66.5 million settlement last year, according to the annual report.

Mr. Ward said the structure of the deal, with the company's operations split up, is unusual. "It's not often that two different firms come together to buy different pieces of the same company, and that makes it somewhat of a unique transaction," he said. The insurance services segment "was just not a fit" with Citi's operation.

However, "the property/casualty commercial brokerage operation is an excellent fit with the Crump operation, and when you profile the two operations, they're comparable

in terms of size, number of employees and operating profile," Mr. Ward said.

"There's been a cloud of uncertainty relating to BISYS for the last year or two with their problems," said Mr. Ward.

This deal "brings a conclusion to that in a logical way," he said.

John Wicher, principal of San Francisco-based John Wicher & Associates, said the deal is a good one for insurance buyers. Flowers is in financial services, owns existing excess and surplus operations, and as a private company is not subject to earnings volatility—all of which are "positive things for the ultimate insured," he said.

Timothy J. Cunningham, a principal with OPTIS Partners L.L.C. in Chicago, said the deal gives Crump "a little more clout, but I don't see it as a real major issue." The business continues to be based on the relationship between the broker and the wholesaler, he said.

However, Rob Lieblein, president and managing principal with WFG Capital Advisors L.P. in Harrisburg, Pa., said the deal is "going to make the market more competitive on the wholesale side as you have another private equity player acquiring a wholesale broker."

Private equity firms became a market factor following investigations of brokerage compensation practices by state officials in 2004 and 2005, which raised questions about whether retail brokerages' ownership of wholesale operations creates conflict of interest.

In 2005, New York-based Marsh & McLennan Cos. Inc. sold Dallas-based Crump to Flowers and Aon Corp. sold Atlanta-based Swett & Crawford Group to Dallas-based HM Capital Partners L.L.C., a private equity firm that then was known as Hicks, Muse, Tate & Furst Inc.

Willis Group Holdings Ltd. also sold its Stewart Smith Group to independent wholesaler American Wholesale Insurance Group Inc. in 2005. San Francisco-based private equity firm Parthenon Capital L.L.C. now owns a majority interest in the Charlotte, N.C.-based AmWINS.

401(k) rules require separate Roth, traditional accounts

WASHINGTON—Although the term is common, legally there is no such thing as a Roth 401(k) plan.

A provision in tax legislation, which passed nearly six years ago by Congress and that went into effect Jan. 1, 2006, created what the 2001 law calls Roth contributions.

Roth contributions can only be made when the feature is included in a traditional 401(k) plan or a 403(b) plan, the non-profit sector's equivalent of a 401(k) plan.

Roth 401(k) contributions differ from traditional 401(k) plan contributions in two key ways. Unlike traditional 401(k) contributions, which are made with pretax dollars, Roth 401(k) contributions and earnings can be withdrawn tax-free. Investment earnings, though, cannot be withdrawn tax-free until five years after an employee first began to make contributions and after he or she reaches age 59½.

For young employees, that

means their contributions can accumulate decades of tax-free investment income. Additionally, employees now in a low tax bracket and who move into a higher tax bracket when they retire also could be better off by making contributions to a Roth account rather than to a traditional 401(k) plan.

Federal law makes clear that Roth and traditional 401(k) plan contributions must be kept separate.

Additionally, before a contribution is made, an employee must designate whether it is for the Roth portion or the traditional portion of the 401(k) plan.

An employee decides how much of his or her contribution will go into the Roth account and how much into the traditional 401(k) plan. Any combination is allowed, so long as the total contribution doesn't exceed the overall 401(k) plan limit, which is \$15,500 in 2007.

—By Jerry Geisel

ADVERTISER

INDEX

Issue of May 7

ADVERTISER	PAGE #
Acordia	21
AIG	32
Aon Corporation	2
Arch Insurance	7
Beazley Group Inc.	16
Burnham System	24
Business Insurance	19, 22, 30
C.V. Starr	10
Ingenix	9
Lord, Bissell & Brook, LLP	18
Marsh Inc.	13, 15, 17
Munich Reinsurance	12
Navigant Consulting	20
Risk Strategies Co.	23
Sedgwick Detert Moran & Arnold LLP	14
XL Insurance	5

News In Brief

CONTINUED FROM PAGE 1

executive officer of WFIS, said in a statement.

Most rates down in quarter: Survey

General liability rates dipped by 0.8% in the first quarter—compared with the fourth quarter of 2006—according to the latest Risk & Insurance Management Society Inc.'s RIMS Benchmark Survey. The survey, which is produced by Advisen Ltd. and is based on data contributed by corporate risk managers, found that property was the only line to see an increase, with rates rising by 0.8% on average. D&O rates dropped by 7.7%, while workers comp rates decreased by 3.8% on average.

Bush nominates PBGC director

President Bush said he will nominate Charles E.F. Millard, a managing director at Broadway Partners L.L.C., a New York real estate investment and management firm, to be the next director of the Pension Benefit Guaranty Corp. Previously, Mr. Millard was managing director and head of wealth management services at Lehman Bros. The nomination is subject to Senate confirmation. The PBGC's director position has been vacant for about a year following the resignation of Bradley Belt. President Bush also said he intends to nominate Bradford Campbell as assistant secretary of labor and head of the Labor Department's Employee Benefits Security Administration, which regulates pension plans. Currently, Mr. Campbell is an acting assistant secretary.

Mass. starts new phase of health care effort

Massachusetts last week launched the next program to help the state achieve near-universal health care coverage. Under the program, called Commonwealth Choice, state residents will be able to choose from a variety of health care plans offered by six carriers and available through the Commonwealth Connector, an independent state authority created to help implement the state's 2006 health care law. Initially,

Commonwealth Choice will be available only to individuals and employers of any size that want to offer health care coverage in which employees pay the entire premium through pretax contributions.

Okla. governor vetoes tort reform measure

Oklahoma Gov. Brad Henry has vetoed a broad tort reform bill that would have altered procedures and requirements for class actions and imposed some caps on damages. Gov. Henry issued a statement April 28 on Senate Bill 507, stating that he was working with lawmakers to address a number of legal concerns with the 130-page measure, but "time ultimately ran out" and he was forced to veto the bill.

New York extends law on hospital surcharge

Legislation signed into law by Gov. Eliot Spitzer extends through the end of next year a 1996 New York law that adds hundreds of million of dollars to employers' health care bills. That law, which was to expire on June 30, imposes an 8.95% surcharge on bills incurred in hospitals in the state. The surcharge, added to patient charges, is used to help fund indigent care. The law also continues a state pool used to fund, among other things, graduate medical education. The pool is funded by a covered-lives assessment on employers with employees living in New York state.

Collins forms unit for capital markets

Reinsurance intermediary John B. Collins Associates Inc. has formed a subsidiary, Collins Capital Advisors L.L.C., to provide investment banking advice and capital markets expertise—including on securitizations and cat bonds—to the insurance and reinsurance industry. Gregory G. Clapp, former managing director at Fox-Pitt, Kelton Inc., has been named managing director of the new Collins unit.

Miss. attorney general to sue State Farm

Mississippi Attorney General Jim Hood plans to sue State Farm Fire & Casualty Co. for alleged breach of contract related to Hurricane Katrina claims. State Farm holds that it has met its legal requirements and is currently working with Mississippi Insurance Commissioner Gorge Dale to re-evaluate hurricane-related claims.

Financial services group calls for TRIA expansion

Extending and expanding the federal terrorism insurance backstop is a key way to minimize the costs associated with major catastrophes, according to a report issued last week by the Financial Services Roundtable Blue Ribbon Commission on Megacatastrophes. The group, which consists of 100 of the largest financial services companies in the United States, says the federal backstop program, slated to expire on Dec. 31, should be extended "on a long-term basis" but should be amended to include coverage for group life insurance as well as property/casualty coverages. The report also calls on Congress to allow the backstop to apply to losses caused by domestic terrorism.

Survey: Employers don't want to fund retiree care

Seventy-three percent of large U.S. employers don't want to fund retiree health care benefits but are in favor of providing access to health insurance for retired workers, according to a PricewaterhouseCoopers L.L.P. study. The study, "Tailoring the Approach: Employer Attitudes and Healthcare Strategies Address

Distinct Issues," gauged the views of 135 top executives. In addition, 62% of executives surveyed said their companies should require employees who exhibit unhealthy behaviors—from obesity to smoking—to pay a larger share of their health benefit costs. Eighty-seven percent of employers do not wish to abandon employer-sponsored health insurance, and 94% believe they could do a better job of supporting their employees in managing their health care to reduce overall costs.

Noted

Standard & Poor's Corp. has raised its financial strength rating of operating units of Arch Capital Group Ltd. to A from A-, reflecting the units' strong performance and diversified business platform, among other factors....The Department of Homeland Security will subpoena Allstate Insurance Co. for documents "with regard to homeowners' claims" arising from Hurricane Katrina, Allstate Corp. said in a document filed with the Securities & Exchange Commission on May 3. Congress authorized DHS to investigate insurers such as Allstate that participate in the National Flood Insurance Program. In its filing, Allstate said it cooperated with DHS in the investigation.

High-speed police chases upheld by Supreme Court

By MARK A. HOFMANN

WASHINGTON—Police can use potentially deadly force to end a high-speed chase that puts the public at risk, the Supreme Court ruled last Monday.

The case of *Timothy Scott vs. Victor Harris* began in 2001, when Mr. Harris, a Georgia man who was left paraplegic after Mr. Scott, a Coweta County, Ga., deputy sheriff, rammed Mr. Harris' car in an effort to stop him during a car chase in which Mr. Harris' speed sometimes exceeded 85 mph on a two-lane road, according to the Supreme Court.

Mr. Harris held that such a potentially deadly action violated his Fourth Amendment protections against the use of excessive force during a seizure. Both a U.S. district court and the 11th U.S. Circuit Court of Appeals rejected Mr. Scott's motion for summary judgment based on qualified immunity and said that the case should proceed to

jury. Mr. Scott then appealed to the Supreme Court.

After taking the highly unusual step of watching a video of the chase—and posting it along with the decision on the Supreme Court Web site—eight of the nine justices held in favor of Mr. Scott.

The court, wrote Associate Justice Antonin Scalia for the majority, rejected Mr. Harris' "argument that safety could have been assured if the police simply ceased their pursuit. The court rules that a police officer's attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders does not violate the Fourth Amendment, even when it places the fleeing motorist at risk of serious injury or death."

Associate Justice John Paul Stevens dissented.

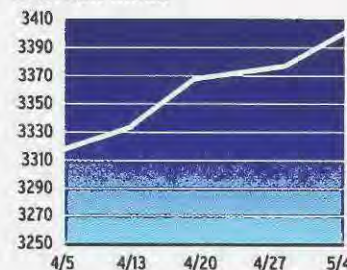
Timothy Scott vs. Victor Harris. U.S. Supreme Court. No. 05-1631. Decided April 30, 2007.

Stock Index

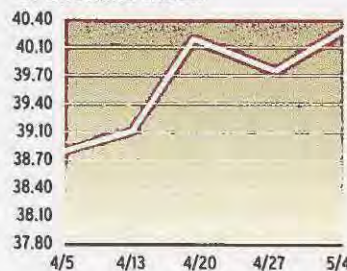
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Up-to-the-minute data for all 82 companies that comprise the BI Stock Index can be found at www.BusinessInsurance.com.

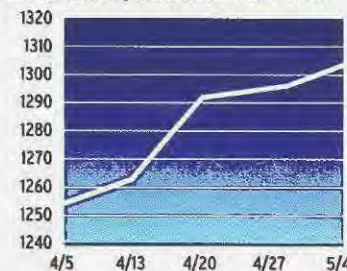
BI STOCK INDEX



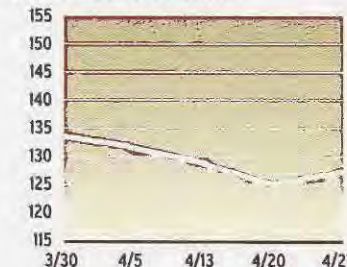
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BI MANAGED CARE ORGANIZATIONS INDEX



Percentage change of BI Stock Index vs. key indicators

BI STOCK INDEX	3398.20	↑ 1.37%
DOW JONES	13264.62	↑ 1.10%
S&P 500	1505.62	↑ 0.77%

LARGEST GAINS

Unum Group	10.55%
PMA Capital Corp.	10.32%
Meadowbrook Insurance	7.54%
Baldwin & Lyons Inc.	6.95%
Aon Corp.	6.37%

LARGEST LOSSES

CNA Surety Corp.	-6.65%
SAFECO Corp.	-3.67%
Gainsco Inc.	-3.33%
Endurance Specialty	-2.82%
Philadelphia Consolidated	-2.44%

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Contributing: Roberto Cenicer, Louise Esola, Mark A. Hofmann, Joanne Wojcik



Mysterious bee disappearance may sting crops

Talk about buzzing off.

Honeybees by the billions have mysteriously vanished across the United States this year, leaving researchers and beekeepers baffled by the empty hives—and farmers wondering what's going to pollinate the \$15 billion worth of agricultural products that depend on the worker bees to get the job done.

While previous years have seen swarms of bees die off, scientists say they have never seen losses like those reported this year. Researchers have offered various theories—increased pesticide use among them—but nothing has been confirmed as the cause of the massive bee deaths.

In California, where the bee disappearances are threatening an estimated \$6 billion of crops, one insurance administrator is calling on the state to tackle the issue.

"Year 2007 could be an economic disaster for California growers unless the problem is identified, and solutions found, immediately," said Joe Wheeler, vp of Ontario, Calif.-based Self Insured Solutions L.L.C., which manages four agricultural self-insured workers compensation groups in the state.

"That's why we've called on Sacramento to act. Washington moves too slowly, and is too focused on other issues, to care about California's agricultural industry."

The U.S. Department of Agriculture estimates that one-third of the nation's diet is reliant on insect crop pollination. Without the bees, researchers predict a massive food shortage and losses in the billions for farmers.



Brokers march to New Orleans bands' rescue

Aon Corp. has donated funds to help purchase instruments and uniforms for the marching band of Warren Easton Senior High School, which says it is New Orleans' oldest public high school.

The high school's band marched to an Aon event held last week in the Big Easy for the Risk & Insurance Management Society Inc.'s annual conference.

Meanwhile, Marsh Inc. donated \$50,000 to support the efforts of Tipitina's Foundation to rebuild New Orleans' music culture.

Tipitina's Foundation earmarked the Marsh contribution to help provide new instruments and uniforms for some of the city's high school bands.



MICHAEL MARCOTTE

RIMS attendees aid cleanup of City Park

Participants gave of their time and sweat to clean up Hurricane Katrina damage in New Orleans as part of the Risk & Insurance Management Society Inc.'s first Community Service Day.

Buses that transported volunteers to City Park were filled to capacity on the morning of April 29, when nearly 400 risk managers and other industry professionals rolled up their sleeves to help the community clean up some of the debris and damage still left by the 2005 storm.

"I'm planning to get a little dirty," said RIMS President Michael Liebowitz, who shortened the annual House of Delegates meeting so he and others could participate in the event, which was sponsored by Chicago-based broker Aon Corp.

"They've gone through a really horrible time," said Mr. Liebowitz during an interview the day before the New Orleans cleanup.

"We would be remiss as representatives of the risk management profession if we couldn't give something back to the city," he said.

"New Orleans has a special place for us in our hearts because it was the site of the first RIMS conference," Mr. Liebowitz said.

The Big Easy has hosted the annual RIMS conference seven times, including this year.

With guidance from City Park New Orleans and Service International Inc.—the two organizations responsible for the park's maintenance—RIMS volunteers were assigned to clean up the gardens, playgrounds, nature trails, golf courses, tennis courts, fountains and pavilions that were either damaged or destroyed by Katrina.

The event was a rewarding experience, said Dave Dolnick, risk manager for Brady Cos., a commercial construction company in La Mesa, Calif.

"It was extraordinarily well-organized. It was hot, dusty, dirty and a whole lot of fun. And worth every second of it," Mr. Dolnick said. "It feels good to be able to give back."



New Orleans' City Park, the largest U.S. urban park, with 22 miles of shoreline that borders lagoons, suffered an estimated \$43 million in hurricane damage in 2005.

Lott settles Katrina claim

Some people won't take no for an answer.

That's often the case when there's a dispute over an insurance claim, and heaven knows there were quite a few of those in the wake of Hurricane Katrina.

But while some people won't take no for an answer, not all of them have the clout of one unhappy homeowner by the name of Chester T. Lott Sr.

Mr. Lott, better known as



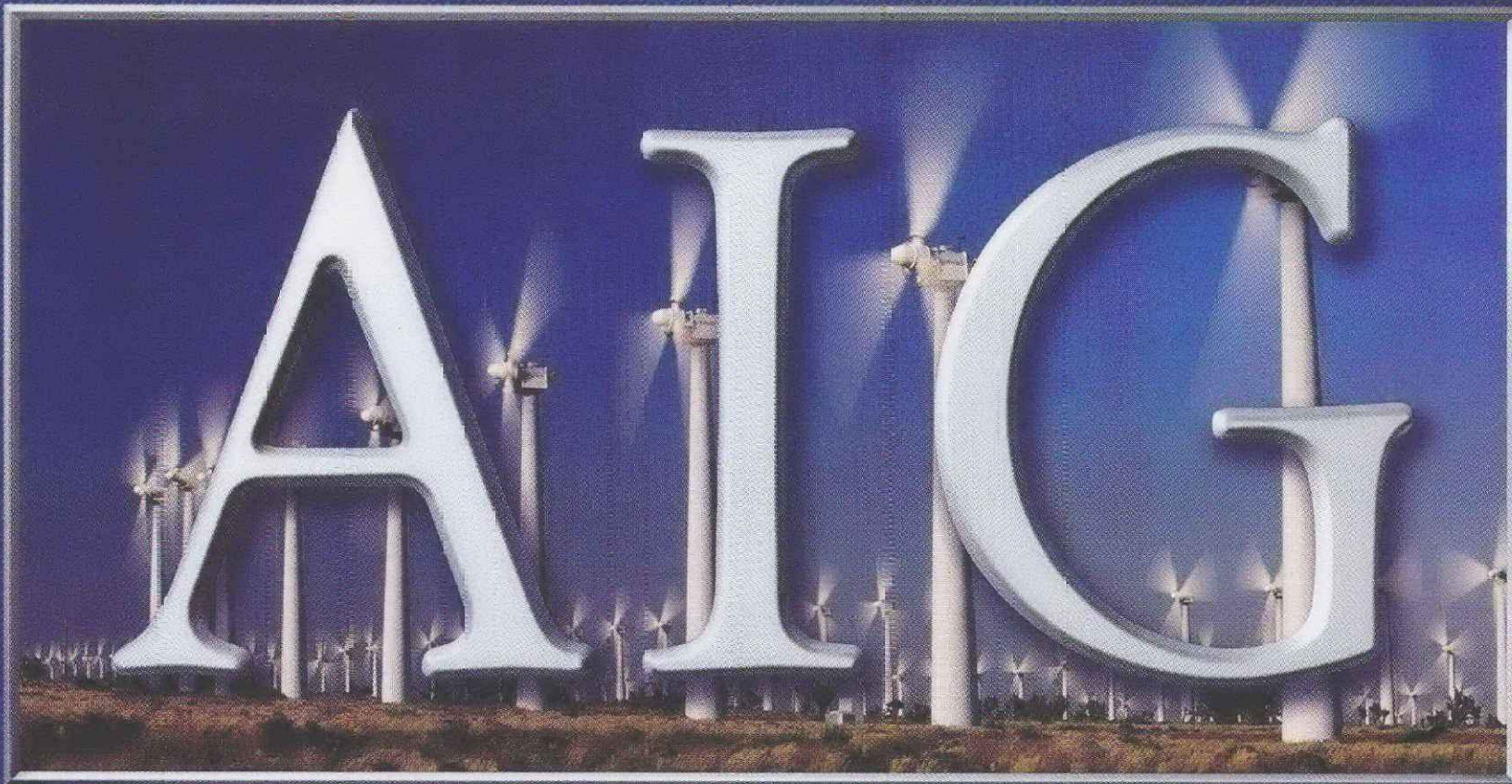
REUTERS

former Senate Majority Leader Trent Lott, R-Miss., not only sued State Farm Fire & Casualty Co. after it declined to pay for severe hurricane damage sustained by his house in Pascagoula, Miss., he decided to take on the whole insurance industry.

Sen. Lott did so by co-sponsoring legislation earlier this year that would repeal the insurance industry's limited exemption from federal antitrust law provided by the McCarran-Ferguson Act of 1945. Although the bill has yet to be voted on by a subcommittee, its mere existence has caused no little heartburn in some industry quarters.

Meanwhile, Sen. Lott's lawyer announced last week that the lawmaker had reached an agreement in principle to settle his dispute with State Farm for an undisclosed sum.

So far, there's no indication that a check will also settle his dispute with the insurance industry as whole.



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