

# Business Insurance

\$5

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**FAILED BERMUDA REINSURER HAS ASSET SHORTFALL, LIQUIDATORS SAY / PAGE 3**

**KEY DEMOCRAT DODD SUPPORTS SOLUTION ON TRIA / PAGE 3**

**MUTUAL OIL INSURANCE LTD. LEAKING MEMBERS AS NINE ENERGY FIRMS EXIT / PAGE 4**

## In Brief

### Insurers subpoenaed in municipal GIC probe

Several financial guarantee insurers have been subpoenaed by the antitrust division of the U.S. Attorney's Office for the Southern District of New York and, in some cases, by the Securities and Exchange Commission in an investigation of brokers of municipal guaranteed investment contracts. Companies that say they have received subpoenas include units of American International Group Inc., XL Capital Ltd. and General Electric Co. A Justice Department spokeswoman said, "The antitrust division is investigating the possibility of anticompetitive practices in the municipal bond industry."

### Becker named Max Re CEO

W. Marston Becker has been named chairman and chief

See **IN BRIEF** page 22

## International NEWS

More consolidation expected at Lloyd's of London as



concerns over legacy issues subside with the sale of Equitas to Berkshire Hathaway

Inc.; emerging market growth, expansion in Asia likely to fuel rise in captive numbers, study says; trade agreement could open up Russia's insurance market to outsiders, some observers predict. **PAGE 17**

# Spitzer's election raises questions on future probes

By **SALLY ROBERTS**

**ALBANY, N.Y.**—While many in the insurance industry may be relieved to see Eliot Spitzer moving out of the attorney general's office and into the governors' office in New York, the industry could be subjected to more scrutiny as his successor will likely at least finish the job that Mr. Spitzer started, sources say.

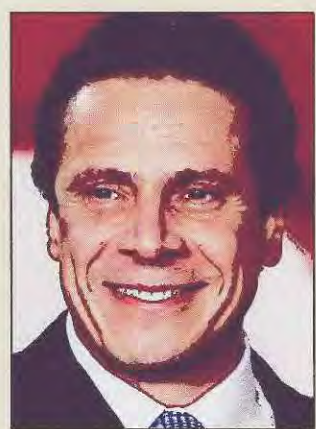
When he takes office in January, Attorney General-elect Andrew Cuomo likely will take on any pending cases or major initiatives started by Mr. Spitzer, sources say.

Whether Mr. Cuomo draws a different conclusion from those initiatives, however, and whether his office will continue to target the insurance industry for further investigations, remains unknown.

Mr. Cuomo, the former Secretary of Housing and Urban Development under President Bill Clinton, will seek to differentiate himself from Mr. Spitzer, who gained nationwide attention for taking on alleged abuses in the insurance industry and various other sectors, including the mutual fund and music industries, sources say.

In addition, it is unknown how many, if any, of the staff attorneys in the investor protection bureau working on the industry investigations will stay under the new leadership and what impact that will have on pending investigations.

Mr. Cuomo has privately indicated to fellow Democrat Mr. Spitzer that he likes the direction the office is going in and will not seek any major changes, a source close to Mr. Spitzer's office said last week.



SPLASH NEWS

**Andrew Cuomo, the next attorney general of New York, is expected to finish much of the work started by his predecessor, Eliot Spitzer, who earlier this month was elected governor.**

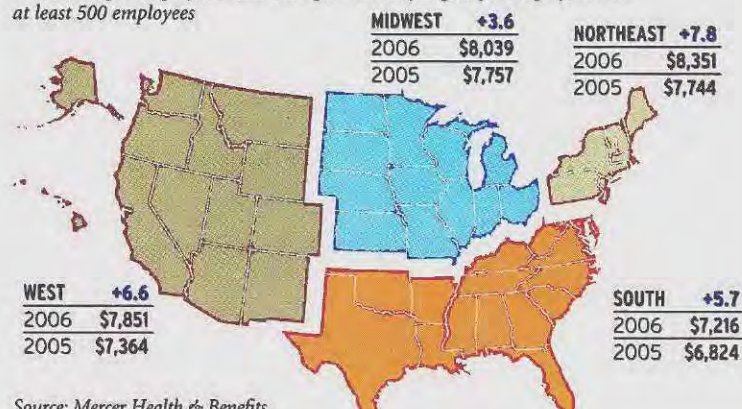


BLOOMBERG/LANDOV

See **SPITZER** page 21

## AVERAGE HEALTH CARE COST INCREASES

Increase in per employee health care plan costs by region for employers with at least 500 employees



Source: Mercer Health & Benefits

# Health cost increases hold steady—for now

*Consumerism helps keep average hike at 6.1%, Mercer finds*

By **JOANNE WOJCIK**

By stressing consumerism and health care management, U.S. employers have successfully managed to keep the rate of increase in group health plan costs steady in the past two years.

In 2006, group health care plan costs increased 6.1% to an average of \$7,523 per employee, up from \$7,089 in 2005, according to a sur-

vey of nearly 3,000 employers by Mercer Health & Benefits L.L.C. in New York.

That 6.1% increase for 2006—identical to the rise in 2005—follows years of much steeper cost hikes. Health care costs jumped an average of 14.7% in 2002, 10.1% in 2003 and 7.5% in 2004.

However, if past performance is any indicator of future trends, it is unlikely the lull will be sustained for yet another year, warns Blaine Bos, a Mercer worldwide partner in Minneapolis.

"This suggests a tapering off of

See **MERCER** page 20

# New York City objects to health plan merger

*Files suit to block HIP-GHI deal, citing monopoly*

By **GLORIA GONZALEZ**

**NEW YORK**—The city of New York will continue to fight the union of not-for-profit health plans Group Health Inc. and HIP Health Plan of New York despite a federal judge's refusal last week to issue a temporary restraining order blocking the deal.

Officials for the city, which would be the combined entity's largest customer, filed an antitrust suit last week in the U.S. District Court for the Southern District of New York alleging that, with control of 93% of the city's municipal health care market, the deal would create a monopoly, resulting in substantially higher premiums for the city.

Each percentage point increase in the insurance premiums charged by HIP and GHI would cost the city an

See **LAWSUIT** page 18

## INDEX

Advertiser Index .....	20
Business Resources .....	16
Regis Coccia .....	6
End Page .....	23
International .....	17
Opinions .....	8
Perspective .....	10
Products & Services .....	16
Professional MarketPlace .....	16
Stocks .....	22

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— Bryan Squibb, *managing director of Aon Trade Credit U.S.*

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## Business Insurance

### REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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# BP plant blast spurs sweeping safety changes

## Federal agency says firm's 'risk blindness' played role in accident

By MICHAEL BRADFORD

**TEXAS CITY, Texas**—BP Products North America Inc. is making sweeping changes to its safety processes in the wake of a deadly explosion last year that prompted a heavy fine from one federal agency and findings by another that the oil company's "risk blindness" contributed to the accident.

The company has created new health and safety positions and established standards for work processes at its U.S. locations as a result of the accident, among many other changes. BP says it will spend more than \$1 billion over the next five years to make sure its opera-

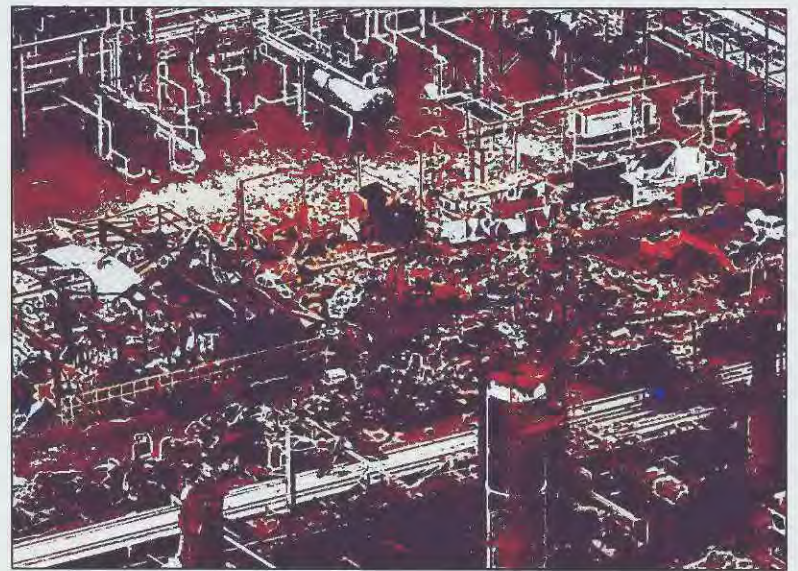
tions are safer.

BP admitted several weeks after the accident that mistakes by its workers were responsible for the March 23, 2005, blast that killed 15 workers and injured more than 170 people. The Texas City, Texas, unit of London-based BP P.L.C. said in a report that the explosion occurred because managers and operators overfilled a distillation tower and its attached blowdown drum with combustible fluids at a unit that produces components of unleaded gasoline. A vapor cloud at the unit ignited, causing the blast.

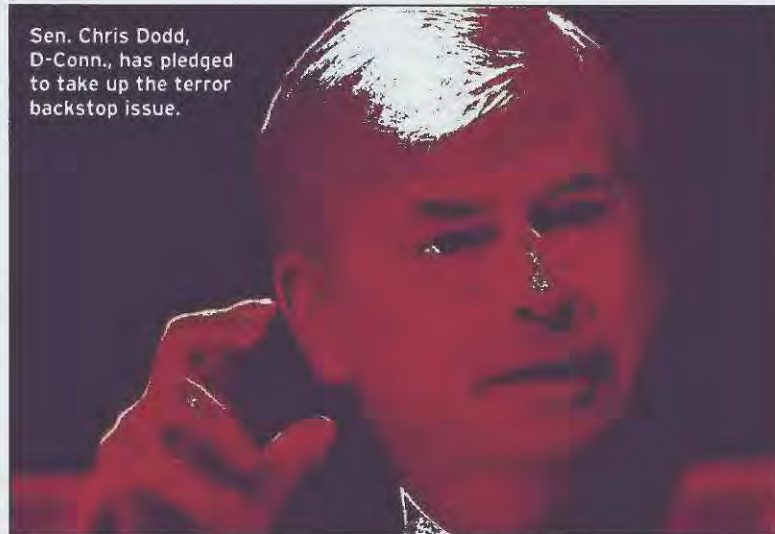
The oil giant faces scores of claims related to the explosion. It recently settled for an undisclosed total with a woman whose parents were killed in the accident (see story, page 19).

The settlement, which came just

See **BLAST** page 19



BP Products North America Inc. said it will replace so-called blowdown drums at all its U.S. refineries by 2008, even though BP blames human error for a deadly March 2005 blast at its Texas City, Texas, facility.



Sen. Chris Dodd, D-Conn., has pledged to take up the terror backstop issue.

BLOOMBERG NEWS/LANDOV

## Terror cover backstop a high priority: Dodd

### Incoming panel chair expresses support for permanent solution

By MARK A. HOFMANN

**WASHINGTON**—Extension of the federal backstop for terrorism coverage is a key priority for the next Congress, according to lawmakers from both houses.

Last week, the incoming chairman of the Senate Banking, Housing and Urban Affairs Committee said he would like to deal with the future of the federal terrorism insurance backstop sooner rather than later.

"We'd like to get something done early," said Sen. Christopher Dodd, D-Conn., at a Capitol news conference last week. The current program, which is a scaled-back version of the Terrorism Risk Insurance Act of 2002, is slated to expire on Dec. 31, 2007.

Sen. Dodd, who will succeed Sen. Richard Shelby, R-Ala., as chairman of the committee in the new

Congress, said he does not want merely to extend some version of the program for a limited amount of time.

"My hope would be to get something done on a permanent basis," he said. He noted, however, that there are "philosophical differences" with "the other part of town," a reference to the Bush administration.

The administration, which vigorously supported the initial TRIA bill, succeeded in scaling back the program's scope as a condition for its extension in December 2005.

Meanwhile, the House Financial Services Committee expects to take up the backstop extension—and at least two other major insurance issues—after it convenes under new leadership in January, according to a key member of the committee.

Rep. Dennis Moore, D-Kan., said that, in addition to addressing the backstop issue, the committee would consider the possibility of allowing insurers to seek federal rather than state charters as well as

See **TRIA** page 22

## Bermuda liquidators say reinsurer Hatteras appears to be insolvent

### Stock used as startup capital takes founder, regulators to court

By DOUGLAS McLEOD

**NEW YORK**—Five months after taking over Hatteras Reinsurance Co. Ltd., the Bermuda liquidators of the workers compensation reinsurer are still not sure how deep a financial hole Hatteras is in, court filings last week show.

While Hatteras' records and the reinsurer's former managers suggest that the company's net worth amounts to \$157.5 million, the liquidators have preliminarily projected that it may actually be insolvent by \$6.9 million and possibly much more, according to a draft financial statement filed in U.S. Bankruptcy Court in New York.

The liquidators assume in the filing that Hatteras' principal asset—a \$152 million investment in a Delaware entity, Pamlico Enhanced Cash Trust—is worthless. The filing also assumes no recovery on several other potential Hatteras assets, including a \$5 million corporate jet allegedly bought with the reinsurer's funds and a \$5.25 million investment in the redevelopment of a Rocky Mount, N.C., cotton mill. Both the aircraft and the cotton mill property were bought by companies controlled by Frank P. Meadows III, a Rocky Mount businessman who also founded and

controlled Hatteras.

Meanwhile, the liquidators won a court order last week temporarily barring Mr. Meadows from selling shares of The Nottingham Co., a Rocky Mount mutual fund administrator he founded in 1988. Unaudited Hatteras financial statements for 2004 and 2005 report that Mr. Meadows contributed 70,000 Nottingham shares valued at more than \$13 million as the reinsurer's initial capital.

### FUNDS AVAILABLE

Hatteras trust funds available to captive policyholders, in millions of dollars

Parent	Amount	Captive
Aramark Corp.	\$151.8	Actis Assurance Segregated Portfolio
InterContinental Hotels	4.0	SCH Insurance
Electronic Data Systems	2.6	High Tech Services

Source: Court filings

Mr. Meadows now asserts, though, that the stock never was actually transferred to Hatteras and that the reinsurer has no ownership interest, confirmed Mr. Meadows' lawyer, Peter Anderson with Sutherland, Asbill & Brennan in Atlanta.

A bankruptcy judge scheduled a Nov. 21 hearing on the stock dispute.

Mr. Meadows could not be reached for comment. Questioned about Hatteras operations in an August deposition by lawyers for the liquidators, Mr. Meadows invoked his Fifth Amendment right against self-incrimination, according to the liquidators' court filings.

See **HATTERAS** page 20

# PBGC financial position improves as deficit drops to \$18.1 billion

*Airline funding relief in pension reform law cuts some liabilities*

By MATT SCROGGINS

WASHINGTON—The Pension Benefit Guaranty Corp. reported an improvement in its financial position for its 2006 fiscal year, with the agency's deficit narrowing to \$18.1 billion from \$22.8 billion a year ago.

Much of the \$4.7 billion improvement at the PBGC's insurance program for single-employer pension plans stemmed from airline industry pension funding relief in the recently enacted Pension Protection Act, which resulted in "a sharp reduction in the amount of 'probable' liabilities reflected on the agency's balance sheet," the PBGC said in a statement.

That law, which President Bush signed in August, gives commercial airlines whose plans are severely underfunded more time to fund their plans, making it less likely that the airlines will terminate their plans and shift the liabilities to

## PBGC'S NET POSITION

Net position for single employer programs, in billions of dollars



Source: PBGC

the PBGC.

As of Sept. 30, the agency reported assets of \$60 billion and liabilities of \$78.1 billion. In addition, the PBGC noted that its potential exposure to losses from pension plans sponsored by financially weak employers decreased to \$73 billion from \$108 billion in 2005.

In its statement, the PBGC attributed that improvement in part to higher interest rates, better credit

ratings and improved plan funding at some employers.

"The PBGC's financial condition appears to have stabilized for the time being," PBGC Interim Director Vince Snowbarger said in the statement.

"Our current assets can cover pension payments coming due for a number of years into the future, and our exposure to additional losses has declined," he said.

# Nine OIL members elect to leave energy mutual

*Exiting firms represent 12% of insured assets*

By RUPAL PAREKH

HAMILTON, Bermuda—Twelve percent of Oil Insurance Ltd.'s shareholder members are withdrawing from the energy industry mutual effective Jan. 1, 2007, the company announced.

Hamilton, Bermuda-based OIL said in a statement that nine shareholder members have elected to leave and not renew their policies. Collectively, the nine exiting shareholders had gross assets representing around 12% of the weighted gross assets insured by OIL immediately prior to their withdrawal, according to OIL.

OIL—one of three mutual insurance firms that, along with Oil Casualty Insurance Ltd. and sEnergy Insurance Ltd., are collectively known as the OIL Group of Cos.—previously had 83 members.

New York-based Standard & Poor's earlier this month affirmed its A- financial strength rating for OIL but revised its outlook for the company to negative from stable.

George F. Hutchings, OIL's senior vp and chief operating officer, declined to say which OIL shareholder members are leaving. He did note, however, that at least two of the outgoing member companies are also shareholders of sEnergy, the

catastrophe business interruption and excess property damage insurer that in April announced a wind-up of its operations.

The 14 current shareholder members of sEnergy are: BHP Billiton Petroleum (Americas) Inc., CITGO Petroleum Corp., ConocoPhillips, Duke Energy, Koch Industries Inc., Lyondell Chemical Co., Tesoro Petroleum Corp., Suncor Energy Inc., Nova Chemicals Corp., Petro-Canada, Borealis A/S, OMV Aktiengesellschaft, Statoil ASA and Sasol Ltd.

Mr. Hutchings said that the outgoing OIL members are diverse in their risk profiles and in their reasons for leaving. "They all had their different reasons why they left...there was no commonality across the board," he said. "The people that did withdraw represent virtually all of the business sectors" where OIL does business, including offshore energy, onshore energy, mining and pipelines.

Shareholder members had to inform OIL of their intent to renew policies by Oct. 31.

Compared with the nine shareholders who plan to leave at the end of this year, "in the past, in any given year, there have been two to four" members who have departed from the structure at the end of a policy year, said Mr. Hutchings.

In the statement, OIL said it does not believe the change "has had or will have a material adverse effect on our company."

# Cedents, reinsurers at odds on rates

*Sides dispute impact of capital pressures, light catastrophe year*

By JUDY GREENWALD

SEATTLE—Reinsurers and primary insurers are engaged in a low-key tug of war over property catastrophe rates for the January renewals.

Reinsurers are pushing for rate increases equal to the hikes introduced at midyear, citing capital pressures created by rating agency demands and catastrophe models.

Cedents, for their part, point to a highly profitable year for reinsurers marked by relatively few catastrophe losses as justification to keep property cat rate increases down.

At the same time, there is general agreement that although capacity has increased during the past several months, supply is still inadequate to meet the market's needs.

The final outcome, say observers, is likely to be somewhere in the middle, with rate increases somewhat less than those instituted in July.

People are "trying to figure out where's the happy medium in terms of where pricing settles," said Tim Gardner, managing director and leader of the global property specialty practice for Guy Carpenter & Co. Inc. in New York.

Meanwhile, property lines in areas not prone to catastrophes, as well as casualty lines, continue to soften, perhaps influenced in part



**MORE PCI COVERAGE:** Market maintains disciplined approach. Page 14.

by property catastrophe reinsurers' efforts to diversify in response to rating agency pressures, say observers.

The market, however, continues to remain disciplined, observers say (see story, page 14).

Meanwhile, the retrocessional market remains significantly diminished, although hedge funds and other private equity sources are expected to continue to help fill the capacity gap through the use of sidecars, industry loss warranties and catastrophe bonds.

Most observers say they expect the January renewals to be completed on time.

These were among the topics under discussion by participants at the Property Casualty Insurers Assn. of America's annual meeting in Seattle earlier this month. Reinsurers, insurers and intermediaries use the occasion to begin negotiating January renewals.

"It's been a fairly easy confer-

ence," said Mr. Gardner. "There aren't a lot of issues," unlike past conferences where terrorism and catastrophes dominated discussions.

"This convention has been fairly smooth and orderly, with meaningful discussions on clients' experience and exposures," said William H. Eyre Jr., managing director and chief executive officer of Philadelphia-based Towers Perrin Reinsurance.

"Property catastrophe is still the overwhelming topic, and reinsurers are seeking to find out what changes took place for the cedents with the new modeling updates," and want to see if there are any further developments from last year's catastrophes, said Mr. Eyre.

*Increases likely to vary*

Meanwhile, "brokers are still trying to talk down the rate hikes" while reinsurers are "talking it up," Mr. Eyre said. The increase cedents face "depends on the model changes to their exposures and their experience."

Initially, there was talk about price increases at January renewals being about the same as those introduced midyear, but now, "I don't think that will happen," said Paddy Jago, New York-based CEO of Willis Re Inc., the reinsurance unit of Willis Group Holdings Ltd. "I think the reinsurers are trying to talk it up, but I think that there are a fair proportion of insurers" who are pointing to a benign hurricane sea-



# Privacy claims can arise even when data not lost

*Broad approach to protecting info helps curb problems*

By DAVE LENCKUS

CHICAGO—Without a solid policy on protecting customers' and employees' private information, companies expose themselves to numerous professional liability risks that could result in legal battles on several fronts, according to insurance and risk management experts.

"Privacy and how you handle

information create risk and liability for companies that have nothing to do with dot-coms and Internet sites; this is not an Internet issue," said Robert A. Parisi Jr., a senior vp with FINPRO, Marsh Inc.'s financial and professional liability practice in New York.

"This is relevant to any company that has a computer network or retains information on customers and employees," Mr. Parisi said during an educational session at the Professional Liability Underwriting Society's international conference in Chicago. PLUS held its 19th

See PRIVACY page 10

See PCI page 12

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# Court sides with excess insurers in cleanup cost allocation dispute

By SALLY ROBERTS

**NEW YORK**—Improper jury instruction on the definition of property damage in a pollution liability coverage case led a district court to allocate cleanup costs over too few policy years, an appellate court has ruled.

As a result, the case involving cleanup costs for environmental contamination at four sites near Niagara Falls, N.Y., owned by Clayton, Mo.-based Olin Corp., has been remanded to district court.

Applying the federal Comprehensive Environmental Response, Compensation, and Liability Act, the New York State Department of Environmental Conservation ordered Olin to clean up the sites in the early 1980s.

Olin sought indemnification from various insurers, including certain underwriters at Lloyd's of London and London-market companies, which issued occurrence-based

excess liability policies to Olin between 1950 and 1970.

Although the parties agreed that the liability would be allocated over the years in which the polluting acts actually occurred, they disagreed about the time period in which the damage took place, according to court records.

The pollution included air and groundwater contamination created by byproducts of the manufacture of chlorine and pesticides.

The district court agreed with Olin's position that the cleanup costs would have been the same regardless of ongoing pollution activity, and instructed the jury not to include ongoing groundwater contamination in its definition of property damage.

In determining when the property damage occurred and when full remediation became necessary, the jury determined that the property damage at Olin's four sites ended when full remediation plans

were required to address the pollution.

The district court then allocated the costs of remediation equally over those years.

The Lloyd's underwriters and the London companies appealed the decision, arguing that the allocation method was based on an incorrect understanding of property damage, which they contended continued to occur at each site for several more years until remediation began. As such, the allocation of liability was spread over too few years, they argued.

The 2nd Circuit U.S. Court of Appeals earlier this month agreed and remanded the case to the U.S. District Court for the Southern District of New York for reconsideration.

*Olin Corp. vs. Certain Underwriters at Lloyd's of London and London Market Insurance Companies; 2<sup>nd</sup> U.S. Court of Appeals; No. 05-5123-cv.*

## Commentary

# Chairman of Starr enters paper chase



**REGIS COCCIA**

Editor Regis Coccia's commentary appears periodically. He can be reached at: [rcoccia@businessinsurance.com](mailto:rcoccia@businessinsurance.com)

Reports last week that Maurice R. Greenberg is interested in investing in media companies has made some wonder about his intentions (see story, page 23).

Some suggest the former American International Group Inc. chairman wants to control major media so he can get more favorable coverage. Others say he's looking to place a big bet with the assets he controls.

The target reported recently is Tribune Co., whose headquarters are just up the street from *Business Insurance's* Chicago office. That the Trib is attracting bidders is not surprising. It has been battling dropping newspaper circulation, as almost all papers have, and its revenues from publishing and broadcasting have been declining.

If Mr. Greenberg wants to acquire Tribune Co., he isn't alone. Gannett Co. Inc., the nation's largest newspaper chain, also is reportedly a bidder. Billionaire Eli Broad, who founded the SunAmerica financial services business that AIG bought, is said to be interested as well.

Personally, I doubt Mr. Greenberg is motivated by any desire to control editorial coverage. While he has criticized media for appearing to give New York Gov.-elect Eliot Spitzer a pulpit, there isn't a newspaper in this country that would refuse to print Mr. Greenberg's side of the story.

So what is his motivation? My guess is opportunity. He knows how to succeed and has a limitless appetite for it. His accomplishments in turning AIG into the world's largest insurance organization were remarkable, and even at 81, he is continuing to build an insurance business through C.V. Starr & Co. Ltd. Starr International Co. Ltd., a separate company he chairs and that owns AIG shares worth more than \$20 billion, is now an investment vehicle.

When I spoke with Mr. Greenberg earlier this year, he said SICO intended to invest around the world in a variety of sectors. "There's tremendous change going on in the world. Major companies are spinning off divisions. In some countries, the need for environmental improvement is critical, and the new technologies to deal with that we're very much immersed in some of that. Health care in many parts of the world is in critical need of improvement. We're looking at some of that. We're looking at a mountain of opportunities, in many countries where we have relationships going back many years,"

Mr. Greenberg said.

Investing in media could fit. To take advantage of emerging markets, businesses and consumers need information. Newspapers, for all their circulation woes, are still profitable, and broadcasters are finding new

**Maurice R. Greenberg may see a good investment opportunity in owning a media company.**

ways to reach people around the world. Whether he buys Tribune Co. or another media powerhouse, expect results.

*'Never events'*

On the subject of results, medical errors are outcomes to avoid. The Leapfrog Group, an employer organization focused on improving health care quality, last week unveiled a policy for "never events"—errors so egregious they shouldn't ever occur.

Leapfrog's policy calls for hospitals to apologize to patients and/or families affected by the event, report the event, analyze the cause and waive costs related to the "never event." Although rare, the National Quality Forum has created a list of 28 such events. They include: artificial insemination with the wrong donor sperm or donor egg, unintended retention of a foreign object in a patient after surgery or another procedure, surgery performed on the wrong patient and patient death or serious disability associated with a medication error.

We can only hope that health care providers take to heart the nature of their work and strive to prevent such events. "First, do no harm" is not in the Hippocratic oath that physicians take, but it's a great idea.

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# Business Insurance OPINIONS

## Terrorism backstop gets welcome support

WHILE WE'RE CERTAIN that we will have our differences, some no doubt serious, with the new Democratic congressional leadership, we believe they've gotten off to a very good start on one key issue—the future of a federal terrorism insurance backstop.

As we report on page 3, key members of the Senate Banking, Housing and Urban Affairs and the House Financial Services committees have already said that dealing with the backstop will be a priority. That's certainly welcome news, for the current program created by the Terrorism Risk Insurance Extension Act of 2005 is scheduled to end on Dec. 31, 2007.

While that's more than a year away, experience underscores that where terrorism insurance is concerned, the sooner lawmakers get working on it, the better. After all, a year ago, legislative deadlock and an unresponsive administration appeared likely to doom the program altogether, and a final stripped-down bill didn't reach the president's desk until days before the original program was set to expire.

As welcome as the new leadership's commitment to moving early on the issue is, we're even more impressed by its willingness to look for a long-term solution to terrorism insurance rather than merely extend the program every couple of years. Terrorism isn't a short-term peril, and it demands better than a short-term solution.

Providing a long-term solution won't be easy, particularly given the administration's belief that the private insurance marketplace can somehow adequately cover what may well be an inherently uninsurable risk. But we've got to start someplace, and the new congressional leadership's commitment to providing a long-term solution is a welcome first step indeed.

*Terrorism isn't a short-term peril, and it demands better than a short-term solution.*

## Spitzer as governor won't end investigations

ELIOT SPITZER'S ELECTION as governor of New York may bring sighs of relief from the insurance industry, but it's too soon to say whether the investigations of industry practices will abate.

As New York attorney general, Mr. Spitzer aggressively pursued corporate malfeasance wherever he found it—in mutual funds, investment banks, insurance brokers and insurance companies. His successor as attorney general, Andrew Cuomo, may follow in Mr. Spitzer's footsteps or he may take a softer approach, as we report on page 1.

Gov.-elect Spitzer won his race for New York's highest office handily, perhaps because voters admired his determination to humble some of Manhattan's most influential people. Whether one agreed with his bullying tactics, he shined a light on conflicts of interest and greed that shocked many people. The insurance industry has since made amends, is operating more transparently and its customers are better off.

The industry will have to wait to learn the answer to other questions about the Spitzer administration. A prime one is, who will Mr. Spitzer appoint as superintendent of insurance? Some speculate that David Brown, a key member of Mr. Spitzer's team and signatory on most of the lawsuits filed by Mr. Spitzer's office, is the likely successor to Howard Mills. If that's so, the industry will have to work harder than ever to prove that Mr. Spitzer's investigations uncovered isolated incidents.



## Letters

### Don't sue the Stones to get satisfaction

To the editor: I chuckled when I read *Business Insurance's* Nov. 6 End Page item, "Some Girls Take My Money," that Mick Jagger can now be sued for not knowing far enough in advance that he will be sick and that a fan cannot get a refund for nonrefundable concert tickets.

The lawyers would garner much more sympathy by going after the real culprits: Donald Trump and his hotel, for having an unjustifiable policy of no refunds, and the airlines, which haven't offered a sane pricing structure since the Nixon administration.

Nick Polo  
Woodland Hills, Calif.

## Community Forums

A new feature allows risk and benefits management professionals to connect and exchange information at [www.BusinessInsurance.com](http://www.BusinessInsurance.com). The Community Forums is an easy-to-use discussion board that enables readers to ask questions, exchange ideas and voice opinions. Topic-focused categories include:

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## Write us

*Business Insurance* welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to

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## Online Poll at [www.businessinsurance.com](http://www.businessinsurance.com)

Do you think that the Democratic majority in Congress will make it more likely that a government backstop for terrorism coverage will continue?



**NEXT WEEK'S POLL:** Will you reduce business run through your captive next year if commercial insurers significantly cut rates?

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# Business Insurance PERSPECTIVE

## Why employers should care about avoiding drug errors

By Dr. Roger W. Anderson

While medication safety is more likely to be a priority within the health care community than in the board room, it should also be a major concern for employers.

The Institute of Medicine's report issued in July, which estimates that preventable medication errors injure at least 1.5 million Americans annually, brings into sharp focus the seriousness of this problem. The costs are not obvious, but they directly harm employers' bottom lines through additional hospitalization costs, increased disability payments and a drain on productivity in the workplace.

The report portrays a grim picture of the state of prescription medication use in the United States. However, there is room for optimism. Some managed care organizations and pharmacy benefit managers have been using many of the tactics outlined in the report to reduce prescription drug errors. These solutions need broader adoption to fully address the problem.

The solution is a matter of simple communication between all the parties taking part in providing care. Some of the recommendations are as basic as patients sharing lists of the medications, vitamins and supplements they use with their health care providers. Other solutions are technologically driven to ensure accurate communication between doctors and pharmacists, including having all prescriptions transmitted electronically by 2010 to avoid handwriting and transcribing errors. The Centers for Medicare and Medicaid Services estimates that use of e-prescribing could eliminate as many as 2 million harmful drug events nationally each year.

Information technology will play a huge role in making the leap to improving medication safety. Electronic patient records and integrated data networks that connect medical, pharmacy and diagnostic lab data are a major step toward preventing medical errors overall, as well as prescription drug errors.

However, these records need to be designed to alert doctors and pharmacists about potential conflicts in care. These conflicts come from drug-to-drug interactions, drug/disease interactions, errors of omission (failing to provide an essential treatment) or duplicative treatments, for example. Also, many e-prescribing programs have features that conduct drug reviews that check a

patient's history and current medications and will alert pharmacists if there is a problem. For example, an electronic prescribing initiative in the Detroit area has resulted in 98,000 prescription changes due to drug interaction alerts since the program started in February 2005.

These solutions are in place, but slashing 1.5 million medication errors per year will require broader implementation of them.

The Institute of Medicine's report encourages health care suppliers to become "high reliability organizations preoccupied with improving medication safety." Businesses should ask their health care providers questions about programs to improve medication safety when shopping for health plans or determining what providers should be in their network.

While that might seem off the track from the core issues of price and coverage, medication errors skew overall costs. The report noted that each adverse drug event in a hospital added about \$8,750 to the cost of a hospital stay, leading to about \$3.5 billion in avoidable costs nationwide—a figure that the institute admits is extremely conservative, with real costs likely much higher.

This does not even account for additional costs to the employee and employer. Employers have to contend with hiring temporary help or making do with a smaller staff while an employee convalesces, as well as medical, disability and potential rehabilitation costs.

Addressing the problem of medication errors is one tactic toward chipping away at preventable health care costs. According to the Kaiser Family Foundation, health care coverage costs for a family of four is approaching \$11,000 annually.

There needs to be an equal commitment on the part of business to improve health care quality on behalf of employees. A heightened awareness of medical errors will force employers to become more selective about their health care providers.

It will also drive employers and health plans to educate employees about this and also make them more demanding about the care they receive. This issue is too important for passivity.

Each day spent in the hospital exposes the patient to one medication error per day. Those odds are too serious for patients and employers to remain passive and the costs of poor quality in this realm are too significant.

## Privacy: Claims can arise even when data is not lost

CONTINUED FROM PAGE 4

annual conference Nov. 8-10.

Customers are not the only parties who are suing companies that fail to protect sensitive data, said David J. Navetta, a managing member of consultant InfoSecCompliance L.L.C. of Denver. He noted that a bank that had issued credit cards to a group of customers whose card information was compromised by a vendor's inadequate security system sued the vendor for the cost of issuing new cards to the group.

In addition, the Federal Trade Commission has sued companies under deceptive and unfair trade practices regulations for not providing privacy notices and for implementing security systems that the agency did not consider reasonable, said Mr. Navetta and Mike Donovan, global product leader for technology and miscellaneous professional liability insurance with Beazley Group P.L.C. in San Francisco.

"So, a company can get hurt by the government, its customers and its partners," Mr. Navetta said.

But privacy rules and regulations do not clearly stake out privacy policy guideposts for companies. One of the biggest issues in this area is that rules and regulations demand that companies provide—without elaboration—reasonable information security. Referring to that requirement, Mr. Navetta said, "The problem is, what does this mean?"

"No statute is ever going to tell you how often you have to change the password on your computer system" to guard against security breaches, Mr. Donovan said.

Yet, companies must comply with a variety of federal and state laws that cover medical, financial, school and criminal information, the panelists said.

Indeed, companies will face only an increasing number of rules and regulations on data privacy, the panelists said. For example, the European Union has some complex privacy rules, Canada's statutes are stricter than those in the United States and Japan has enacted strict rules, Mr. Donovan said.

In addition, about three dozen states have enacted laws requiring companies to notify customers and employees when their private information has been compromised, and more are expected to pass similar requirements, the panelists said.

"You have to worry about all of these laws," Mr. Navetta said. The rules vary by jurisdiction, "which makes compliance complex."

To safeguard sensitive information, companies must understand the variety of ways that the information can be compromised, the panelists said. Company insiders, as well as outsiders, can steal sensitive information contained in paper files, online and offline sources, and laptops, noted Thomas Srail, a vp with the Executive Risks unit of Willis of Ohio Inc. in Cleveland.

Companies also can trigger breach-of-privacy lawsuits even if the sensitive information they retain is not stolen, the panelists said.

For example, companies involved in mergers are at risk of being sued for misrepresenting their privacy policies if they change their policies after the merger, Mr. Donovan warned.

Mr. Navetta agreed. "Once you represent that you are doing something a certain way and you don't, you have FTC issues" concerning deceptive trade practices, he said.

Panelists also noted how efforts to find the source of boardroom leaks of confidential information at Hewlett-Packard Co. led to criminal indictments of former Chairman Patricia Dunn, among others, after board members' private information was compromised (*BI*, Sept. 18).

Mr. Donovan noted that HP had been recognized for its privacy policy before then. "That's a great example of how privacy issues can arise in circumstances that are very difficult to predict," he said. The lesson to be learned is that "companies can get into trouble in an unlimited number of ways" by mishandling sensitive data.

Developing a privacy policy is not a simple task, and it is a major investment, Mr. Donovan said. But it is good corporate governance, and developing a policy entitles a company to apply for insurance that covers privacy-related damages, he said.

A good starting point is an Internet search, which should provide an abundance of material on how to draft a privacy policy, Mr. Donovan said.

A good privacy policy should explain, among other things, customer and employee choices on how their information will be used and shared with other parties, how to correct information and how to contact the company if information has been handled inappropriately, Mr. Donovan said.

Many companies develop one policy for its online customers and another for its employees, he noted.



Dr. Roger W. Anderson is senior vp, chief pharmacist at Medco Health Solutions Inc., based in Dallas.

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# No matter who's in charge, regulatory reform is needed

By **DAVE LENCKUS**

**CHICAGO**—The shift in power in Washington likely will not trigger any efforts to shift insurance regulation out of the hands of state officials, according to a panel of insurance experts.

But insurance and brokerage executives and a state insurance director agreed that regulatory reform is needed—no matter who oversees the industry—to create more uniform regulations.

The panelists offered their opinions on what impact the Nov. 7 elections would and should have on the direction of insurance regulation during a panel discussion at the Professional Liability Underwriting Society's international conference in Chicago. PLUS held its 19th annual conference Nov. 8-10.

Democrats, who take control of both houses of Congress in January, may favor centralized regulation of the insurance industry, but they likely will not push for federal oversight of the industry, said Leib Dodell, president and chief executive officer of Media/Professional Insurance, a Kansas City, Mo.-based underwriting and claims manager.

Mr. Dodell said that while working in the administrations of George H.W. Bush and Bill Clinton, he found that the "agenda of the federal government doesn't change that much."

Rather than a shift in power from one political party to another, the event that might drive regulation from the states to a federal agency is "the next catastrophe," regardless of whether it is a natural disaster or a terrorist act, Mr. Dodell said.

But uniformity of regulation is important, he said during a follow-up comment to a remark by Illinois Insurance Director Michael T. McRaith. After Mr. McRaith noted that officials from China have sought advice from the National Assn. of Insurance Commissioners on establishing a regulatory system, Mr. Dodell noted that the Chinese

officials sought advice from a single regulatory group and not from individual states.

Mr. Dodell also complained that the current system of state regulation is cumbersome and expensive for insurers, "which makes it difficult for us to get products out to the marketplace on an admitted basis."

But Mr. McRaith said state regulation, unlike federal chartering, takes into account the local and regional differences of the nation's insurance market. "The benefit of state regulation is no more clear than in solvency regulation," said Mr. McRaith, noting that "more compa-

nies are being formed now than at any point in our history."

Mr. McRaith acknowledged, however, that "states can do better" to standardize regulation through an interstate compact.

Through the efforts of the NAIC, more than half of the states are participating in an interstate commission that gives them the ability to use their expertise collectively to develop uniform national standards for life insurance, annuities, disability income and long-term care insurance products.

Mr. McRaith also agreed that surplus lines regulatory reform is need-

ed so wholesalers can place multi-state risks with nonadmitted insurers without running afoul of regulations in one or more states.

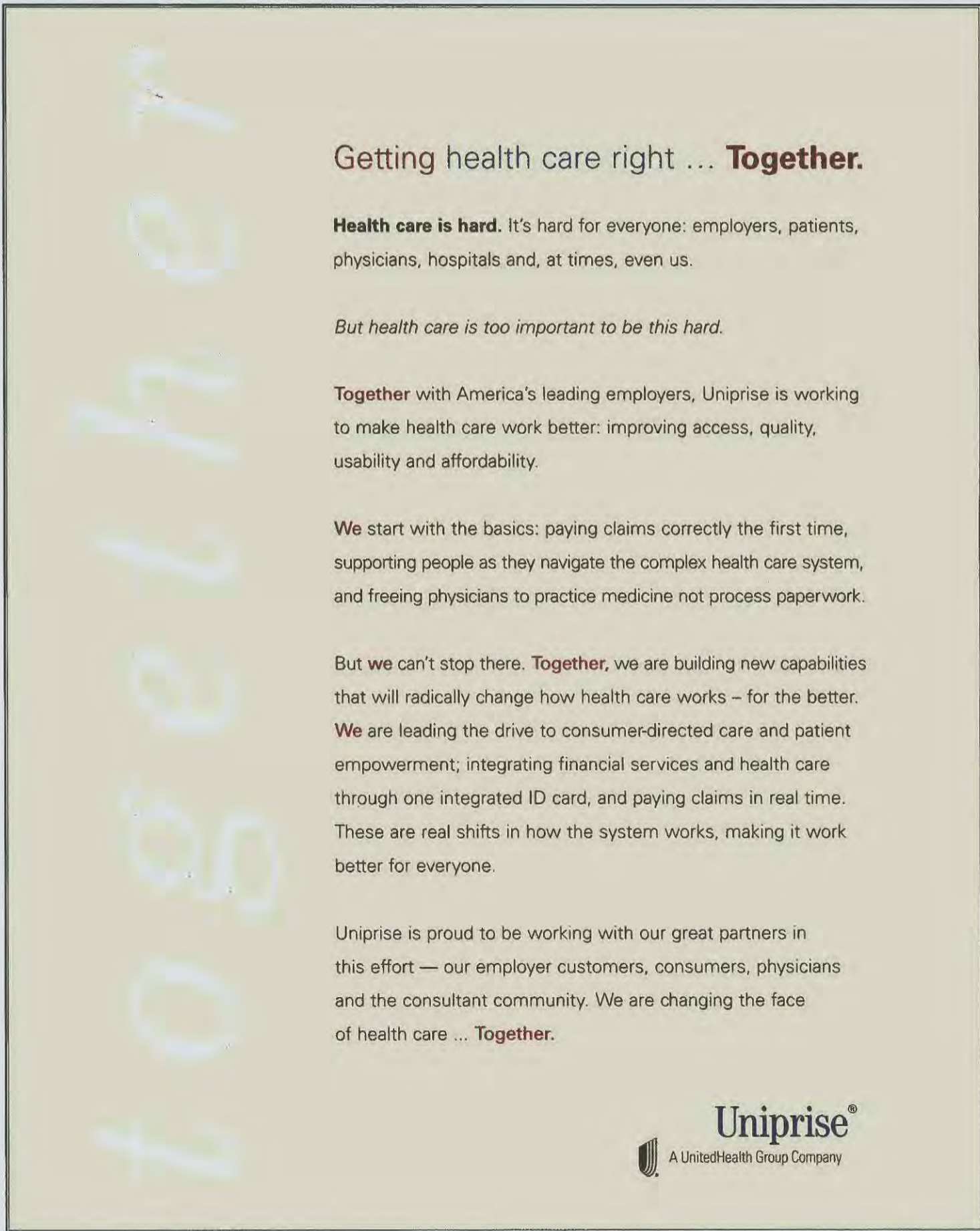
But the need for greater uniformity in regulation does not suggest that federal regulation would be better than state regulation, Mr. McRaith said.

Noting that the Illinois Department of Insurance receives 15,000 consumer complaints and comments annually, Mr. McRaith asked, "Where do these people go" under a federally regulated system?

"Do we want to have to go to another agency run by another Ara-

bian horse breeder?" he asked, referring to the much-maligned Federal Emergency Management Agency and former FEMA Director Michael Brown. Mr. Brown was the judge and stewards commissioner for the now-defunct International Arabian Horse Assn. for a decade before joining FEMA, which was criticized for responding slowly to the crisis in New Orleans after Hurricane Katrina struck the city last year. Mr. Brown resigned from FEMA in the wake of criticism about the agency's response and his qualifications.

TV journalist Forrest Sawyer moderated the panel discussion.



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## PLUS CONFAB DRAWS 2,100

**CHICAGO**—About 2,100 attendees participated in general and educational sessions at the 19th annual international conference hosted by the Professional Liability Underwriting Society in Chicago Nov. 8-10.

Among the keynote speakers was John Hueston, the special prosecutor who succeeded in winning jury convictions of several executives involved in the Enron Corp. meltdown. Mr. Hueston outlined the hurdles that prosecutors successfully leaped to obtain the convictions as well as where they were tripped up.

The 20th annual PLUS conference is scheduled Nov. 7-9, 2007, at the Marriott Wardman Park Hotel in Washington.

Conference information is available from Diane Dukes; Kim Holland can provide information on PLUS. Both can be reached at 800-845-9778. Information also can be found at [www.plusweb.org](http://www.plusweb.org).

—By Dave Lenckus

# PCI: Insurers and reinsurers see January renewals very differently

CONTINUED FROM PAGE 4

son and reinsurers' record profits.

As a result, if cedents are "faced with extortionate increases" they may "vote with their feet" and go to second-loss covers rather than first-loss covers "and do their best not to buy reinsurance," said Mr. Jago. They also may seek alternative risk transfer mechanisms, he said.

Property cat rates "will be up over (Jan. 1, 2006), but not as bad as at midyear '06 renewals," said Patrick J. Denzer, president and CEO of Minneapolis-based John B. Collins Associates Inc. Rate hikes will be 10% to 20% off of midyear pricing,

"depending on the type of client," he said.

Things are more settled now than they were at midyear, said Bryon Ehrhart, president and CEO of Aon Re Services Inc. in Chicago. There is more capacity, and the market has had the time now to respond to rating agency demands and catastrophe models. Furthermore, reinsurers have had an "extremely profitable" year, Mr. Ehrhart said.

"The reasons for the price increases have not gone away," though, said Matthias Weber, senior vp and head of property underwriting at Swiss Reinsurance America Corp. in Armonk, N.Y.

This year's weather has been helped by El Niño, a warm current of water that appears every three to seven years in the eastern Pacific Ocean. However, its effect lasts only six to 24 months and once that is over, "we are back to where we were in 2005," said Mr. Weber.

Michel M. Liès, head of client markets at Swiss Reinsurance Co. in Zurich, Switzerland, said the possibility of late-year winter storms in Europe remains as well, noting late December storms that hit Europe in 1999.



Mr. Jago

Meanwhile, ceding companies' retentions, which have increased dramatically over the past few years, "should start to come down over the next renewal cycle" while limits "could go higher," said Steven M. McElhiney, president of Dallas-based EWI Inc., a reinsurance intermediary.

Companies will hold less net exposure because they will be able to fill up their programs, said Paul Karon, CEO of Benfield Group Ltd.'s U.S. division in Minneapolis. Last year, he noted, some compa-

nies were able to fill only part of their programs.

Observers say there is still a capacity shortage overall in the reinsurance market, though. Between increased demand and decreased retrocessional capacity, "it could be that the shortfall of available capacity actually increases" as of Jan. 1, 2007, said James Few, chief underwriting officer and head of property reinsurance at Aspen Insurance Ltd. in Bermuda.

Guy Carpenter's biggest clients are putting together "almost a patchwork quilt" of reinsurance coverage supplemented by cat bonds, private placements and ILWs, said Mr. Gardner.

Meanwhile, assuming no major catastrophes, the property cat market should start to soften by January 2008, he said.

## Scarce retro capacity

Retro capacity in particular remains scarce, say observers. "I certainly don't see any weakening of retro pricing," said James H. Veghte, chief executive officer, reinsurance general operations, for XL Re, a division of XL Capital Ltd., who is based in Stamford, Conn.

There is "limited to very limited" capacity available in the retrocessional market, said Mr. Denzer.

William J. Adamson, CEO of reinsurance intermediary Carvill America Inc. in Chicago, said insurers are turning to alternatives because the traditional market has decreased so significantly.

"There is a retro market," said Mr. Jago. "Early talk of its death is a little premature," although it is a lot smaller than it was previously. But because of supply and demand, it is inevitable that someone will offer it, he said. The Berkshire Hathaway Group, for instance, offers retrocessional security, "albeit at a price."

Meanwhile, Steven K. Bolland, president of reinsurance intermediary Gill & Roeser Inc. in New York, said he anticipates a late renewal season. "I think it's going to be late and it's going to be ugly," he said.

Not only are people waiting until the hurricane season ends at the end of this month, they're also waiting to let someone else be first in line, Mr. Bolland said.

However, Mr. Eyre said, "I would say that this will not be as late a renewal season as the past two years, since there is a need to access capacity sooner rather than later." Before last year's renewals, he said, people were still awaiting developments from Hurricanes Wilma and Katrina, coupled with some uncertainties as to whether the Class of '05 reinsurers would have their capital in place by Jan. 1.

"I think most brokers and clients are working towards getting renewals done well before Jan. 1," Mr. Eyre said.

Last year, there was "such a state of turmoil" because of changes to catastrophe models and rating agency capital requests, said Mr. Gardner. But, "at this point, it feels like we're in pretty good shape." There is not a "big disconnect between buyers and sellers right now. I think the expectation is that it should move pretty smoothly."

## Controlling Prescription Drug Benefit Costs

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- What makes prescription drugs so costly?
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- How can employers design their benefit plans to provide access to appropriate drugs in an affordable way?
- What should employers be doing to educate members about drug cost and utilization?

### SAVE THE DATE:

**Tuesday, December 12, 2006**

### TIME:

**11:00 EST / 10:00 CST / 8:00 PST**

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### Late News

**Quanta says controls on reporting ineffective**

Quanta Services Inc. says its controls on reporting ineffective. The company says it has filed a lawsuit with the SEC to force the company to report on its controls. The lawsuit is the first of its kind. The company says it has filed a lawsuit with the SEC to force the company to report on its controls. The lawsuit is the first of its kind.

### Plan seeks federal cover for costliest terror risks

**N.Y. governor vetoes comp. law change**

Gov. Eliot Spitzer vetoed a bill that would have required insurers to provide coverage for terrorism risks. The bill was passed by the legislature but vetoed by the governor. The bill would have required insurers to provide coverage for terrorism risks.

### Most P/C rates flat or down in 2nd quarter, survey finds

By Dave Lenczewski

Personal auto and home owners insurance rates were flat or down in the second quarter, according to a survey by the Insurance Information Institute. The survey found that rates for personal auto and home owners insurance were flat or down in the second quarter.

### Insurer wins Katrina coverage dispute

**Homeowners policy clearly excluded flood cover, judge**

A federal judge has ruled in favor of an insurer in a dispute over coverage for a home destroyed by Hurricane Katrina. The judge ruled that the insurer's policy clearly excluded flood coverage.

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### EUROPE

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### Class action lawsuit fever hits Europe

**Lawsuit reforms make mass torts easier**

By Sarah Peery

European class action lawsuits are on the rise, driven by reforms that make it easier to bring mass tort claims. The reforms have made it easier to bring mass tort claims.

### GLOBAL RISKS WITH A KICK

**World Cup challenges organizers, insurers to protect athletes, public and venues from range of exposures large and small**

By Michael Brennan

The 2006 World Cup in Italy has brought a host of global risks to the attention of organizers and insurers. The risks range from terrorism to natural disasters.

### New risk group forms in Poland

**Polish elects officers, begins to set agenda**

By Eric Miller

A new risk group has formed in Poland, focusing on the unique risks of the country. The group has elected officers and is beginning to set its agenda.

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# Despite softening noncat P/C business, market stays disciplined

## Diversification may be factor in softening market

By JUDY GREENWALD

**SEATTLE**—While property catastrophe rates are still expected to increase—albeit not as much as they did during the midyear renewals—noncat property/casualty business will continue to soften for the January renewals, say observers.

Some observers say one influencing factor on the softening market may be rating agency pressure on property catastrophe reinsurers to diversify their business, which will cause them to move into casualty lines, thus increasing competition.

But despite the softening, the reinsurance market remains disciplined, say reinsurers, intermediaries and others attending the Property Casualty Insurers Assn. of America's annual meeting in Seattle earlier this month.

Aside from the critical catastrophe areas, "the market's a lot softer than people realize," said Paddy Jago, New York-based chief executive officer of Willis Re Inc., the reinsurance unit of Willis Group Holdings.

For noncat property business, rates really depend on the particular account, but on average, it will be "flat, plus or minus," said Matthias Weber, senior vp and head of underwriting at Swiss Reinsurance America Corp. in Armonk, N.Y.

Outside of Florida, the Gulf Coast and the Northeast, reinsurers are still willing to write property business including in the Midwest, despite the New Madrid earthquake fault line, said Steven K. Bolland, president of reinsurance intermediary Gill & Roeser Inc. in New York.

"People tend to get a little simplistic" and neglect factors that have not been an issue for a while, said Mr. Bolland, adding, "It's always earthquake season."

On the casualty side, there is continued softening, with rates down about 5% to 10%, said Steven M. McElhiney, president of Dallas-based reinsurance intermediary EWI Inc.

"There's still a fair amount of competition on the casualty side," said William H. Eyre Jr., managing director at CEO of Philadelphia-based Towers Perrin Reinsurance. "Reinsurers are keeping a watchful eye on rate levels, but pricing should be flat or slightly down, and

there's plenty of capacity."

Some observers say a move towards increasing diversification by property catastrophe reinsurers is leading to more entries into the casualty market.

While it is "tough to quantify," the drive towards diversification is definitely a contributing factor in the softening casualty market, said Brian M. Boornazian, president and head of reinsurance of Rocky Hill, Conn.-based Aspen Re America.

Observers say this is in response to rating agency pressure. Reinsurers, including some Bermuda reinsurers, that have written mainly catastrophe business, have turned to diversification to satisfy rating agencies' capital adequacy ratios and to earn an adequate return for their shareholders, said Mr. Jago.

Grace Osborne, managing director and practice leader for North American insurance financial services ratings at New York-based Standard & Poor's Corp. said, "Diversification in and of itself is not the answer, but good diversification can actually create a more stable earnings stream."

If there is only one line of business, and profit is unsustainable

over time, "there's going to be some shocks along the way," said Ms. Osborne.

Even property catastrophe reinsurers have "lots of room to maneuver" into noncat property business, Mr. Bolland said.

"I think the (reinsurer) Class of '01 has diversified fairly effectively both for geographical and for product lines, and the Class of '05 has done that predominantly also for short-tail lines," including property, marine and energy, Mr. Eyre said. "The key question is how successful they will be in diversifying further for products and for geography."

Michel M. Liès, who is head of client markets at Swiss Reinsurance Co. in Zurich, said he would prefer that reinsurers diversify geographically by writing property cat business in Europe, "because the skills exist" already, rather than writing casualty lines where they may have less expertise.

However, Paul Karon, CEO of Benfield Group Ltd.'s U.S. division in Minneapolis said, "I don't see a lot of people shifting their business models." Those who were primarily property catastrophe writers remain so as do those who are diversified, he said.

There are some exceptions to the diversification trend, said Mr. Bolland, pointing to Bermuda-based

IPCR Ltd., which continues to specialize in writing property cat reinsurance on a worldwide basis. "There are companies that are going to stick to their knitting," he said.

Meanwhile, the casualty reinsurance market "seems to have stayed fairly disciplined" despite the price decreases, said James H. Veghte, chief executive officer, reinsurance general operations, for XL Re, a division of XL Capital Ltd., who is based in Stamford, Conn.

Patrick J. Denzer, president and CEO of Minneapolis-based John B. Collins Associates Inc., agreed. "I think the reinsurance market has been very disciplined," he said. "We don't see the market losing its discipline."

"I think a healthy dose of conservatism is what's going to drive people to be responsible in their underwriting," said Mr. Boornazian.

The market will remain disciplined "for the foreseeable future," said Thomas S. Upton, managing director of S&P's financial services ratings, North American insurance. "So many things come into play" beyond six months from now, including the possibility of major catastrophes or another year with no major natural catastrophes, which will create regulatory pressure to lower rates, said Mr. Upton.



Ms. Osborne

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## Products & Services

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language to make it easier for customers to understand.

The policy is available in 44 states and the District of Columbia, with additional state approvals pending. Coverages are underwritten by member companies of Zurich North America; certain coverages may not be available in all states and some may be written on a nonadmitted basis through surplus lines brokers.

For more information, visit [www.zurichna.com](http://www.zurichna.com).

### Services help mitigate identity theft

**WARREN, N.J.**—The Chubb Group of Insurance Cos., through an alliance with Scottsdale, Ariz.-based Identity Theft 911 L.L.C., is offering a range of services to help mitigate the disruptions and financial expenses that policyholders' employees may face following the theft, loss or destruction of sensitive information. One service, Identity Travel

Assistance 911, is provided free to Chubb business travel accident policyholders and helps employees recover or recreate personal identification documents, both hard copy and electronic, that have been lost or stolen during business travel. Identity Theft 911 works with financial institutions and law enforcement officials to recreate documents and help mitigate identity theft risks stemming from the missing documents.

Other new identity theft services that are available for a fee to group-benefits policyholders can respond to corporate security breaches, the destruction of identity documents in disasters and identity theft. These additional services include:

- Identity document disaster response. This service helps to recover and recreate personal identification documents as well as financial and legal records that have been destroyed in a natural disaster
- Security Breach Response. Upon

reporting any security penetration such as a lost briefcase or cyber security breach, this service seeks to minimize business disruption and collaborates with government agencies and financial and other institutions to help protect companies and their employees.

• Identity theft recovery services. An Identity Theft 911 case worker will help employee victims of identity theft restore their identities by notifying government agencies, businesses and financial institutions; resolve credit and other identity theft-related problems; and monitor credit activity for fraud.

For more information, visit Identity Theft 911's Web site at [www.identitytheft911.com](http://www.identitytheft911.com), or Warren, N.J.-based Chubb's site at [www.chubb.com](http://www.chubb.com).

### Beazley expands Web-based platform

**FARMINGTON, Conn.**—Specialty lines

insurer Beazley Group P.L.C. is expanding BeazleySource, its proprietary risk management platform, to include information and advice for fiduciaries and administrators of employee benefit plans.

BeazleySource provides loss prevention services for management liability exposures via a Web-based platform. Access to BeazleySource is available to purchasers of Beazley's employment practices liability insurance and private company directors and officers policies at no additional cost.

In addition to D&O and EPL policyholders, buyers of Beazley's fiduciary liability policy will have access to these expanded resources, which include:

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Continued on page 18

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 No. 5204 of 2006

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**UIC INSURANCE COMPANY LIMITED**  
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 (FORMERLY THE UNIVERSAL INSURANCE COMPANY LIMITED)

AND IN THE MATTER OF THE COMPANIES ACT 1985

NOTICE IS HEREBY GIVEN that, by an Order dated 6 October 2006 made in the High Court of Justice of England and Wales in the matter of UIC Insurance Company Limited (the "Company") and in the matter of the Companies Act of Great Britain the scheme of arrangement proposed to be made between the Company and its Scheme Creditors (as defined in the Scheme) pursuant to section 425 of the Companies Act 1985 (the "Scheme") which was approved by each of the two classes of Scheme Creditors at the respective Meetings of Creditors held on 25 September 2006, was sanctioned. A copy of the Order was delivered to the Registrar of Companies in England and Wales for registration on 6 November 2006, and the Scheme became effective on that date (the "Effective Date"). Ipe Jacob and Richard White of Grant Thornton UK LLP became Scheme Officers on the Effective Date.

Copies of the Scheme and the explanatory statement required to be provided to creditors pursuant to section 426 of the Companies Act 1985 and of this notice can be downloaded from the Scheme website located at [www.uic-gt.com](http://www.uic-gt.com). Alternatively, upon request, these documents may be obtained on CD or in hard copy from David Burns of Chillington in accordance with the contact details below.

Scheme Creditors wishing to claim in the Scheme MUST complete and return their completed Claim Forms (together with supporting information) in accordance with the instructions accompanying the Claim Forms so as to be received by the Scheme Officers by noon in the United Kingdom on 7 March 2007, (the "Bar Date"), unless they have ticked the relevant box on the Vote Registration and Proxy Form indicating that they wanted the same value submitted for voting purposes to be also submitted as a Scheme Claim. If a Claim Form is not received by the Scheme Officers by the Bar Date then, (except in relation to Scheme Claims which have been agreed by the Company and fallen due for payment on or before the Effective Date, which have been included on a Claim Form prepared by the Scheme Officers, but not returned by the Scheme Creditors and received by the Scheme Officers before the Bar Date), then the Scheme Creditor shall not be entitled to assert, or receive payment in respect of a claim against the Company.

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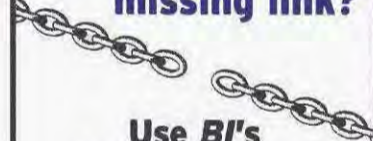
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# International NEWS

## LEADING DOMICILES FOR LARGE COMPANIES

Domicile	Number of captives	Percentage of total
Bermuda	132	27.6%
Vermont	88	18.4%
Luxembourg	58	12.1%
Ireland	54	11.3%
Guernsey	46	9.6%

Source: Aon Captive Services Group

## Emerging markets spur captives growth: Report

*Huge potential for expansion seen in Asia, Eastern Europe*

By SARAH VEYSEY

The use of captive insurers is likely to grow as investment in emerging European markets and in Asia increases, according to experts from Aon Captive Services Group, a unit of Aon Corp.

In particular, growth in captives is likely to stem from the expansion of European corporations into emerging markets such as Russia and other countries in Eastern Europe, as well as from an increase in European and U.S. companies

developing business in Asia.

Aon last week published research into captive use among the Global 500 group of companies—the world's 500 largest companies based on revenue.

The study found that three-quarters of the Global 500 companies currently operate captives, but that there is still scope for greater captive use.

Among studied companies in Europe—where the concept of captive use is well established—78% have a captive.

However, there is “relatively low take-up” of the captive concept in Italy and Germany, noted Andrew Tunnicliffe, managing director in

See **CAPTIVES** next page

## Lloyd's may lure outside investors as legacy problems begin to fade

*Consolidation possible after sale of Equitas to Berkshire Hathaway*

By SARAH VEYSEY

**LONDON**—The resolution of concerns over Lloyd's of London's potential exposure to the legacy policies reinsured by Equitas Ltd. is expected to prompt more investors to consider entering the market and could spark more consolidation activity.

Recent weeks have seen several deals involving Lloyd's business, including the proposed acquisition of Wellington Underwriting P.L.C. by Bermuda-based Catlin Group Ltd., which has a large operation at Lloyd's; the purchase of Creechurch Underwriting Ltd. by Guernsey-based Lloyd's company Canopus Group Ltd.; and the sale of Cathedral Capital P.L.C. to Alchemy Partners L.L.P., which marked the first venture into the Lloyd's market by the buyout specialist.

And some observers predict that strategic changes at Lloyd's, as well as the resolution of the Equitas concerns, could prove to be a catalyst for more deals, including greater outside investment.

Last month, Equitas—the runoff reinsurer for the pre-1993 long-tail liabilities of Lloyd's syndicates—announced a deal with Berkshire Hathaway Inc. under which the U.S. giant will reinsure, and eventually assume, Equitas' liabilities (BI, Oct. 23).

The existence of Equitas had been a drag on the Lloyd's market's financial strength rating, according to analysts, and it gave potential investors pause. In particular, there were concerns Lloyd's companies might be tapped to pay Equitas' liabilities should the runoff reinsurer fail.

In the wake of the announcement of the Berkshire-Equitas deal, Standard & Poor's Corp. revised its outlook on the Lloyd's market's A rating to positive from stable and indicated that the deal is likely to “remove any realistic potential for reserve inadequacy at Lloyd's to undermine confidence in Lloyd's.”

The competitive position of the market probably will improve as a result of the Equitas deal and as the market's “optimal platform strategy” plan takes hold, said S&P analyst Marcus Rivaldi in London.

That plan, unveiled at the start of the year, is a three-year program aimed at helping the market retain corporate investors and maintain a strong competitive position by improving the efficiency of market processes, among other things.

If overseas companies are looking to expand in Europe, Mr. Rivaldi said, “Lloyd's could be a domicile of



Changes at Lloyd's of London could be a catalyst for outside investment and consolidation.

choice,” and if they wish to diversify their portfolios, they may now be more willing to buy into Lloyd's, Mr. Rivaldi said.

Companies that currently operate at Lloyd's may become less concerned about any perceived need to diversify out of the market, he said, and so may, instead, seek to merge with other Lloyd's companies.

Mr. Rivaldi said he expects to see all of those scenarios take place.

The Catlin-Wellington deal likely was not predicated on the resolution of the Equitas question, Mr. Rivaldi noted, but future mergers or acquisitions may well progress as a result of the removal of the uncertainty regarding Equitas.

See **LLOYD'S** next page

## Trade talks open Russian market

*Tentative WTO deal comes after five years of negotiations*

By MARK A. HOFMANN

**WASHINGTON**—A bilateral market access agreement reached in principle between the United States and Russia that would bring Russia into the World Trade Organization is being hailed by U.S. insurers as

opening the door to a potentially lucrative new marketplace.

But getting that door opened even a crack wasn't easy, said David Snyder, vp and assistant general counsel for the American Insurance Assn. in Washington. Negotiations took at least five years, he noted.

“Insurers generally view Russia as a potentially significant market, but to get to this point, we have had a very difficult set of negotiations,” Mr. Snyder said. “The end result...is good in that U.S. companies will be

able to establish the way they would like to operate in Russia and write all lines of insurance after a several year phase-in period.”

Three major obstacles had to be overcome, he said. The first was to allow foreign insurers to set up branches in Russia rather than requiring them to set up a Russian company, he said.

The second was Russian resistance to allowing U.S. insurance compa-

See **WTO** page 18



REUTERS/ITAR-TASS

President Bush met with Russian President Vladimir Putin after talks on a deal that gives Russia membership in the World Trade Organization.

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## Captives: Growth expected

CONTINUED FROM PREVIOUS PAGE

Aon's IRMG unit.

In Germany, just 66% of large corporations have a captive, according to the research, which is due in part to the historically close relationship between companies and their insurers, said Mr. Tunnicliffe.

There is, however, growing interest among German companies in using captives, noted Stephen Cross, chief executive officer of ACSG, and Malta is a favored domicile among such companies because of its European Union member status, as well as its beneficial tax environment.

Asia is one area where Aon expects to see huge growth in captive usage, according to the experts.

At present, only 27% of the Asia-based members of the Global 500 have a captive, according to the research.

Much of the overseas investment going into growth areas, such as China, is in the form of joint ventures with local companies, said Mr. Cross.

European or American companies investing in such areas likely will want to apply the same standards of risk management and corporate governance to such ventures as to their wholly owned business, he said.

Aon would, in such cases, typically advise joint venture projects to set up captives separately to either of the partner's current captives, in order to keep that business separate, he said.

Copies of the report can be acquired by contacting Carrie Leach at [carrie.leach@irmg.aon.co.uk](mailto:carrie.leach@irmg.aon.co.uk).

## Lloyd's: M&A activity likely to increase

CONTINUED FROM PREVIOUS PAGE

There are several factors that are likely to prompt investor interest in Lloyd's, noted Andrew Holderness, head of insurance at London-based law firm Clyde & Co.

For one, the market suffered a manageable loss from the storms that hit the United States in 2005, whereas 10 years ago, events of such magnitude likely would have caused a far bigger marketwide loss, he said. That change demonstrates the robustness of the market in the face of a large event, he said.

Secondly, the Equitas deal potentially will remove uncertainty about the market and "can only be a positive," he said.

And thirdly, outside investors

often like to know that there is an exit route, so the ability for them to set up mechanisms such as sidecars at Lloyd's or enter into quota-share reinsurance arrangements is likely to be viewed positively and shows a responsiveness of the market, he noted.

### Increase in activity

While there is unlikely to be further M&A activity this year—companies are likely to concentrate more on their business plans ahead of the renewals—Mr. Holderness said he would not be surprised if after the end of year break, "the slide rule gets dusted off" and there is more activity.

The £113 million (\$241.6 million) sale of Cathedral to Alchemy demonstrates the increasing attrac-

tiveness of Lloyd's to the investment community, said Tim Matthews, a corporate finance partner at Clyde & Co., who was involved in the deal.

While the sale marks Alchemy's entry into the Lloyd's market, the deal is likely to be the first of many, he noted, as there are other investors who want to enter the market while insurance and reinsurance rates are high, and there are several small to midsize Lloyd's companies that are looking to increase their capital to better compete.

"There are a number of businesses I have heard of that are looking to diversify, and there are a number that are looking perhaps to set up at Lloyd's for the first time," added one market source.

## WTO: Agreement seen as step forward

CONTINUED FROM PREVIOUS PAGE

nies to write what he called "certain very large lines of nonlife insurance," such as third-party automobile liability.

The last was Russian insistence on placing an overall limit on foreign participation in the insurance market. "While that cap still exists, there are many exceptions" that were negotiated and "we don't think it will be commercially significant," said Mr. Snyder.

According to a Nov. 10 fact sheet released by the Office of the U.S. Trade Representative, "Russia retains the discretion to impose limits on new foreign direct investment in the banking and insurance sectors, if the ratio of foreign investment (excluding many investments) to total investment in the sector exceeds 50%."

The two nations planned to sign the bilateral agreement last week at the Asia-Pacific Economic Cooperation meeting in Hanoi, Vietnam.

Mr. Snyder said that, barring any unexpected issues, Russia should join the WTO next year.

**'Insurers generally view Russia as a potentially significant market, but to get to this point, we have a very difficult set of negotiations.'**

David Snyder, American Insurance Assn.

Bringing Russia into the WTO is "good for everyone," as it opens the markets a little more broadly for business including insurance, said Coletta Kemper, vp-industry affairs for the Council of Insurance Agents & Brokers in Washington.

"The brokerage market has been,

in practice, fairly open in Russia," said Ms. Kemper. "Certainly we're looking for—and we hope that their inclusion in the WTO will improve—commitments we've gotten with transparency, which was a big issue for the insurance industry."

"Transparency is obviously important so people know what the rules and regulations are," Ms. Kemper said. "It's important to know what you need to do as an organization to function in a country."

She also called the agreement to allow branching and—after a transition period—100% foreign ownership of nonlife companies "a major step forward."

Insurance is only one of a broad range of economic sectors affected by the bilateral agreement. Others include business services, banking and securities, manufactured goods and agricultural products.

Russia also agreed to fight against piracy and counterfeiting and otherwise to improve protection of intellectual property rights.

## Lawsuit: Insurer partnership draws objections

CONTINUED FROM PAGE 1

additional \$27.5 million a year, according to the city's estimates. New York currently spends about \$3.1 billion a year on basic medical premiums for its health care plans, which cover more than 1.3 million employees, retirees and dependents, according to the suit.

The city "intends to continue pursuing its court case aggressively," said Michael Cardozo, the city's corporation counsel, in a statement. Meanwhile, the city plans to issue a request for proposal for new health care providers that can offer "comparable, but less expensive health care benefits," he said.

"GHI and HIP are always glad to respond to RFPs," a spokeswoman for the companies said when asked about the city's plan to issue an RFP. "They believe they have products that are very competitive."

The insurers now say that the joining of the two companies is

technically not a merger, but an affiliation under a common parent company. According to the companies, by joining forces they will create a strong, local company that can compete with large national plans, and the structure will enable them to do things such as share information on different business issues. The companies will operate separately for the time being, the spokeswoman said.

The city's decision to file the suit two days before the closing of the agreement demonstrates the difficulty for health insurers operating in the highly politicized New York City market, in which politicians are influencing the business decisions of health care companies.

"HIP has been handicapped by the politics of New York," said Stephen Zaharuk, vp and senior analyst for Moody's Investors Service Inc. in New York.

Joseph Marinucci, credit analyst with New York-based Standard &

Poor's Corp., said that, while he understood the city's argument, a partnership between HIP and GHI would be beneficial because of the

**'HIP has been handicapped by the politics of New York.'**

Stephen Zaharuk, Moody's Investors Service Inc.

large number of players in the general New York market. Insurers need to be sustainable over time, and the ability to consolidate and improve the efficiency of their operations is a good thing, he said.

Citing a need to compete with large national managed care companies in their core Northeast market, the insurers decided to join

## Products & Services

CONTINUED FROM PAGE 16

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## Western Re offers terrorism cover

**CHICAGO**—Western Re/Managers Insurance Services Inc. has launched a terrorism facility as part of the expansion of its specialty underwriting operations.

The Los Angeles-based underwriting agency, which manages capacity for U.S. and European insurers, will manage all terrorism capacity from its new Chicago branch office. The company will initially offer a limit of \$25 million per risk, with stand-alone terrorism as well as Terrorism Risk Insurance Act and non-TRIA policies. It will target a wide mix of commercial, industrial and governmental property clients in the United States, with the flexibility to accept business on a primary, excess or full-value basis.

The standard policy excludes threat; hoax; and nuclear, biological, chemical and radiological perils. The deductible is discretionary and varies according to value, business type and location.

For more information, e-mail [terrorism@westernre.com](mailto:terrorism@westernre.com).

## Swiss Re, London American launch utility program

**OVERLAND PARK, Kan.**—Swiss Reinsurance Co. and managing general underwriter London American Risk Specialists Inc. have launched a program for small to midsize private and public utilities. The program, which includes gas, electrical, water and sewer facilities, is active in 17 states.

Coverages include multilene general liability, property, crime, equipment breakdown, inland marine and auto. General liability policies will have a \$1 million limit per occurrence with a \$2 million aggregate, while property limits will vary by location.

Eligible states are Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Missouri, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, Texas and Virginia.

For more information, contact London American Vp Larry Vickery at 901-312-9387 or by e-mail at [lvickery@londonamericantx.com](mailto:lvickery@londonamericantx.com).

# Blast: BP changes safety processes in wake of accident

CONTINUED FROM PAGE 3

as legal proceedings had begun, includes at least \$32 million in donations to be made by BP to universities, health care facilities and other organizations. Part of that money will be used to improve educational programs on process management and safety education at the schools.

BP has set aside \$1.6 billion to settle claims, an amount it will pay from self-insurance funds, a spokesman in BP's Houston office confirmed.

## Regulatory scrutiny

Since the accident, BP's safety culture has come under intense scrutiny. Its loss control at the Texas City plant was deficient, according to recently released findings by the U.S. Chemical Safety and Hazard Investigation Board, or CSB.

The Texas City explosion—which the CSB said was the worst industrial accident in the United States since 1990—was partly the result of corporate cost-cutting at the refinery, “where maintenance and infrastructure deteriorated over time,” Carolyn Merritt, the agency's director, said in a news conference in late October.

**‘The problems at BP are not unique to one refinery, to one division, or to one corporation.’**

Carolyn Merritt,  
U.S. Chemical Safety  
and Hazard Investigation Board

“What BP experienced was a perfect storm, where aging infrastructure, overzealous cost-cutting, inadequate design and risk blindness all converged,” Ms. Merritt said.

The CSB plans to release a final report on the accident in March 2007.

The CSB report follows a \$21.3 million fine levied against BP by the Occupational Safety and Health Administration in September 2005.

Among the changes BP has agreed to are several called for by OSHA. Those include hiring an outside firm to improve process safety management and conduct an audit and analysis of the company's process management systems. BP is also required to hire an expert to assess communications between management, supervisors and other employees and to report on how communications impact safety practices.

The BP spokesman acknowledged that while the blowdown drum where the accident occurred had been modified over the years, it was functioning properly. Human error caused the explosion at the unit, he stressed, and “no one envisioned that what happened that day could have happened.”

Still, BP decided to replace the drums by 2008 at all its U.S. refineries where they are used, the spokesman said.

BP takes issue with the CSB charge that cost-cutting led to the accident.

“In our own investigation, we looked at a whole range of things, including cost decisions,” the spokesman noted. “Our investigation showed that cost decisions had not played a part. In fact, in the years running up to the accident, there was an increase” in operating expenditures, he said.

A spokesman for the CSB said last week that the agency's investigation found there were cuts to “fixed costs that impacted preventative maintenance at the plant.”

Ms. Merritt warned in the news conference that BP's experience “should serve as a cautionary tale to every oil and chemical company that hears this message. The problems at BP are not unique to one refinery, to one division, or to one corporation.”

## BP makes changes

At BP, several changes have been made at the Texas City facility and other U.S. operations as a result of the accident and the ensuing investigations. The company said it has established a program called Focus on the Future that takes into account around 600 recommendations and 1,000 specific actions to be taken based on findings in its internal investigation and those of OSHA and other organizations.

Since the accident, BP has created a new position of group vp for health, safety, environment and technology in its refining and marketing segment. It also named a group vp of safety and operational capability to enhance safety operations.

The company has clarified and reinforced responsibilities for personnel involved in startup, operation, maintenance and evacuation

procedures at its facilities. A newly established U.S. program office will coordinate the changes across BP's refining system in the United States.

In Texas City, BP has isolated or removed all the blowdown drums, installed a new system to perform the operations previously handled by those drums, introduced new maintenance and inspection procedures, heightened supervisor oversight and made several other changes.

The company also has appointed an independent panel under the direction of former U.S. Secretary of State James Baker III to make recommendations as to how safety management systems and the company's corporate safety culture can be improved.

“Certainly there are a number of positive things under way,” said the CSB spokesman. “Whether it will make BP safer, time will tell.”

## BP faces hundreds of claims over explosion

**Oil company sets aside \$1.6 billion for compensation**

By MICHAEL BRADFORD

**GALVESTON, Texas**—BP Products North America Inc.'s settlement with the daughter of two workers killed in a 2005 plant explosion includes funds that the woman hopes will be used to help prevent such accidents.

BP agreed earlier this month to pay an undisclosed amount to Eva Rowe, whose parents were killed when an explosion at the company's Texas City, Texas, refinery left 15 workers dead and more than 170 people injured. The settlement included at least \$32 million to be paid to universities and other institutions involved in safety education and health care.

The Rowe case settled just as legal proceedings were beginning in Galveston, Texas.

BP has set aside \$1.6 billion to settle claims related to the March 2005 explosion, a spokesman in the oil company's Houston office confirmed. He said the payments are being made from self-insurance funds to those injured in the blast and family members of those who were killed.

So far, “there have been more than 1,000, and the number is changing,” the spokesman said of claims related to the accident. “The majority have already settled or are close to settling,” he said.

A spokesman for Ms. Rowe's attorney, Brent Coon of Coon & Associates in Beaumont, Texas, confirmed that Ms. Rowe settled the case partly because of BP's commitment to fund safety and health care programs at facilities in Texas, Louisiana and



Eva Rowe, whose parents were killed in a March 2005 explosion at a BP Products North America Inc. facility in Texas City, Texas, with her attorney, Brent Coon.

Tennessee.

The settlement calls for Texas A&M University in College Station and the University of Texas in Austin to each receive \$12.5 million, while the College of the Mainland in Texas City will get \$5 million. BP also has agreed to match outside donations until the portion of the settlement directed toward universities and other institutions reaches \$38 million.

Texas A&M said the funds it receives will be used to strengthen programs offered through its Mary Kay O'Connor Process Safety Center, the school's safety engineering certificate program, and its engineering ethics courses.

BP's payment illustrates the company's “commitment to workplace safety in the chemical engineering industry,” Ed Davis, president of the Texas A&M Foundation, said in a statement. The money will “help transform a tragedy into a positive legacy, help educate a new generation of engineers, and help improve safe-

ty performance in the industry.”

A spokesman for the College of the Mainland said the \$5 million it will receive comes on top of around \$500,000 in equipment and money BP has contributed over the years to the school's process safety program.

The University of Texas Medical Branch will receive the funds paid to that university under the settlement. The money will be used to further the facility's efforts to improve the survival rate of burn victims, said Art Sanford, assistant professor of surgery at the Galveston branch of the school. “We also work on rehabilitation and help integrate them into society,” he said of burn victims.

The settlement with Ms. Rowe also included a \$1 million donation to The Cancer Center at St. Jude's Children's Research Hospital in Memphis, Tenn., and \$1 million to schools in Hornbeck, La., where Ms. Rowe attended schools and her mother taught before working at the BP plant.



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# Mercer: Group health plan costs hold steady in 2006

CONTINUED FROM PAGE 1

the rate of increase—6.1% for 2005 and 2006. It's actually three years because what (employers are) suggesting is that after they make changes in 2007, it will be 6.1% again. So we're looking at a flat-lining, if you will, of cost increases," he said.

But the likelihood that health care inflation will remain flat or

employees with more and more of the total cost."

For example, 43% of all employers and 71% of large employers said they plan to use care management as a cost management strategy during the next five years. Similarly, 43% of all employers and 64% of large employers said they plan to use consumerism as a cost management strategy during the next five years, the study found.

to slow the overall rate of increase in group health care costs, Mercer found.

The average annual CDHP cost of \$5,770 per employee is 5.3% higher than last year's average of \$5,480, but the rate of increase was greater for both preferred provider organizations and health maintenance organizations, which grew by 7% to \$6,932 per employee and 6.5% to \$6,616, respectively.

The highest rate of increase was among PPOs with deductibles of \$1,000 or more that were not linked to either health reimbursement arrangements or health savings accounts. The cost of these plans surged 12%, to \$6,019 per employee in 2006 from \$5,355 in 2005, according to Mr. Bos, who noted such plans' cost may vary greatly from year to year because of their small survey sample size.

The percentage of all employers offering a CDHP tripled in 2006 to 6% from 2%, as small employers began adopting this new plan type, Mercer found. But growth was also strong among large employers, where CDHP offerings rose to 11% from 5% among employers with 500 or more employees, and to 37% from 22% among jumbo employers. As more employers began offering CDHPs, the plans also captured the interest of an increasing number of employees. Nationally, enrollment in CDHPs jumped in 2006 to 3% from 1% of all covered employees.

Though CDHPs with HRAs had been more prevalent than those with HSAs, HSA-linked plans grew at a faster clip than HRA plans in 2006. HRAs have been available since 2002, while HSAs were authorized as part of the Medicare Prescription Drug Improve-

ment and Modernization Act of 2003—too late for most employers to offer them in 2004, Mercer points out.

In 2006, 4% of all employers offered an HSA, while just 2% offered an HRA. Small employers were more likely to offer HSAs, while large employers were about equally divided between HSAs and HRAs.

HSAs are attractive to small employers because "it's a very simple plan design and they don't want to have a lot of muss and fuss because they don't have the time for it and they don't have the resources," Mr. Bos said.

They also cost less.

Looking at employers with 500 or more employees, HSA plans cost 19% less than HRA plans, averaging \$5,005 per employee vs. \$6,214 per employee for HRA-linked plans.

While nine of 10 employers sponsoring CDHPs offer them as a choice alongside other plan options, six of 10 small employers are more likely to offer them as full replacement for existing plans, the Mercer survey found.

Consequently, the people who elect to enroll in HSAs are most likely to be employees of small employers or large employers' workers who understand the tax advantages of HSAs, Mr. Bos said.

*Copies of the "Mercer National Survey of Employer Sponsored Health Plans 2006," will be available in late March 2007 from Tara Lewis, Mercer Health & Benefits, 1166 Ave. of the Americas, 29th Floor, New York, N.Y. 10036; 212-345-2451. Copies will also be available online at <http://mercerhr.com/ushealthplansurvey>. The cost of the report is \$500, and the report and tables cost \$1,000.*

## INCENTIVES FOR PARTICIPATION

Companies offer employees incentives to participate in care management programs



**NONCASH REWARDS**  
15%  
of  
large and jumbo  
employers



**CASH REWARDS**  
offered by  
9% of all employers and  
16% of jumbo employers

decline "is not great," Mr. Bos said. "If you go back historically, there's a good chance that we're going to see prices going back up again in 2008. That's a little sobering."

In a departure from prior years' practice, employers last year were able to mitigate the growth in their group health benefit costs by focusing on consumerism and care management rather than merely cost-shifting to employees, Mr. Bos said.

"If you go to back two or three years, cost-shifting was the primary strategy for addressing the rate of increase in health care costs," he recalled. Now, "the strategy is more around consumerism and health management, which are strategies that aren't necessarily burdening

In addition, health risk assessments are now offered by 22% of large employers, those with 500 or more employees, and 53% of what Mercer called "jumbo" employers, organizations with 20,000 or more employees.

Employers also are offering incentives to encourage employees to participate in these new care management programs, Mercer reported. The incentives range from noncash rewards such as T-shirts and water bottles, which are used by 8% of large employers and 7% of jumbo employers; to cash, which is the most popular incentive and is used by 9% of all employers and 16% of jumbo employers.

This shift to less expensive consumer-driven health plans helped

## GROUP HEALTH PLAN BREAKDOWN

### COSTS AT A GLANCE

Average increases in average total health plan costs per employee

YEAR	COST PER EMPLOYEE	CHANGE
2002	\$5,646	14.7%
2003	\$6,215	10.1%
2004	\$6,679	7.5%
2005	\$7,089	6.1%
2006	\$7,523	6.1%

### MEDICAL COSTS PER EMPLOYEE BY PLAN TYPE

POINT OF SERVICE	2005	2006	CHANGE
POINT OF SERVICE	\$6,444	\$6,937	7.7%
PREFERRED PROVIDER ORGANIZATION	\$6,480	\$6,932	7.0%
HEALTH MAINTENANCE ORGANIZATION	\$6,210	\$6,616	6.5%
CONSUMER-DRIVEN HEALTH PLAN	\$5,480	\$5,770	5.3%

### HOW HSAs AND HRAs STACK UP\*

	HSA	HRA
Average deductible	\$1,665	\$1,359
Percent of employers contributing to account	57%	100%
Average employer account contribution	\$571**	\$648
Annual cost per employee	\$5,005	\$6,214

\*For employers with at least 500 employees  
\*\*For employers making contributions

Source: Mercer Health & Benefits

# Hatteras: Bermuda liquidators say reinsurer faces funds shortfall

CONTINUED FROM PAGE 3

Mr. Meadows incorporated and licensed Hatteras in Bermuda in mid-2004. Within a few months, Bermuda regulators had granted the reinsurer's request to reduce its statutory solvency margin to \$120,000 from the required \$1 million, on the condition that it stop writing any business not fully secured by collateral. Hatteras also delayed filing an audited financial statement for a year, first by changing its fiscal year-end and then by seeking an additional three-month extension.

Hatteras ultimately failed to file a statement as required by the end of April 2006, in part because its auditor questioned the validity of documents supporting its investment in Delaware-based Pamlico. One of the documents was a Pamlico audit opinion purportedly issued by Deloitte & Touche L.L.P. in the Cayman Islands, which Deloitte denied producing.

Bermuda regulators won an order to liquidate Hatteras in June, and partners of KPMG Financial Advisory Services Ltd. were named joint provisional liquidators.

Hatteras had acted as a reinsurer of captive workers compensation and general and auto liability programs. Its clients included captives insuring Philadelphia-based Aramark Corp.; Electronic Data Systems Corp. of Plano, Texas; a unit of InterContinental Hotels P.L.C. of Windsor, England; and Gevity HR Inc., a Bradenton, Fla., staff leasing company.

Aramark, EDS and InterContinental are protected by funds set aside in segregated trust accounts that are not considered assets of the Hatteras estate (see chart, page 3). Liquidators have agreed to allow workers comp and other claims to be paid from those accounts. The liquidators and Aramark, though, have not yet agreed on how to handle \$15 million in another trust securing a loss portfolio transfer of Aramark liabilities from the defunct Reliance Insurance Co., and the two sides are also disputing who is entitled to interest on the trust funds, court records show.

Gevity settled with the Hatteras estate in September, receiving a \$3 million cash payment and the right to pursue a \$2.2 million unsecured claim against the estate.

Hatteras' rocky financial condition was not apparent in its unaudited 2004 and 2005 financial statements.

The Sept. 30, 2005, statement, for example, reported \$264.5 million in assets and \$26.1 million in shareholders equity. The assets included \$138.4 million in fixed-income funds, previously identified as the Pamlico Enhanced Cash Trust; and \$14.1 million in Nottingham stock.

Another 2005 Hatteras statement, prepared as of year-end, included a purported audit opinion from Deloitte's Cayman office and was sent by the company to its Bermuda manager, Independent Management Ltd., and forwarded through another party to Aramark and Gevity's reinsurance broker, Guy Carpenter & Co., according to court filings.

As was the case with the purported Pamlico audit letter, Deloitte Cayman officials denied ever issuing an opinion on Hatteras' financials, the liquidators say in court filings.

The liquidators' own draft summary of Hatteras' financial condition is bleaker, but still uncertain, their court filings indicate.

KPMG officials say they do not expect to recover any of the \$152 million most recently reported as the value of the Pamlico investment. The Pamlico Delaware trust was canceled in March 2006, and liquidators say they have been informed that "Pamlico now has funds of just \$333," the liquidators' court filings say.

When asked by the liquidators about the purported Deloitte audit of Pamlico, Frank Meadows Jr.—a Pamlico trustee who is also a Rocky Mount lawyer and Mr. Meadows' father—said the Deloitte letter "was printed in error," the liquidators' filings report.

Mr. Meadows Jr. could not be reached for comment.

Meanwhile, Mr. Meadows III has agreed to place in escrow any proceeds from the expected sale of the corporate jet that liquidators say he bought with Hatteras funds. Liquidators report that they are trying to negotiate a similar agreement covering proceeds from any sale of the Rocky Mount cotton mill property, and that they will try to recover more than \$1.5 million in loans Hatteras made to Mr. Meadows III, his companies and

employees of Nottingham.

Whether unsecured creditors of Hatteras are made whole remains to be seen.

In addition to Gevity's \$2.2 million claim, the estate faces a possible \$9 million claim from units of ACE Ltd., which acted as primary work comp insurer for Aramark, over funds that may have been removed from Aramark-related trusts, liquidators report.

An ACE spokesman declined to comment.

## ADVERTISER

# INDEX

Issue of November 20

ADVERTISER	PAGE #
AIG	24
Anthem	13R
Aon Corporation	2
Burnham Systems	16
Business Insurance	12, 13, 14, 15, 22
Cingular Wireless	9
Harvard Pilgrim Health Care	13R
Insurance Overload Staffing	6
Inwald Consulting Services, Inc.	16
Starr Marine	7
Uniprise	11
XL Insurance	5

# Spitzer: Successor to make own imprint

CONTINUED FROM PAGE 1

David Brown, chief of the investor protection bureau, for one though, has indicated that he will leave his post at the end of the year, which has prompted speculation that Mr. Spitzer might appoint him as the new superintendent of insurance to replace Republican Howard Mills.

Even with a changing of the guard, it is unlikely Mr. Cuomo will abandon major initiatives Mr. Spitzer has already started, sources close to Messrs. Spitzer and Cuomo say.

"He's going to want to put his own imprint on the agency and define it as Andrew Cuomo's attorney general's office...but I don't think he's going to come in and issue 'get out of jail free' passes to the insurance industry just because he's the new guy on the block," the source close to Mr. Spitzer said. "I think (Mr. Spitzer has) built cases that show...that there are some troubling business practices in the industry that need to be cleaned up. I don't think Andrew Cuomo is going to come in and just say, 'Nevermind.'"

A source close to Mr. Cuomo said that while the attorney general-elect has indicated that he will continue Mr. Spitzer's work when he takes office, Mr. Cuomo will evaluate Mr. Spitzer's pending insurance cases and may ultimately reach a different conclusion.

Mr. Cuomo has made clear "that he understands that there is a difference between enforcing the law and smothering business and industry in the state of New York," the source said. "With that in mind, I think people ought to expect he

will continue what Spitzer has done in the insurance industry, but there may be differences between what the outcomes of those things are under Cuomo and what they would have been under Spitzer."

"Clearly every attorney general

**'I don't think anyone should jump up and down now that Mr. Spitzer is moving out of the attorney general's office.'**

Ken A. Crerar, CIAB

puts his or her own imprint on the office and that will be true with Cuomo," the source said.

Despite many unknowns, industry observers do not expect a rapid end to the investigations.

"It doesn't surprise me to think that we're going to see some continuance" of the investigations, said Ken A. Crerar, president of the Council of Insurance Agents and Brokers. "I don't think anyone should jump up and down" now that Mr. Spitzer is moving out of the attorney general office. "There were serious allegations and they're doing investigations and hopefully we've seen the key ones resolved and the industry can move on from there. But I think it's too hard to tell at this point."

"I imagine that investigations that have been set in motion, and certainly cases that already have been brought, are not going to go away," said Elaine Metlin, a partner

with Dickstein Shapiro L.L.P. in Washington. It is too early to know, however, whether Mr. Cuomo will resolve the cases in the same manner as Mr. Spitzer, she said.

"I just don't think (Mr. Cuomo) is going to stop the investigations midair. He's going to try to bring them to completion or try to get settlements," agreed Fran Semaya, who chairs the insurance, corporate and regulatory practice group of Cozen O'Connor in New York. "Either Spitzer will try to do it by year-end or Cuomo will pick those up."

Whether Mr. Cuomo pursues any new cases after that will depend on whether investigating the insurance industry is high on his agenda, Ms. Semaya said. "I think Spitzer has given him a lot of ammunition...so I don't see any reason for him not to."

But it may be some time before Mr. Cuomo initiates any action with the industry, said William G. Passannante, co-chairman of the insurance recovery group for Anderson Kill & Olick P.C. in New York.

"When you have that kind of turnover in senior staff that's been a major part of the investigations, I would think that it's got to...cause a significant delay," he said. "It's not as though you get experienced prosecutors who understand a complicated industry overnight."

Mr. Spitzer became a household name to the insurance industry in October 2004 with his fraud and bid-rigging suit against New York-based Marsh & McLennan Cos. Inc. His subsequent probes into broker compensation and finite reinsurance accounting practices resulted in lawsuits and settlements with several brokers and insurers during the past two years, in addition to criminal charges and numerous guilty pleas from various individuals (see box).

He also set off investigations by attorneys general in other states who have reached settlements jointly with Mr. Spitzer and, in the case of Connecticut Attorney General Richard Blumenthal, resulted in other suits and settlements.

Just how many more settlements are in the works in Mr. Spitzer's office is unknown. One outstanding case likely to fall under Mr. Cuomo's purview involves Liberty Mutual Group Inc., the only insurer so far unwilling to settle steering and bid-rigging charges leveled by Mr. Spitzer (BI, May 8), sources note.

At the same time, Mr. Cuomo's office also likely will oversee the contingent commission curtailment provisions Mr. Spitzer reached with several insurers. Under those provisions, various insurers agreed to stop paying contingent commissions for any line, product or segment of business if insurers that represent 65% of the gross written premiums on that line were not paying such commissions or were to reach similar settlements. The attorney general's office is charged with determining whether the 65% threshold has been met on any line and to notify the affected insurers.

## INDUSTRY MILESTONES

Major insurance-related events during the tenure of New York Attorney General Eliot Spitzer

**October 2004:** Mr. Spitzer files fraud and antitrust charges against Marsh & McLennan Cos. Inc.



Eliot Spitzer unveiled bid rigging and other charges against insurers in October 2004.

MMC replaces Jeffrey W. Greenberg as chief executive officer with Michael G. Cherkasky, former CEO of MMC's Marsh Kroll consulting unit. That move, along with MMC's adoption of new business procedures, a full examination of potential prior wrongdoing and a pledge of restitution to those harmed, permits "Marsh and this office to move forward toward a civil resolution of our lawsuit," Mr. Spitzer says.

**JANUARY 2005:** Mr. Spitzer settles charges with MMC for \$850 million.

**MARCH 2005:** Mr. Spitzer simultaneously sues and settles fraud and anti-competitive practices charges against Aon Corp. for \$190 million.

**MARCH 2005:** Maurice R. Greenberg steps down as CEO of American International Group Inc. amid increased scrutiny by Mr. Spitzer concerning Mr. Greenberg's role in a finite reinsurance deal.

**April 2005:** Willis Group Holdings Ltd. settles steering allegations by Mr. Spitzer for \$50 million.

**May 2005:** Mr. Spitzer sues AIG, Mr. Greenberg and former AIG Chief Financial Officer Howard I. Smith, charging them with orchestrating fraudulent transactions to manipulate the insurer's financial results.

**FEBRUARY 2006:** AIG agrees to pay \$1.6 billion to settle civil fraud charges brought by Mr. Spitzer and others.

**MARCH 2006:** Zurich Financial Services Group Inc. agrees to pay \$153 million to resolve allegations of bid rigging and improper use of finite reinsurance brought by Mr. Spitzer and other officials.

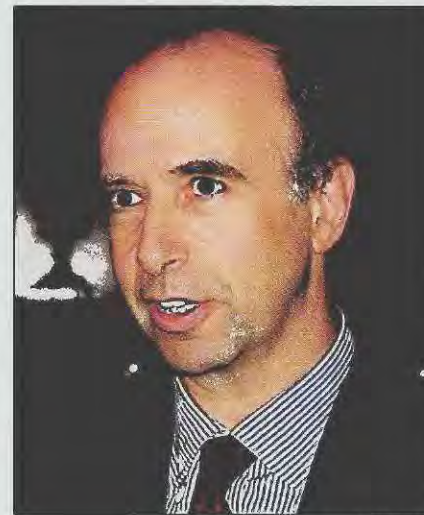
**APRIL 2006:** ACE Ltd. agrees to settle charges of bid rigging and finite reinsurance-related charges by Mr. Spitzer

**MAY 2006:** Mr. Spitzer sues Liberty Mutual Group Inc., alleging steering and bid rigging.

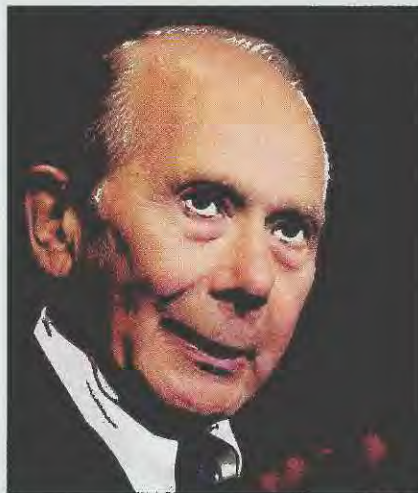
**MAY 2006:** Hartford Financial Services Group Inc. agrees to pay \$20 million to settle charges from Mr. Spitzer and others over its compensation of brokers placing group annuity business.

**AUGUST 2006:** St. Paul Travelers Cos. Inc. agrees to pay \$77 million to settle bid-rigging and other charges leveled by Mr. Spitzer and others.

**NOVEMBER 2006:** UnumProvident Corp. agrees to pay \$17.4 million to settle charges by Mr. Spitzer and others over its compensation practices.



Jeffrey W. Greenberg, former CEO of Marsh & McLennan Cos. Inc.



Maurice R. Greenberg, former CEO of American International Group Inc.

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# News In Brief

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executive officer of Max Re Capital Ltd. Mr. Becker was installed as acting chairman and CEO by Max Re's board of directors following the departure late last month of Max Re founder Robert J. Cooney, who stepped down from the helm of the reinsurer in the wake of a reopened probe into the company's accounting of two finite risk contracts. Mr. Becker—a director at Hamilton, Bermuda-based Max Re since April 2004—previously served as chairman and CEO of Bermuda insurer Trenwick Group Ltd., and led the runoff for LaSalle Re Holdings Ltd.

## AmWINS plans \$115 million IPO

AmWINS Group Inc. will seek to raise as much as \$115 million in an initial public offering of common stock, the nation's largest wholesaler said in a Securities and Exchange Commission filing. The Charlotte, N.C.-based wholesaler is owned by private equity firm Parthenon Capital L.L.C. and AmWINS employees. Specifics of the IPO were not disclosed, although AmWINS said it is seeking to list its stock on the New York Stock Exchange under the symbol "AGI."

## Options probe delays UnitedHealth report

UnitedHealth Group Inc. has delayed filing its third-quarter earnings report with the Securities and Exchange Commission due to lingering uncertainty over potential earnings charges related to a stock options probe. While the Minnetonka, Minn.-based insurer said it has substantially completed its internal analysis of a report that found several stock option grants awarded to company executives were backdated, the company is not yet able to determine the final amount of charges to be included in resulting financial restatements. The insurer, though, expects that a restatement of several years of financial results could reduce earnings by more than the \$286 million that was estimated previously, according to an SEC filing.

## Starr renames marine agency

C.V. Starr & Co. Inc. has renamed its marine insurance unit to fit under the Starr companies' banner. Effective immediately, American International Marine Agency of New York Inc. will be known as Starr Marine Agency Inc., New York-based Starr said in a statement.

## Liberty Mutual gets Vietnam license

Liberty Mutual Group Inc. has been given a license by the Vietnam Ministry of Finance to operate a wholly owned general insurance company in the country, according to the insurer. With the license, Liberty Mutual will operate a general insurance company that provides property, liability, marine cargo and commercial auto coverage to small and midsize enterprises throughout Vietnam, as well as personal lines insurance. The insurer opened its first representative office in Hanoi in 2003.

## PBGC sets date for penalty waiver rule

The Pension Benefit Guaranty Corp.'s final rule providing policy guidance on premium penalty waivers will take effect Dec. 18. The agency can assess penalties when premiums are not paid on time, though it can waive the penalties if it determines there is "reasonable cause" for the late payment. The rule, which provides guidance on what constitutes reasonable cause, states that, in general, reasonable cause exists when the failure arises from circumstances beyond the payer's control or the payer could not avoid the failure by exercising ordinary business care and prudence.

## Fairfax seeks sale of Odyssey Re shares

Odyssey Re Holdings Corp. has filed a registration statement to sell up to 9 million of its common shares in a secondary offering. The Securities and Exchange Commission filing was made at the request of Stamford, Conn.-based Odyssey Re's parent and majority shareholder, Fairfax Financial Holdings Ltd., Odyssey Re said in a statement. Under the proposed share offer, Odyssey Re will not receive any proceeds from the sale, and Fairfax will continue to own a majority of the reinsurer's shares.

# Calif. high court to hear differing comp decisions

By ROBERTO CENICEROS

**SAN FRANCISCO**—California's Supreme Court will hear two conflicting appeals court decisions on the apportionment of permanent disability benefits following workers compensation reforms adopted in 2004.

The reform measure required changes in the apportionment of permanent disability injuries.

In *Kenneth Welcher vs. Workers Compensation Appeals Board*, California's 3rd Appellate District Court in Sacramento ruled Aug. 31 that in light of the reforms signed into law by California Gov. Arnold Schwarzenegger, the Workers Compensation Appeals Board correctly ruled on the calculation of permanent disability for claimants in four consolidated cases.

But just one day earlier, in the case of *Stan Brodie vs. Workers Compensation Appeals Board*, the San Francisco-based 1st Appellate District Court rejected the WCAB's apportionment of permanent disability cases.

Claimant attorneys, employers and the California Division of Workers' Compensation all called for the California Supreme Court to resolve the issue.

The high court announced last week that it would hear the cases, but did not provide a specific date for the hearings.

Apportionment impacts benefit award levels because it addresses how the percentage of permanent disability is calculated for a current injury when an employee has suffered a previous permanent disability injury.

# Avian flu advice updated

By MARK A. HOFMANN

**WASHINGTON**—The Occupational Safety and Health Administration last week issued a new safety and health guidance for employers and employees regarding avian influenza.

The guidance, available at [www.osha.gov](http://www.osha.gov), updates a guidance issued in 2004. It provides separate recommendations for poultry workers and workers who handle other animals. It also provides recommendations for laboratory employees, health care personnel, food handlers, travelers and U.S. employees stationed overseas.

The guidance's primary focus is

on good hygiene, including use of gloves and hand washing, as well as respiratory protection for those who work with infected animals or individuals.

The guidance also provides links to Web sites with relevant information about the disease.

"We encourage employers and employees who are most likely to be exposed to avian flu to take the appropriate precautions," said OSHA Administrator Ed Foulke in a statement announcing the new guidance. "This guidance offers them practical tips, such as hand washing and the use of proper protective equipment, for preventing illness."

# TRIA: Action likely soon

CONTINUED FROM PAGE 3

examine natural catastrophe risk policy during the new Congress.

"All of these issues are high on the Financial Services list," said Rep. Moore during brief comments last week at a seminar on insuring catastrophic risks sponsored by Washington law firm Wiley Rein & Fielding L.L.P. and the University of Connecticut School of Law.

The legislative director for Rep. Paul Kanjorski, D-Pa., who is likely to chair the committee's subcom-

mittee that deals with insurance issues, fleshed out Rep. Moore's comments.

"One of the biggest things" is the federal terrorism insurance backstop, said Todd Harper. "We want to do this right away" and not wait until the expiration deadline looms.

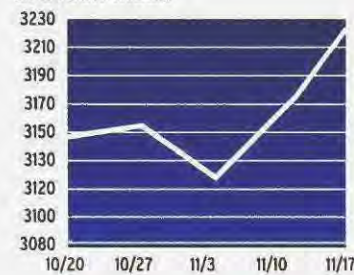
Mr. Harper noted that there is a growing interest among lawmakers in creating a permanent solution to the terrorism insurance issue rather than extending a short-term program repeatedly.

## Stock Index

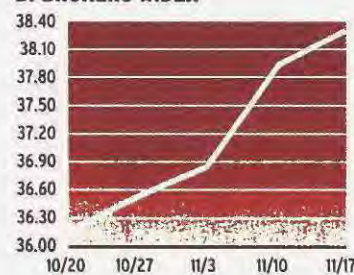
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Up-to-the-minute data for all 82 companies that comprise the BI Stock Index can be found at [www.BusinessInsurance.com](http://www.BusinessInsurance.com).

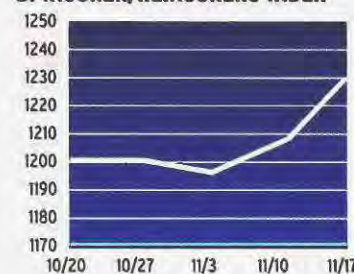
### BI STOCK INDEX



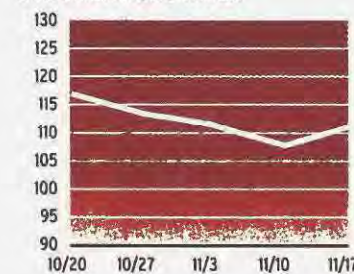
### BI BROKERS INDEX



### BI INSURER/REINSURERS INDEX



### BI MANAGED CARE ORGANIZATIONS INDEX



Percentage change of BI Stock Index vs. key indicators

Indicator	Value	Change
BI STOCK INDEX	3212.17	1.17
DOW JONES	12342.56	1.93
S&P 500	1401.20	1.47

### LARGEST GAINS

Gainsco Inc.	18.48%
Fairfax Financial	14.82%
Tower Group Inc.	6.87%
SCPIE Holdings Inc.	6.35%
SCOR S.A.	6.14%

### LARGEST LOSSES

Meadowbrook Insurance	-7.60%
Navigators Group Inc.	-2.61%
HCC Insurance Holdings	-2.07%
AEGON N.V.	-2.04%
CNA Surety Corp.	-1.96%

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



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## Waltzing: 3 steps to heart health

The way to a man's heart may be through his feet.

In fact, dancing a waltz may pump as much oxygen into the bloodstream as other forms of exercise, according to a study by an Italian cardiologist.

To test this theory, Dr. Rumualdo Belardinelli, director of the Cardiac Rehabilitation Unit of the Lancisi Heart Institute in Ancona, Italy, monitored the progress of 89 male patients and 21 female patients.

The patients were divided into three groups: Forty-four were assigned to a standard gym-based exercise routine three days per week for eight weeks; a second group of 44 patients danced, alternating between slow and fast waltzes lasting 21 minutes each, three times a week for eight weeks; the third group of 22 patients did no exercise.

As he suspected, cardiopulmonary fitness increased at similar rates in those who did routine exercises and those who danced, with dancers experiencing slightly greater benefits. In particular, oxygen consumption increased 16% among the exercisers and 18% among the dancers. Individuals' anaerobic threshold—the point above which muscles fatigued—increased 20% among the exercisers and 21% among the dancers. Meanwhile, there was no improvement in the patients who did no exercise.

But Dr. Belardinelli believes the secret is not so much in the waltz movements themselves, but rather, the general appeal of the activity, which makes it less likely patients will get bored and hang up their dancing shoes.

"Patients with heart problems have a very poor record when it comes to keeping up a program of physical exercise," Dr. Belardinelli said in a presentation given at a recent American Heart Assn. meeting in Chicago, according to a printed copy of his remarks.

"We need something that captures their interest and enthusiasm," he said.

Dancing offers cardiovascular benefits that rival some other forms of exercise, a study has found.

Contributing: Regis Coccia, Lousie Esola, Rupal Parekh, Joanne Wojcik

# Business Insurance END PAGE



## 'Borat' suit offers sobering lesson

The box office hit "Borat" isn't so funny to two fraternity brothers who had starring roles in the satirical mockumentary as drunken students with harsh opinions about women and minority groups. The duo is now suing the film's creators.

According to a lawsuit filed Nov. 9 in California Superior Court in Santa Monica, the men claimed they were tricked by the filmmakers into being a part of what they were told would be a documentary that would not be aired in the United States. The suit states that the men were provided alcoholic drinks in excess to "loosen up" and then given releases to sign before being filmed.

The suit states that, as a result of the film, the fraternity brothers have suffered "humiliation, mental anguish, and emotional and physical distress, loss of reputation, good will and standing in the community." They are seeking judgments against four California-based film production companies for lost income and earning potential as well as punitive damages. They also are asking to be cut out of the film and the film's promotional campaigns.

The defendants are One America Productions, Everyman Pictures, Gold/Miller Productions and 20th Century-Fox Film Corp.

The suit is reportedly the first against makers of the film, "Borat: Cultural Learnings of America for Make Benefit Glorious Nation of Kazakhstan," starring and created by British comedian Sacha Baron Cohen. Others, including the residents of the small Romanian village of Glod and a Turkish man claiming that Mr. Baron Cohen's character is based on him, have told the media they intend to seek legal action against the film's creators.

## Greenberg interested in going to press

Longtime insurance industry executive Maurice R. Greenberg may be making headlines once again. Literally.

The former chairman of American International Group Inc. and now head of the C.V. Starr agencies is reportedly mulling a bid for media conglomerate the Tribune Co.—the parent company of 11 daily newspapers, including the Los Angeles Times and Chicago Tribune; more than 20 television stations; and the Chicago Cubs baseball team.

Other interested bidders include billionaires Eli Broad and Ronald Burkle, as well as newspaper chain Gannett Co., media reports said.

A spokesperson for Mr. Greenberg would say only: "Mr. Greenberg is exploring several options regarding media companies."

## No alternative but litigation

Sometimes even alternative dispute resolution firms go to court.

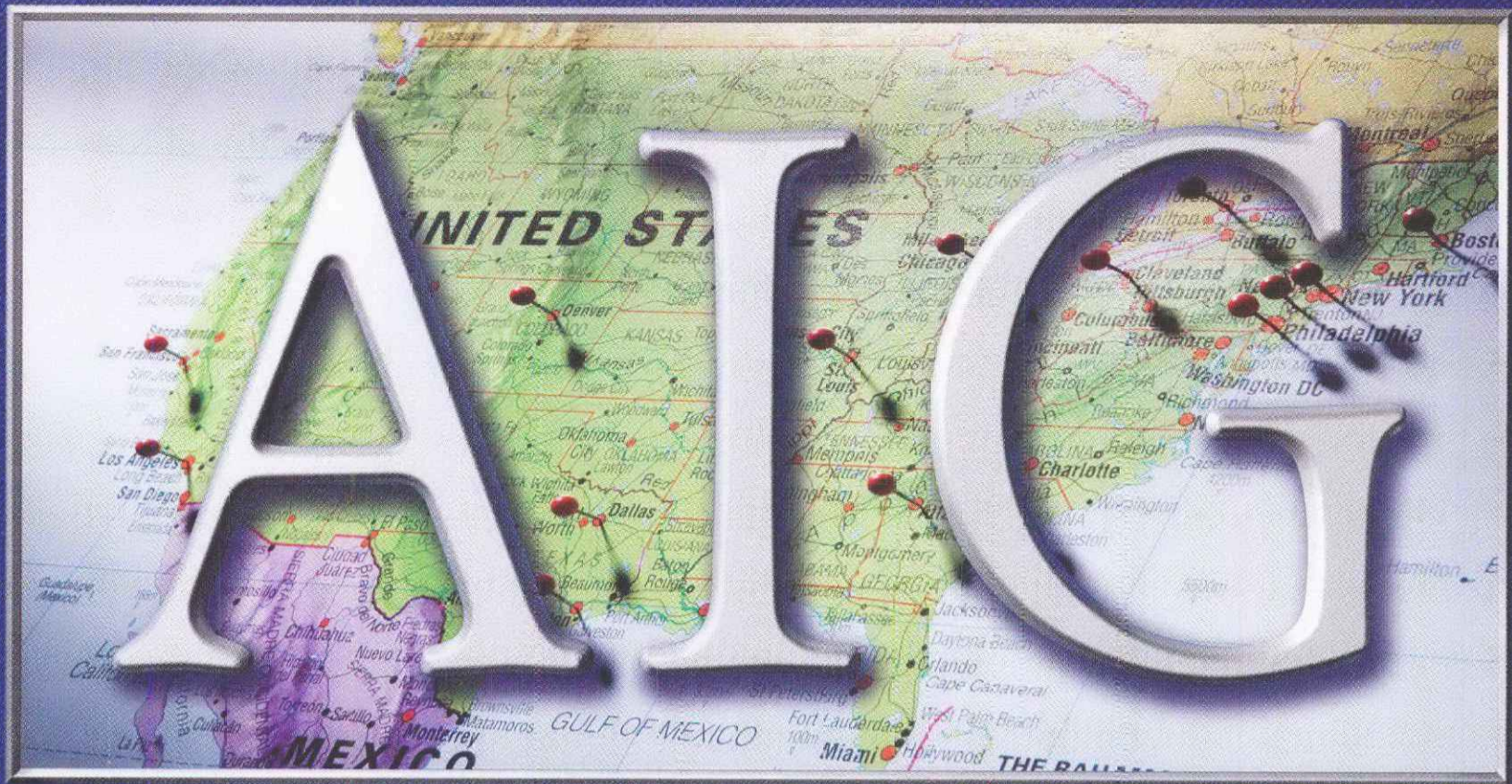
White Plains, N.Y.-based Cybersettle Inc. last week won summary judgment in a patent infringement case in New Jersey federal court against the National Arbitration Forum. Cybersettle developed and patented an online, blind-bid system that sides in a dispute can use to reach financial settlements quickly.

Minneapolis-based NAF used an online tool in administering New Jersey's no-fault automobile insurance personal injury system that infringed on the patent, according to court documents.

"Cybersettle's stated policy is that we always attempt to resolve disputes out of court. Suffice it to say, we attempted to pursue that" with NAF but were unable to resolve the matter, explained Charles Brofman, president and CEO of Cybersettle. "Obviously, we are firm believers in alternative dispute resolution," he said. "We've been faced with patent infringement before, but this is the first time we've had to go to court to settle it."

NAF said in a statement that it ceased using versions of its tool that infringed the patent and is considering whether to appeal.





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