

Business Insurance

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LABOR DEPARTMENT ISSUES RULES ON AUTO ENROLLMENT FOR 401(K) PLANS / PAGE 3

In Brief

Bush threatens veto of latest SCHIP bill

The House of Representatives last week passed a revised bill to reauthorize the State Children's Health Insurance Program—a joint federal-state program that provides health care for children in low-income families—after recently failing to override President Bush's veto of the first bill to reauthorize the program. President Bush vowed to again veto the measure, which includes several provisions that would affect employers.

ACE to pay \$4.5M in bid-rigging pact

ACE Group Holdings Inc. has agreed to pay \$4.5 million to eight states and the District of Columbia to settle charges that it participated with Marsh Inc. in a scheme to rig bids on commercial insurance

See **IN BRIEF** page 46

Employers cut costs with dependent audits

Reviews halt cover of ineligible plan members

By **JUDY GREENWALD**

A growing number of employers are embarking on dependent audits to cull ineligible dependents from their health care rolls in an effort to cut health care costs, observers say.

Experts say these audits can result in culling, on average, 5% to 10% of ineligible dependents from their rolls, and depending on the particular plan, result in hundreds of thousands, if not millions, of dollars in savings.

They also remove potential liability under the Employee Retirement Income Security Act and the Sarbanes-Oxley Act, observers say.

It is important, though, that employers follow up these audits with tightened procedures, such as requiring supporting documentation from employees, to ensure inel-

igible dependents no longer wind up back on employers' health care rolls, observers note (see story, page 44).

Frequent instances of ineligible dependents include ex-spouses and children who are too old to qualify for coverage or are no longer students (see story, page 44).

Interest in the audits is "huge, in a word," said Susan Johnson, Atlanta-based senior consultant with Watson Wyatt Worldwide. "It's absolutely skyrocketed in the last year to 18 months."

"The requests are coming not just from the benefits side," but from different parts of organizations as well, including finance and sometimes even the executive suite, said Ms. Johnson.

See **AUDIT** page 44

Liability issues loom as staph bug spreads

But simple procedures can stem infection rate

By **DAVE LENCKUS**

A potentially deadly, drug-resistant bacterium that researchers warn threatens patients in various health care settings is an easily squashed bug, though it could mutate into a bigger liability problem, experts say.

Long before the researchers' new report, some health care organizations were working on eradicating the bug with reportedly great success.

Simple personal hygiene and san-

itization measures often are sufficient to limit the spread of related infections, experts say.

Meanwhile, the bacterium has been blamed as the cause of death of several children, prompting some schools to redouble their efforts to prevent it from spreading (see story, page 44).

The report, "Invasive Methicillin-resistant Staphylococcus Aureus Infections in the United States," was

See **INFECTION** page 44

FIVE WORST CATASTROPHIC U.S. WILDFIRES

1970-2006 estimated insured losses, in millions of dollars.

Date	Location	Dollars when occurred	In 2006 dollars*
Oct. 20-21, 1991	Oakland and Alameda Counties, Calif.	\$1,700.00	\$2,516.30
Oct. 25-Nov. 4, 2003	San Diego County, Calif.	\$1,060.00	\$1,161.40
Oct. 25-Nov. 4, 2003	San Bernardino County, Calif.	\$975.00	\$1,068.30
Nov. 2-3, 1993	Los Angeles County, Calif.	\$375.00	\$523.20
Oct. 27-28, 1993	Orange County, Calif.	\$350.00	\$488.30

* Adjusted to 2006 dollars by the Insurance Information Institute. Source: ISO Property Claims Service

REUTERS

Modeling firms estimate insured losses from fires that engulfed large parts of California last week will top most previous U.S. wildfire claims.

Calif. fires spark income loss claims

Total insured losses may reach \$1.6 billion

By **ROBERTO CENICEROS**

SAN DIEGO—As insurers and policyholders tally losses from California's deadly fires, with insured loss estimates running as high as \$1.6 billion, one question for commercial policyholders will be whether they can make claims for lost business.

Whether the fires and mass evacuations will trigger business interruption coverage under property policies depends on several factors, including whether business evacuations were mandatory or voluntary, market sources say.

In addition to filing claims for direct fire and smoke damage to structures, inventory and equipment, commercial policyholders may attempt to seek coverage under the so-called sue-and-labor clauses of their property policies, experts note. Those clauses pay for actions taken to preserve property in the face of an advancing peril.

By week's end, 13 of 18 conflagrations continued to burn, according to California's Office of Emergency Services. By late Friday, fires still threatened more than 22,000 homes and commercial buildings, the OES said.

With weather conditions improving, fewer than 5,000 evacuees remained in 41 shelters on Friday, the OES said. Two days earlier, the number of residents evacuated under mandatory orders statewide reached 322,000, according to OES estimates.

As of Friday, nearly 2,100 residen-

tial and commercial structures were known to have been destroyed, and nearly 500,000 acres had burned, California's OES said.

Insured losses estimated

Catastrophe modeling companies late last week said insured losses from the fires that burned from south of San Diego to north of Los Angeles could exceed \$1 billion.

Newark, Calif.-based Risk Management Solutions said the insured loss total could reach \$1.6 billion, while AIR Worldwide Corp. said losses could exceed \$1.2 billion, though the Boston-based firm noted that some of the fires still burning had potential to grow.

By comparison, California's most costly fire to date, the 1991 Oakland Fire, caused \$2.51 billion in insured losses when calculated in 2006 dollars, according to the Insurance Information Institute. The 2003 Cedar Fire in San Diego caused \$1.16 billion in insured losses in 2006 dollars.

Chicago-based Fitch Ratings Ltd. said it expects losses will fall heaviest on personal lines insurers, and will be confined to primary, excess and specialty insurers. Only a modest portion of the losses will be ceded to reinsurers, Fitch said.

Oldwick N.J.-based A.M. Best Co. Inc., meanwhile, said although insured losses were significant and may "modestly weaken" insurer results for 2007, the overall impact

See **FIRES** page 46

SPOTLIGHT

REINSURANCE: TRENDS AND ISSUES

Reinsurers try to hold line as market softens; retro capacity increases; capital markets back wider variety of risks; life/health cessions

decline; U.S. regulators debate reinsurance collateral changes **Page 10**



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BI VIDEO

Reinsurance leaders discuss trends

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Business Insurance.

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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XL to search for new chief as O'Hara retires

Observers predict internal candidate will take over helm

By DOUGLAS McLEOD

HAMILTON, Bermuda—XL Capital Ltd. is looking for a new chief executive officer for the first time in 13 years.

The Bermuda-based insurance giant announced last week that Brian O'Hara, who joined XL when it was founded in 1986 and became CEO in 1994, will retire next year. Chairman Michael P. Esposito Jr. also will retire once Mr. O'Hara's successor is named, and Mr. O'Hara will take over as chairman for the final year of his current term as an

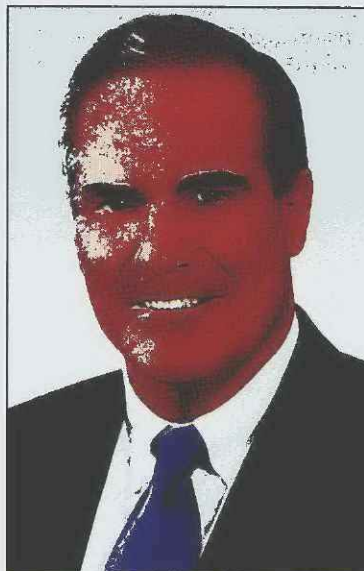
XL director, expiring in 2009.

XL's board of directors has formed a succession committee to find Mr. O'Hara's replacement, a process that could take six months, Mr. O'Hara said in a conference call with stock analysts last week.

While Mr. O'Hara stressed that XL will look at candidates both inside and outside the company, some analysts say they expect an insider to be named and one said the likely choice will be Henry C.V. Keeling, currently chief operating officer and Mr. O'Hara's second in command.

An XL spokesman acknowledged that Mr. Keeling "is a very strong internal candidate," but said the search process will go "well beyond" current XL officers.

In the conference call with ana-



Mr. O'Hara

lysts, Mr. O'Hara, who is 59, said he had "mixed emotions" about retiring but that XL's strong prospects deserved "the energy of a new generation of leadership."

"I have been privileged to spend the last 20 years of my career working with extraordinary talent to build a unique and highly successful global enterprise," he said separately in a statement.

Mr. O'Hara has helped guide XL through two decades of extraordinary growth, though the road hasn't always been smooth.

Conceived by Marsh Inc. and JP Morgan & Co., XL was capitalized by 68 Fortune 500 companies to write excess liability coverage amid a capacity crisis in the existing mar-

See O'HARA page 45

HOW TO HELP WORKERS QUIT SMOKING

The Centers for Disease Control and Prevention says smoking cessation programs should:

- Cover at least four counseling sessions of at least 30 minutes each, including telephone and in-person sessions.
- Cover prescription medication.
- Cover over-the-counter nicotine replacement treatments.
- Provide counseling and medication coverage for at least two smoking cessation attempts per year.
- Eliminate or minimize copayments or deductibles for counseling and medications.

Employers offer limited anti-smoking programs

Few provide all recommended quitting aids

By JOANNE WOJCIK

Although most employers provide some smoking cessation benefits, few thus far have adopted the comprehensive approach recommended by the U.S. Centers for Disease Control and Prevention, a survey shows.

Part of the reason only 2% of surveyed employers offer the CDC's comprehensive program may be that the agency only last November identified the elements (see box) of that program, according to Ron Finch, vp of the National Business Group on Health. The group sponsored the study, which was presented last week at the NBGH/Integrated Benefits Institute Joint Forum on Health, Productivity and Absence Management held in Washington.

"I think employers have been confused about what to do," Mr. Finch said. "When we released the (benefit description) on Nov. 28, it was too late. I think that next year we'll see a lot more employers introducing this evidence-based approach, and we will also likely see more employers make their campuses smoke-free."

Survey participants included 506 employers from across the country

with 1,000 or more employees.

While few employers surveyed by NBGH provide all of the recommended benefits, on average, employers generally provide at least two of the five components, the most likely being covering counseling sessions, done by 62%, and covering prescription medications, 61%.

The prevalence of the other three components is: cover over-the-counter nicotine replacement medication, 37%; cover at least two quit attempts, 36%; and eliminate or minimize copayments or deductibles for counseling and medication, 27%.

It is important that more employers provide smoking cessation benefits, as research has shown that people who earn less than \$50,000 a year are more likely to smoke than those who earn more than \$75,000 annually, said Jeffrey Harris, director, University of Washington Health Promotion Research Center in Seattle, who co-presented the survey findings at the joint NBGH/IBI meeting.

"A lot of smokers have limited means, so putting barriers in front of them makes quitting even harder," he said.

Auto enrollment rules seen as 401(k) boost

Employers given set investment options

By JERRY GEISEL

WASHINGTON—Final Department of Labor rules that protect employers from fiduciary liability for automatically enrolling employees in 401(k) and other participant-directed retirement plans likely will accelerate employer adoption of the programs, experts say.

The rules, mandated by Congress as part of pension funding reform legislation passed in 2006, closely track guidance the Labor Department proposed about a year ago, and provide steps employers must take to auto-enroll employees in defined contribution plans to be shielded from liability for the investment decisions they make on behalf of employees.

The final rules, issued last week, lay out so-called default investment funds to which employers would direct contributions made on behalf of employees enrolled automatically in 401(k) plans.

Those options are:

- Life-cycle or targeted retirement-date funds, where a mix of equities and fixed-income investments is adjusted to reflect an employee's age.

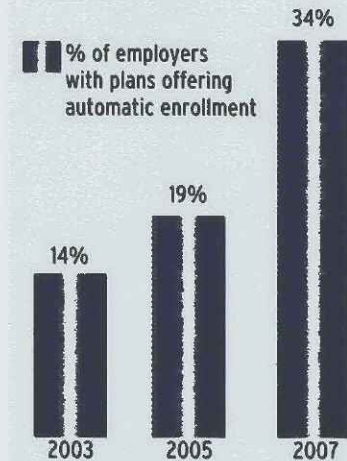
- Balanced funds, a mix of equities and fixed-income investments.

- Professionally managed accounts, where a professional investment manager oversees employees' portfolios.

Additionally, during the first 120 days in which an employee is covered in an automatic enrollment program, contributions could be directed to a fund, such as a money market or other so-called stable-value fund, with an investment strategy of preservation of capital. After that, though, contributions have to be shifted to one of the other investment options. The Labor Department said over the long run, capital preservation funds will not produce

ON THE RISE

More employers offering automatic enrollment in their 401(k) plans



Source: Hewitt Associates Inc.

rates of returns as favorable as the other permitted investment options, increasing the likelihood that participants whose contributions are invested in such funds will lack adequate retirement income.

The rules also give fiduciary liability protection for automatic enrollment contributions made to stable-value funds prior to when the rules take effect in late December.

By providing certainty about the types of funds that pass muster, the rules likely will encourage more employers to offer automatic enrollment programs, experts say.

"It will accelerate an already strong trend," said Alan Vorchheimer, a principal with Buck Consultants L.L.C. in New York.

The "automatic enrollment train already is at the station. Now the train may move a little faster," said Robyn Credico, national director of defined contribution consulting with Watson Wyatt Worldwide in

See ENROLLMENT page 6

U.S.-Canada plan clarifies cross-border pension deductions

Treaty amendments mutually beneficial for employers, workers

By GLORIA GONZALEZ

U.S. and Canadian employers would be able to deduct pension contributions for cross-border employees under proposed amendments to the United States-Canada Income Tax Treaty.

The revised treaty would shield against negative tax consequences for cross-border employees—residents of one country commuting to or temporarily living and working in the other country. It would allow

employers to claim deductions for pension contributions made to qualified retirement plans in the other country on behalf of cross-border employees.

While the current treaty addresses tax issues related to the distribution of pension benefits, there are no provisions governing pension contributions, meaning that cross-border employees and their employers could be taxed on contributions.

"Bottom line, it was not satisfactory trying to figure out the tax treatment," said Julie Y. Lee, a partner with the tax department and a member of the pension and benefits division of Osler, Hoskin & Harcourt L.L.P. in Toronto.

For example, Canadians who live in Windsor, Ontario, and commute to their jobs in Detroit and participate in their U.S. employer's 401(k) plan could have those contributions taxed in Canada, said Marcel Theroux, a consultant in the legal and tax department of Mercer L.L.C. in Toronto. "It was not a good scenario," he said.

The amendments would allow Canadian commuters to deduct their contributions to U.S. 401(k) and other qualified plans within deduction limits and not face any negative tax consequences in Canada, he said.

Meanwhile, U.S. commuters participating in qualified Canadian employer pension plans also would

be able to deduct their contributions within deduction limits.

In addition, residents of one country who move to the other country on short-term work assignments—up to five years in a 10-year period—and continue to participate in pension plans in their home country would be able to deduct those contributions within deduction limits.

"Because a person is not moving permanently, they much prefer to continue coverage in the home country plan," Ms. Lee said.

For example, an employee of a Canadian company who is assigned to work three years for a U.S. subsidiary and continues contributing to the Canadian pension plan

would be able to deduct those contributions for U.S. tax purposes. A U.S. employer also would be able to deduct contributions made to a Canadian pension plan on behalf of the employee.

"It makes it a lot easier to move across the border and continue to participate in your country's plans," Mr. Theroux said.

Canadian employers, meanwhile, could claim deductions for contributions to U.S. plans on behalf of their cross-border employees, who also could deduct their contributions.

Companies on both sides of the border transferring employees often

See **TREATY** page 43

Industry unites against Washington referendum

Impact on premiums a major point of debate

By MARK A. HOFMANN

In off-year elections in which only a handful of statewide contests will take place across the country, the most significant insurance-related issue appears to be a ballot question in the state of Washington.

The question—Referendum 67—involves the amount of damages a

plaintiff can recover in bad faith cases against insurers. The referendum, which is opposed by business and insurance groups and supported by labor and consumer groups, would allow plaintiffs to recover treble damages when successful, damages the executive director of the anti-Referendum 67 Liability Reform Coalition calls "a form of punitive damages."

"It allows people yet another way to sue insurance companies," said Dana Childers, executive director of the Seattle-based group.

She said Washington law currently allows such treble damages under only two circumstances—for acts of timber trespass and under the state Consumer Protection Act.

Referendum 67 "allows these treble damages with the lowest legal standard in the nation," Ms. Childers said, requiring only that the behavior involved was "unreasonable" rather than reckless or another higher standard.

She said the measure also calls for guaranteed mandatory fees to be awarded to plaintiffs' attorneys who prevail, with no such provision for defense attorneys.

"Consumers ought to be up in arms about it," she said, holding that the cost of insurance would increase if Referendum 67 is approved. In fact, a study by Milliman Inc. projected that the referendum could cost policyholders an additional \$650 million annually, she said.

A spokeswoman for Seattle-based Approve 67, which backs the referendum, dismissed the rate hike argument. "If an insurance company plays by the rules, it's not going to cost them a dime, she said. "If it doesn't cost them a dime, there's no reason for a rate hike."

She said insurers have "been peddling a study they bought and paid for that says rates will go up. There's

See **ELECTIONS** page 43

Wellness plans follow workers abroad

U.S.-based multinationals seek improved morale, productivity, retention

By JOANNE WOJCIK

SCOTTSDALE, Ariz.—U.S.-based multinational employers are exporting wellness and health promotion programs to their operations in other countries even though they are often not paying directly for those workers' health care.

While the primary objective of employer-sponsored wellness programs offered in the United States has been to reduce health care costs, they are being used in other countries to boost productivity and worker morale, to attract and retain workers and to reduce absenteeism due to illness and disability.

In some countries, governments are pressuring employers to improve employee health because of the increasing burden it is creating for taxpayers.

In Canada, for example, provin-

cial governments "have been trying to put their finger in the health care spending dike" for more than 10 years without much success, according to Denise Balch, president and founder of Connex Health in Burlington, Ontario, speaking during the Institute for Health and Productivity Management's annual conference Oct. 17-19 in Scottsdale, Ariz.

COVERAGE
of the Institute
for Health and
Productivity Management's annual
conference continues on
Page 42

will exceed 50% of provincial revenues in the next 10 to 24 years, she said.

As the Canadian provincial governments reduce benefits to rein in health care costs, the load is being

transferred to individuals and to employers, most of which offer supplemental benefits to their employees, according to Ms. Balch.

As a result, "we're seeing more prevention-focused workplaces," she said.

DuPont Mexico, a unit of Wilmington, Del.-based E.I. du Pont de Nemours & Co., offers wellness and health promotion programs because the government-run health care system "is bankrupt," according to Dr. Bernardo Curiel, medical director for Latin America.

"The government doesn't provide preventive care," Dr. Curiel said. "So if you want a checkup, you have to pay for it yourself."

DuPont Mexico's corporate wellness initiative, which includes employee assistance programs, health screenings and occupational

See **WELLNESS** page 42

One race undecided

This year's elections also feature two insurance commissioner races, one of which has already been decided.

James J. Donelon won reelection as Louisiana's insurance commissioner in the Oct. 20 open primary elections. Mr. Donelon, a Republican who was first elected to the post in a special Sept. 30, 2006, election, received 51% of the vote in the balloting earlier this month. His closest competitor, Democrat James Crowley, took 36% of the vote, with the remaining 14% garnered by a pair of other Republican candidates.

In Mississippi, two candidates are seeking to replace longtime Democratic Insurance Commissioner George Dale, who was defeated in the summer's primary. The victor in that race—Gary Anderson, an independent consultant and former state official—faces Republican state Sen. Mike Chaney in the Nov. 6 election.

—By Mark A. Hofmann

'Value-based' health plan designs focus on health, not merely dollars

Successes found in upfront spending that avoids long-term, higher costs

By JOANNE WOJCIK

SCOTTSDALE, Ariz.—Value-based benefit plan designs, which use financial incentives to encourage employees to access highly valued preventive health care services and take their maintenance medication, engender more consumer engagement than so-called consumer-driven health plans, many employers are discovering.

"As we have transferred more and more costs at the point of care to the member, we're asking them in this so-called consumer-centric environment to make decisions about what is a value-added treatment and what has less value, and they can't always make those deci-

sions on their own," said Randy Abbott, a senior consultant and national practice leader for worksite benefit strategies at Watson Wyatt Worldwide in Boston.

"We need to engage them and help them to make the decisions...but we can't ask them to make those decisions" on their own, he said prior to a dinner panel discussion during the Institute for Health and Productivity Management's seventh annual international conference held Oct. 17-19 in Scottsdale, Ariz.

"That's really what we're trying to shape in a value-based environment, helping to create that sense of what does add value," Mr. Abbott said. "Value-based designs are

patient-centered, holistic, resource-rich for patients, providers and employers—barrier-free and technologically enabling."

Value-based designs recognize there is a connection between consumerism and health management, agreed Andrew Scibelli, manager of employee health and well-being at FPL Group in Juno Beach, Fla., during another conference session.

In FPL's case, the holding company for Florida Power & Light Co. examined the claims experience of its population and found that those with three conditions—hypertension, high cholesterol and diabetes—were experiencing signifi-

See **BENEFITS** page 42

Business Insurance OPINIONS

Automatic enrollment tackles inertia problem

WE'D DESCRIBE the Labor Department's final rules on defined contribution plan automatic enrollment as "balanced."

Currently, automatic enrollment is one of the hottest trends in the defined contribution plan universe. With defined benefit plans fading, defined contribution plans are often becoming the only employer-sponsored retirement plan available to employees.

If employees don't contribute to the plans, there will be a much greater likelihood that they won't have enough money saved up to enable them to retire at a normal age.

There are large numbers of employees, who for no reason other than inertia, fail to opt into the plans, losing a tax-favored way to save for retirement, and employer matching contribution.

Automatic enrollment is one of the hottest trends in the defined contribution plan universe.

Automatic enrollment programs tackle that inertia problem head-on. The evidence that this enrollment strategy is successful is that once enrolled, very few employees ask to get out.

Employers have held back from putting these programs in place due to the lack of guidance on the type of investment funds to which employers can direct the contributions and be shielded from liability if the investments do badly.

That no longer is an issue with the release of the Labor Department rules, which give employers plenty of investment choices and offer protection from fiduciary liability.

The Labor Department made a proper choice by eliminating one investment choice, stable value funds—except during an employee's first few months of participation. Simply put, those kind of funds, over the long term, won't generate returns sufficient to produce adequate retirement income.

Still, in the absence of protective rules, many employers, up to now, have offered such funds—whose appeal is that the risk of lost capital is minimal—in their automatic enrollment plans. Given that, the Labor Department said contributions that already have been made to those kind of investments will receive the same kind of fiduciary liability protection as the other sanctioned investment funds.

That strikes us as fair and balanced.

Building codes measure is hard offer to refuse

FACED WITH A CHOICE between a carrot and a stick as an incentive to do something, people generally respond more readily to the carrot. That logic appears to undergird a recently introduced House bill designed to get states to adopt and enforce effective building codes.

Under the Safe Building Codes Act, states that enact comprehensive building codes would be eligible for additional federal disaster relief funds after a catastrophe. The bill's sponsors say, quite correctly, that strong building codes mean less taxpayer money is needed for reconstruction after a catastrophe.

The bill enjoys broad support from the insurance industry, and rightly so. Better codes, if enforced, lead to lower claims expenses, in both terms of the size of the claims and the cost of adjusting them. Better codes also mean that people's—and businesses'—lives will face less disruption in a disaster's aftermath simply because they were better able to weather the storm.

By offering a carrot in the form of additional disaster relief to states that strengthen building codes, the bill's sponsors will present states with an offer they should find hard to refuse. This is the sort of legislation that merits swift and positive action on Capitol Hill.



Letter to the Editor

Children's well-being should be top priority

TO THE EDITOR: I am writing in response to your coverage of the votes on children's health legislation (*BI*, Oct. 8). I am dismayed that so many in Congress voted against legislation to provide 3.9 million uninsured children with the coverage they need for a healthy start in life. Ten million children—over 6 million children in the program as well as millions more who are uninsured—are at risk. Families here locally are watching these actions in Washington, and we should remember which politicians stood with our children to move forward with health coverage.

In the midst of all the misinformation it's easy to overlook that the State Children's Health Insurance Program has been a real bipartisan success story—it has helped cut the number of uninsured children by one third over the past 10 years. As leaders in Congress contemplate their next move, I hope they will make the well-being of children their top priority and not sacrifice our children's well-being in negotiations with politicians that clearly have the wrong priorities.

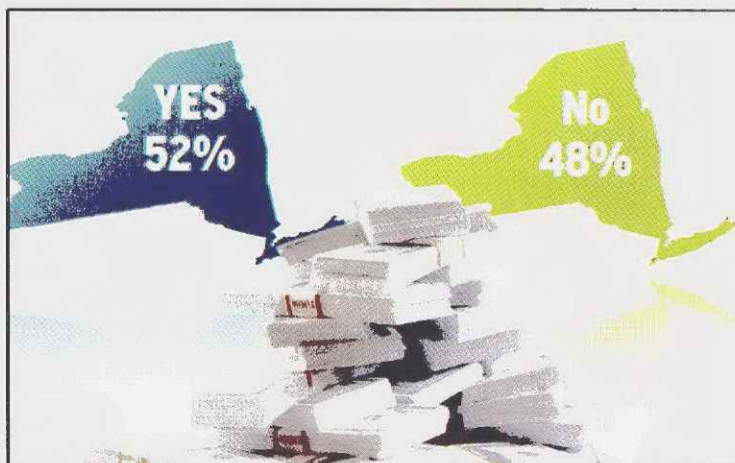
James Harris Jr.
Gary, Ind.

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Will New York's move to relax collateral requirements for highly rated foreign reinsurers benefit insurance buyers?



NEXT WEEK'S POLL: Does your employer offer automatic enrollment in a 401(k) plan?

BI Online Poll tool sponsored by Wausau Insurance Cos.

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Market Moves

PMA Capital buys Okla. Underwriter, TPA

OKLAHOMA CITY—PMA Capital Corp. of Blue Bell, Pa., is purchasing Midlands Management Corp., which underwrites excess workers compensation coverage and offers third-party administration services.

PMA will pay \$19.8 million in cash when the deal closes. The final price will range from \$22.8 million to \$44.5 million, contingent on Midlands' performance over the next four years, PMA said.

Midlands, which had \$30 million in revenue last year, will maintain its independent brand and remain in Oklahoma City.

Separately, PMA Insurance Group formed PMA Specialty Markets to court the growing captive and group markets, the property/casualty insurer said. Raymond J. Rocchio Jr. leads the unit as vp of specialty markets.

Marsh, Paradigm team in workers comp effort

NEW YORK—Marsh & McLennan Cos. Inc. and Paradigm Management Services L.L.C. have reached an agreement to offer Paradigm's workers compensation case management services to Marsh clients.

The effort will target employees with chronic pain or catastrophic injuries.

"Effective management of these complex cases ultimately can result in lower premium rates for employers with insured workers compensation plans," said Mark Noonan, a managing director and leader of Marsh's workers comp practice.

Lockton expands with San Antonio office

SAN ANTONIO—Lockton Cos. Inc. has opened a San Antonio office offering brokerage and benefits consulting services.

Todd Trcka, most recently with Aon Consulting, is senior vp and producer of the office at the Plaza at Concord Park, 700 E. Sonterra Blvd., Suite 1211, San Antonio, Texas 78258. The new office's phone number is 210-491-3101.

ISO acquisition expands health care capabilities

SANDY, Utah—Insurance Services Office Inc. has acquired Sandy, Utah-based HealthCare Insight L.L.C., expanding ISO's fraud and abuse detection abilities to the health care field.

ISO, which did not disclose terms, said the current staff and leadership of HealthCare Insight would continue operating in Utah.

Brown & Brown acquires PRM Group assets

PURCHASE, N.Y.—Brown & Brown Inc. has acquired the assets of agent

PRM Group L.L.C., which includes Professional Risk Managers Inc.

Daytona Beach, Fla.-based Brown & Brown did not disclose terms of the deal for PRM Group, which had about \$4.5 million in annual revenue. PRM and its executives will remain in Purchase, N.Y., Brown & Brown said.

Gallagher & Co. adds BIS Insurance

SACRAMENTO, Calif.—Itasca, Ill.-based Arthur J. Gallagher & Co. has increased its operations with the acquisition of BIS Insurance Services Inc.

Terms of the deal for the Sacramento, Calif.-based employee benefits insurance brokerage, which will

operate in its current location, were not disclosed.

ProSelect keeps doctors' rates flat in Rhode Island

BOSTON—Citing a decrease in frequency of medical malpractice claims and stabilization in the severity of awards, ProSelect Insurance Co. will not seek rate increases this year for individual physicians it insures in Rhode Island.

It also credited its risk mitigation efforts with doctors for the decision.

Aside from Rhode Island, the Boston-based insurer did not seek higher medical liability rates this year for individual physicians in Massachusetts, New Hampshire, New Jersey and Vermont.

Engle Martin expands California presence

ROCKLIN, Calif.—Engle Martin & Associates Inc., an Atlanta-based insurance adjuster and claims administrator, has added to its California operations. Its new office is at 6510 Lonetree Blvd., Suite 101, Rocklin, Calif. 95765. The phone number is 916-786-5445.

Hiscox opens Global Markets unit

NEW YORK—Bermuda-based specialty insurer Hiscox Group launched U.S. Global Markets, a division with offices in New York and San Francisco, to serve brokers working on behalf of larger-size risks and offer-

ing media liability, technology errors and omissions and privacy protection cover. Neil Bolton is president of the new division.

Liberty Mutual unit buys Brazilian insurer

SÃO PAULO, Brazil—Liberty International Brasil Ltda., the Brazilian subsidiary of Liberty Mutual Group, agreed to purchase Brazilian insurer Indiana Seguros S.A. based in São Paulo. The purchase is subject to Brazilian regulatory approval.

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In Brief
Blumenthal subpoenas reinsurers on practices
Connecticut Attorney General Richard Blumenthal last week said he is investigating anticompetitive practices in the reinsurance industry, with his office issuing about 20 subpoenas to companies thus far. Mr. Blumenthal declined to provide specifics of the investigation or identify companies subpoenaed.
House panel OKs adding wind cover to NFIP
The House Financial Services

Terror backstop renewal gains momentum
House subcommittee passes bill despite partisan differences; full panel expected to act this week
By MARK A. HOFMANN
WASHINGTON—Partisan disagreement over the shape of a continued federal terrorism insurance backstop does not endanger the program, according to proponents of an extended program.
Differences emerged between many Republicans and their Democratic counterparts on the House Financial Services Committee's Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises when the panel approved the Terrorism Risk Insur-
Subcommittee chairman Paul Kanjorski, D-Pa., who offered the amended bill, also called for adding one representative each from the workers compensation insurance industry and the commercial real estate industry to a commission on terrorism risk insurance. The panel would make recommendations concerning the marketplace within five years of TRIRA's enactment and would issue a report eight years after the bill became law.
The subcommittee also approved an amendment offered by Rep. Richard Baker, R-La., that would

U.S. Rep. Paul Kanjorski, D-Pa., left, introduced revised terror backstop legis-

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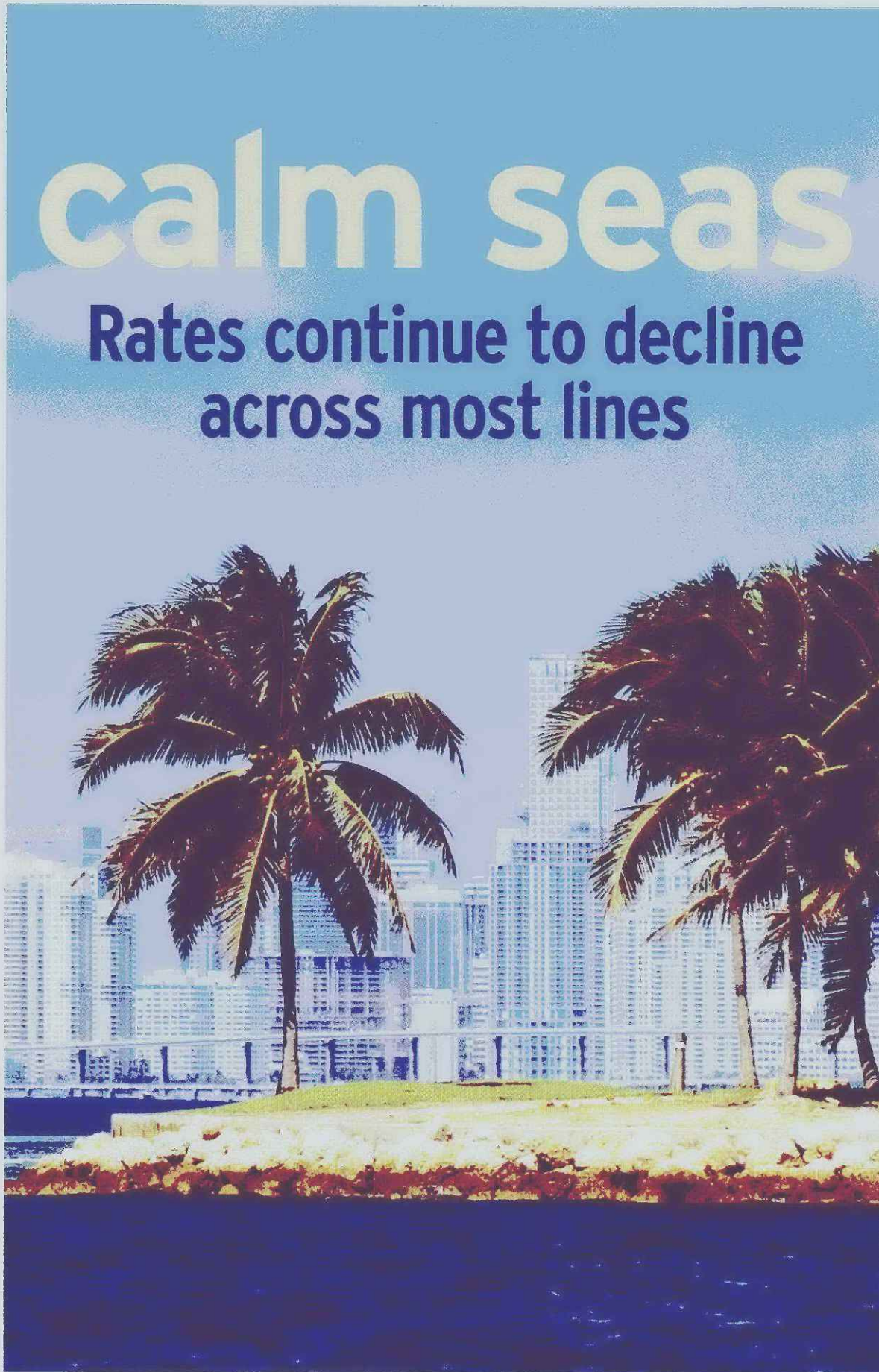
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calm seas

Rates continue to decline across most lines

Reinsurers hold line on underwriting despite accelerating rate declines

Experts question whether companies will maintain pricing discipline

By **JUDY GREENWALD**

Can reinsurers continue to maintain pricing discipline?

The question is being asked in light of the insurance market's overall softening. While reinsurers are understandably reluctant to cut their underwriting profitability,

they are also anxious to continue to boost their revenues.

Some observers believe reinsurers will get caught up in a battle for U.S. market share as they struggle to continue to grow following two strong earnings years.

But others say rating agency oversight, improved technology, rela-

tively low interest rates that discourage cash flow underwriting and the experience of underwriters who have already been through soft markets are among factors that will prevent rampant price-cutting across-the-board.

See **REINSURERS** next page

Reinsurance:
Trends
& Issues

SPOTLIGHT



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Reinsurers: Experts split on whether companies will maintain discipline

CONTINUED FROM PREVIOUS PAGE

Meanwhile, observers report reinsurance rates are declining at an accelerating rate, although underwriting remains disciplined so far.

"The good news is that there's been meaningful profitability that has returned to the business from the challenging year we had in '05," but improved loss trends and increased capital in the business have led to softer pricing, said David Priebe, chief executive officer of the Global Specialty Group at New York-based Guy Carpenter & Co. "The competitive spirit has picked up."

"We're pretty much seeing across-the-board softening, obviously some areas more than others," said John Berger, CEO of Hamilton, Bermuda-based Harbor Point Ltd.

"Peak zone property (catastrophe) is probably the most resilient, but it's such a moving target it's hard to generalize. When you talk to the insurance people, agents and on the direct side, any given account is close to expiring" or off by 30% to 40%, Mr. Berger said. "It's really a hit or miss thing."

"Clearly, what happened in the market now is there is an overabundance of capacity chasing too little

premium, and we're starting to see obviously downward pressure on the rates as a result of that," said Richard DiClemente, president and CEO of New York-based THB Intermediaries Inc.

Mark Rouck, senior director with Fitch Ratings Ltd. in Chicago, said property cat rates have held up better than other lines, especially in Florida and the Gulf Coast states, but "absent the large events there in the next month and a half, I think those lines will start to feel pressure as well."

The weather losses over the next 12 to 18 months are the "big unknown," said John L. Ward, CEO

of Cincinnati-based Cincinnati Partners L.L.C., an advisory firm that specializes in the insurance industry.

"If big cat losses don't hit the market, then this would likely be a long-term softening cycle. And if cats hit in a big way, that could reverse that trend," he said.

Despite the rate softening, "I think certainly all the underwriters I've spoken to feel they've got profit margins left in their books of business, and there's obviously room for some softening of rates without creating dire consequences for their results," said William J. Adamson, CEO of Carvill America Inc. in

Chicago.

"It's hard at this point to talk about whether the reinsurance industry is being disciplined," said Patrick Mailloux, Armonk, N.Y.-based president and chief operating officer of Swiss Reinsurance Co.'s P&C Americas division. "We're certainly seeing more competition at the insurance company level, but because these companies are keeping a lot of that business net, in my view the reinsurance market is being disciplined by the fact that they're not...seeing the low-quality business." (see story, page 22)

"It'll be interesting to see what happens in the January renewals and next year," said Mark Lane, a principal and research analyst with William Blair & Co. in Chicago. "It doesn't seem like we've seen the bottom drop out of the market in terms of pricing, but it's still possible," said Mr. Lane, who noted reinsurers are to a certain extent subject to "the whims of the primary market."

Some observers believe reinsurers will maintain discipline despite the softening market.

Michael D. O'Halleran, executive chairman of Aon Re Global in Chicago, said, "I think that everybody's looking very hard at the (Jan. 1) renewals and saying, 'How much further can we afford to go?' and I would say for the most part, reinsurers are going to be fairly disciplined."

Jamie Veghte, Stamford, Conn.-based executive vp and chief executive of reinsurance operations for XL Re, a unit of XL Capital Ltd., said he believes reinsurers will maintain more discipline than they have in the past.

"I think there's several elements in this time period that differ from historic conditions," Mr. Veghte said. "One is that the influence of the rating agencies is much stronger than it was even 15 years ago, and I think they will take a very dim view of reinsurers that are aggressively growing."

Furthermore, "the transparency of the underwriting information we get and improved analytics in our pricing, too, really allow us to have a much better feel for where we are in the cycle."

Also, there are fewer lead markets, said Mr. Veghte. "I think that should help prevent us from going into an extremely steep and long" soft market, as has been the case historically.

Some observers believe past experience will be a factor.

"It's going to be interesting," said Steven K. Bolland, president of New York-based reinsurance intermediary Gill & Roeser Inc. "Obviously, there's a lot of new reinsurers from the last time there was a soft market, but basically the names (of the reinsurers) may have changed, but a lot of the underwriters remain the same."

As a result, Mr. Bolland said he expects to see some softening in the market, but thinks that underwriting discipline will be maintained.

"I think we're sort of reaching the point in many lines" where rates are

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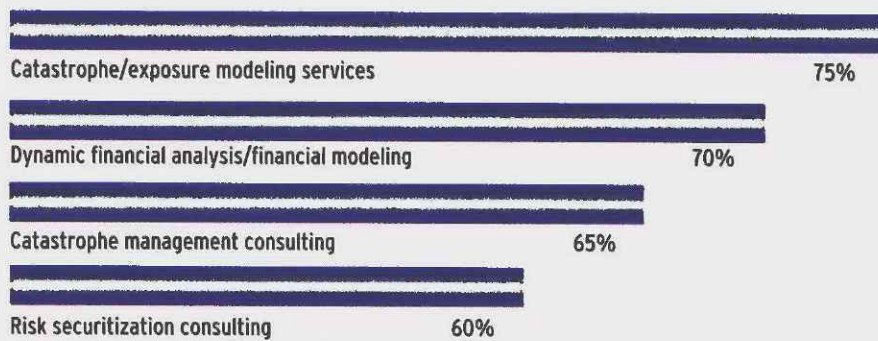
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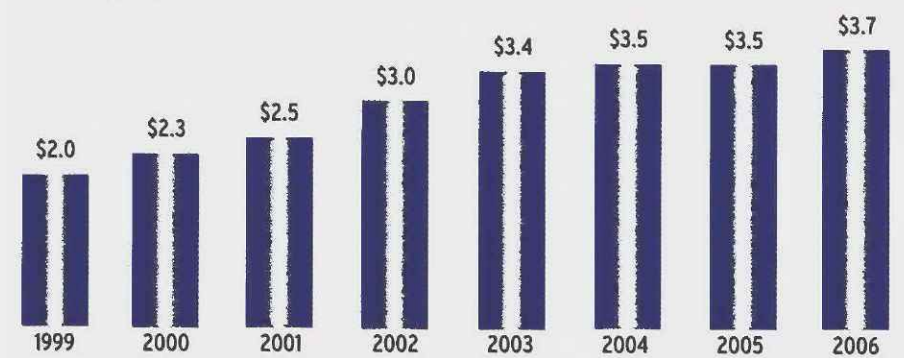
Based on percentage of companies offering services other than reinsurance brokering.



Source: BI survey

GROWTH IN REINSURANCE BROKERAGE REVENUES

As a group, the world's 10 largest reinsurance brokers have seen steady gains in brokerage revenues since 1999. In billions of dollars.



Source: BI survey

World largest reinsurance brokers

Ranked by 2006 gross revenues from reinsurance brokerage and related services*

Rank	Company/Address	Phone/Fax/Web site	2006 reinsurance gross revenues	2005 reinsurance gross revenues	% change	2006 employees	Principal officer
1	Aon Re Global Aon Center, 200 E. Randolph St., Chicago, Ill. 60601	312-381-5300 Fax: 312-381-0160 www.aon.com	\$942,000,000	\$920,000,000	2.4%	2,617	Ted D. Devine, CEO
2	Guy Carpenter & Co. L.L.C. 1 Madison Ave., Fourth Floor, New York, N.Y. 10010-3658	917-937-3000 Fax: 917-937-3500 www.guycarp.com	\$880,000,000	\$836,000,000	5.3%	2,600	David Spiller, president/CEO
3	Benfield Group Ltd. 55 Bishopgate, London, EC2N 3BD England	44-207-578-7000 Fax: 44-207-578-7001 www.benfieldgroup.com	\$654,960,020 ¹	\$589,809,600 ²	11.0%	2,000	Grahame Chilton, group CEO
4	Willis Re 10 Trinity Square, London, EC3P 3AX England	44-207-488-8111 Fax: 44-207-488-8976 www.willisre.com	\$597,700,000	\$565,000,000	5.8%	1,234	Grahame Millwater, chairman
5	Towers Perrin Centre Square East, 1500 Market St., Philadelphia, Pa. 19102-4790	215-246-1600 Fax: 215-246-1700 www.towersperrin.com	\$165,700,000	\$153,300,000	8.1%	430	William H. Eyre Jr., managing director/CEO
6	Cooper Gay (Holdings) Ltd. 52 Leadenhall St., London, EC3A 2EB England	44-207-480-7322 Fax: 44-207-481-4695 www.coopergay.com	\$133,660,000	\$92,750,000	44.1%	498	Toby Esser, CEO
7	Jardine Lloyd Thompson Group P.L.C. 6 Crutched Friars, London, EC3N 2PH England	44-207-466-1300 Fax: 44-207-466-1470 www.jltre.com	\$118,530,620 ¹	\$155,826,240 ²	-23.9%	N/A	Dominic Burke, group chief executive
8	BMS Group 1 America Square, London, EC3N 2LS England	44-207-480-7288 Fax: 44-207-374-5928 www.bmsgroup.com	\$74,733,735 ¹	\$75,252,982 ²	-0.7%	353	John Spencer, group chief executive
9	Gallagher Re 6 Alie St., London, E1 8DD England	44-207-204-6000 Fax: 44-207-204-6262 www.gallagherre.com	\$71,300,000	\$75,000,000	-4.9%	220	Simon Gander, CEO
10	John B. Collins Associates Inc. 8500 Normandale Lake Blvd., Suite 2400, Minneapolis, Minn. 55437	952-820-1000 Fax: 952-820-2700 www.collins.com	\$64,400,000	\$52,035,000	23.8%	177	Patrick J. Denzer, president/CEO

*Includes all reinsurance revenue reported through holding and/or subsidiary companies. 1 Fiscal year 2006 British pound=\$1.8434. 2 Fiscal year 2005 British pound=\$1.8204. N/A=Not Available.

Source: BI survey

Researched by Kevin Edison and Karen Tucker

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Reinsurers: Maintaining pricing discipline

CONTINUED FROM PAGE 12

falling below price adequacy particularly in primary lines, Mr. Priebe said. "It's always a very delicate balancing act" between Wall Street's expectations and the need for price adequacy.

"But I think we saw the pitfalls of growing in a soft market and that will continue to put the brakes on in terms of how fast things start moving down," Mr. Priebe said.

Anne Marie Roberts, CEO of BMS Intermediaries Inc. in Dallas, a unit of BMS Group Ltd., said underwriters have become more sophisticated, given their access to informa-

tion and the use of catastrophe models.

"The models are helping" to maintain discipline in the marketplace, while Katrina remains very much in the minds of those in the industry, said Cliff Gallant, an analyst with K&E, Bruyette & Woods Inc. in New York.

But others question whether discipline will be maintained.

Mr. Roubek said the better tools now available to manage the underwriting cycle "don't negate the fact that it's to a large extent a commodity-type product and the cycle still exists."

"Unfortunately, as an industry,

we've never proven to be as disciplined as we like to say we are," said Bart Hedges, president and chief underwriting officer of Cayman Islands-based Greenlight Reinsurance Ltd.

Reinsurers "talk a good game" when it comes to discipline, said Paddy Jago, New York-based CEO of Willis Re Inc., the reinsurance unit of Willis Group Holdings Ltd. "Rubbish, I say. I don't believe that reinsurers will maintain discipline. They have goals, one of which is inevitably growth, and whereas they talk about discipline, growth in a falling market very rarely results in discipline."

Rise in retro capacity still fails to satisfy appetite for coverage

By JUDY GREENWALD

Reinsurers will find more traditional retrocessional capacity in the market for 2008 than they did for 2007, although not necessarily as much as they would like, say many observers.

Much of the retro capacity is being provided by the London and Bermuda markets, they say, and

additional capacity is still being provided by the capital markets.

"Retrocessional capacity has actually increased," said Michael D. O'Halloran, executive chairman of Aon Re Global in Chicago. While there has never been enough retro capacity to meet all the market's needs, "there are significant movements in the market to provide retrocessional capacity," whereas for two years very little capacity was available, he said.

"There will be more capacity available along with acceptable terms and conditions as we go into 2008," said Paddy Jago, New York-based chief executive officer of Willis Re Inc., the reinsurance brokerage unit of Willis Group Holdings Ltd.

"However, this has been brought about by a lot of companies looking for that magical growth, an increase in revenues, and the question is whether they are turning back to offer terms and conditions and indeed pricing, which perhaps got them into difficulties in the first place," he said.

Eric Brosius, senior vp and manager of reinsurance for Liberty Mutual Insurance Co. in Boston said, "It certainly was about as tight a market as you could imagine a year ago, and I think I now hear people saying that maybe some of it will come back in 2008, but I think that means coming back from almost none or a little."

Most observers expect retrocessional capacity "will be scarce and expensive next year, but not quite as scarce and expensive as it was previously," said Mr. Brosius. "Some availability, even at high prices, is a good thing," he said.

It is still expensive, said William J. Adamson, CEO of Carvill America Inc. in Chicago.

"Certainly with the capital markets' involvement growing, I think there's probably more options, but it's still a push-pull with the buyers and sellers as to what is the price they're willing to pay," he said.

"Right now, the retro market is pretty darn quiet," said John Berger, CEO of Hamilton, Bermuda-based Harbor Point Ltd, which announced in December the formation of New Point Re Ltd. to write collateralized retrocessional contracts. However, "People bought going into the cat season last year and now it's kind of wait and see what the market's going to be like," he said. "It's kind of early to be buying."

Meanwhile, "The capital markets continue to remain fairly active" in providing retrocessional coverage, said John L. Ward, CEO of Cincinnati-based Cincinnatus Partners L.L.C., an insurance advisory firm.

"While it is a bit of a supply and demand balancing act between traditional capacity and capital markets' capacity, I do expect that capital markets will continue to play an increasing role."

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HOSE REELES NOW MANDATE DOMESTIC VIOLENCE LEAVE FOR EMPLOYEE VICTIMS / PAGE 3



Online chat tools create exposures

Businesses are turning to online chat tools to improve customer service and reduce support costs. However, these tools also create new risks for businesses, such as data breaches and identity theft. Experts advise businesses to take steps to protect their data and systems when using chat tools.

Few risk managers join SOX compliance efforts

Companies face a difficult choice: whether to invest in SOX compliance or risk their reputations. Many risk managers are hesitant to join the effort, citing the high cost and complexity of the regulations. However, non-compliance can result in severe penalties and damage to the company's reputation.

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Florida expanded its catastrophe fund after massive losses from the 2005 hurricane season. REUTERS

Fla. cat fund helps hold down prices

By JUDY GREENWALD

The reinsurance capacity provided by Florida's catastrophe fund has contributed to softening elsewhere in the United States, according to some observers.

The Florida Hurricane Catastrophe Fund was created in 1993 in the wake of Hurricane Andrew to provide a substantial layer of government-backed reinsurance capacity for insurers in the state.

In January, Florida expanded the fund to more than \$30 billion in response to concerns about the cost of the property cat reinsurance,

which soared after hurricanes Katrina, Rita and Wilma in 2005.

While there is general agreement that the fund's impact has been less than initially anticipated, some say it has still contributed to softening elsewhere.

"The reinsurance companies redeployed their capital from what would have been deployed in property cat reinsurance in Florida to other lines, such as casualty lines and noncat prone property lines," said John L. Ward, CEO of Cincinnati-based Cincinnati Partners L.L.C., an advisory firm that specializes in the insurance industry. "That

shift in capital has had an impact in the marketplace and has tended to be a factor in the soft market trend that we're seeing in those other lines of business."

In the soft market, "I think that's a driver," said Bruce Ballentine, an analyst with Moody's Investors Service in New York. "We've heard from several reinsurers that capital reallocated away from Florida has intensified the price competition."

"It's hard to imagine that some of that capital hasn't found its way into other segments of the market, including the casualty market," said Mark Lane, an analyst with William Blair & Co. in Chicago.

"It's had a material effect and we expected it would," said Brian McGuire, senior vp at New York-based reinsurance intermediary U.S. RE Corp. He said one client, a single-state insurer in the Midwest, just renewed its reinsurance program, including catastrophe coverage, at a 24% rate decrease.

"It may not have been a traditional structure, but we found ample opportunity to sell our capacity" in Florida, said Jamie Veghte, Stamford, Conn.-based executive vp and chief executive of reinsurance operations for XL Capital Ltd. said. Some insurers bought additional vertical coverage, for instance, while others bought second- and even third-event protections, he said.

"Cedents purchased more reinsurance outside of the public vehicles than many reinsurers had anticipated," with the funds saved being used to buy additional limits for their programs, said Linda Johnson, executive vp at reinsurance intermediary Benfield Inc. in Minneapolis.

A more important factor in the softening market than the Florida cat fund has been "two very good years, where basically there's been no significant catastrophe loss to the reinsurance market," said Steven K. Bolland, president of New York-based reinsurance intermediary Gill & Roeser Inc.



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Reinsurers seek to grow through diversification efforts

Niche business lines seen as means to fight softness elsewhere

By JUDY GREENWALD

Reinsurers are continuing efforts to diversify and are doing so in various ways, observers say.

They are expanding geographically, offering new product lines and distribution channels, and entering the primary market. Another diversification route is merger and acquisition activity (see story, page 24).

Some observers, though, say reinsurers would be better off sticking with the business they know best.

Among diversification efforts, Munich Re Group earlier this month agreed to acquire Cincinnati-based Midland Co., a specialty insurer, in a deal valued at \$1.3 billion. Earlier this year, Hamilton, Bermuda-based Max Capital Group Ltd. established a U.S.-based excess and surplus lines platform, Max Specialty Insurance Co.

Lloyd's of London has also been a focus of diversification initiatives. In June, Hamilton, Bermuda-based Montpelier Re Holdings Ltd. was given approval to establish syndi-

cate 5151 to underwrite nonmarine property, engineering and some casualty business.

And in July, Hamilton, Bermuda-based reinsurer Ariel Holdings Ltd. said it would acquire Atrium Underwriting P.L.C., which manages Lloyd's syndicates 570 and 609.

Some reinsurers are already well-diversified, according to observers.

Patrick Mailloux, Armonk, N.Y.-based president and chief operating officer of Swiss Reinsurance Co.'s P&C Americas division, said, "If you look at the large reinsurers like ourselves, like Munich Re, we are very well-diversified, whether it's geographically, between Asia, Europe

and the Americas, but also by various lines of business, whether it be property and casualty, or life and health or alternative financial services."

Others, though, are still seeking diversification, some observers say.

"The pursuit of diversification is still taking place," said Damien Magarelli, a director at New York-based Standard & Poor's Corp. In part, this is a continuation of a trend that started a few years ago as reinsurers sought to reduce their catastrophe exposure, he said.

Now "the main focus that is taking place in the market is companies are really looking for niche

areas of business, markets where the pricing is still strong" or has not declined as much as in other lines, he added.

"There's always an effort for some companies to grow or to diversify, but now, as we're approaching a softening stage in the market, the main focus is to look for profitable business and business that's priced adequately," said Mr. Magarelli.

David Priebe, CEO of the global specialty group at New York-based Guy Carpenter & Co. L.L.C., said in an effort "to achieve greater stability and also leverage their capital more effectively," reinsurers have been expanding their portfolios in Europe and Asia "and have been acquiring underwriting talent in

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'It's an extraordinary thing, where rating agencies try and push reinsurers into greater diversification, not realizing this often encourages ignorant people to do even more ignorant things.'

Paddy Jago, Willis Re Inc.

lines of business that they previously hadn't, such as the professional lines and some of the marine and aviation lines."

Diversification efforts have pushed down prices in some areas, said Mr. Priebe.

Anne Marie Roberts, CEO of Dallas-based BMS Intermediaries Inc., a unit of BMS Group Ltd., said she has gotten requests from reinsurers to look at casualty business that she handles when she meets with them at the Property Casualty Insurers Assn. of America's annual meeting in Boston this week. Many of the reinsurers have not written casualty business before, she said.

So far, reinsurers have been conservative in their diversification efforts, observers say.

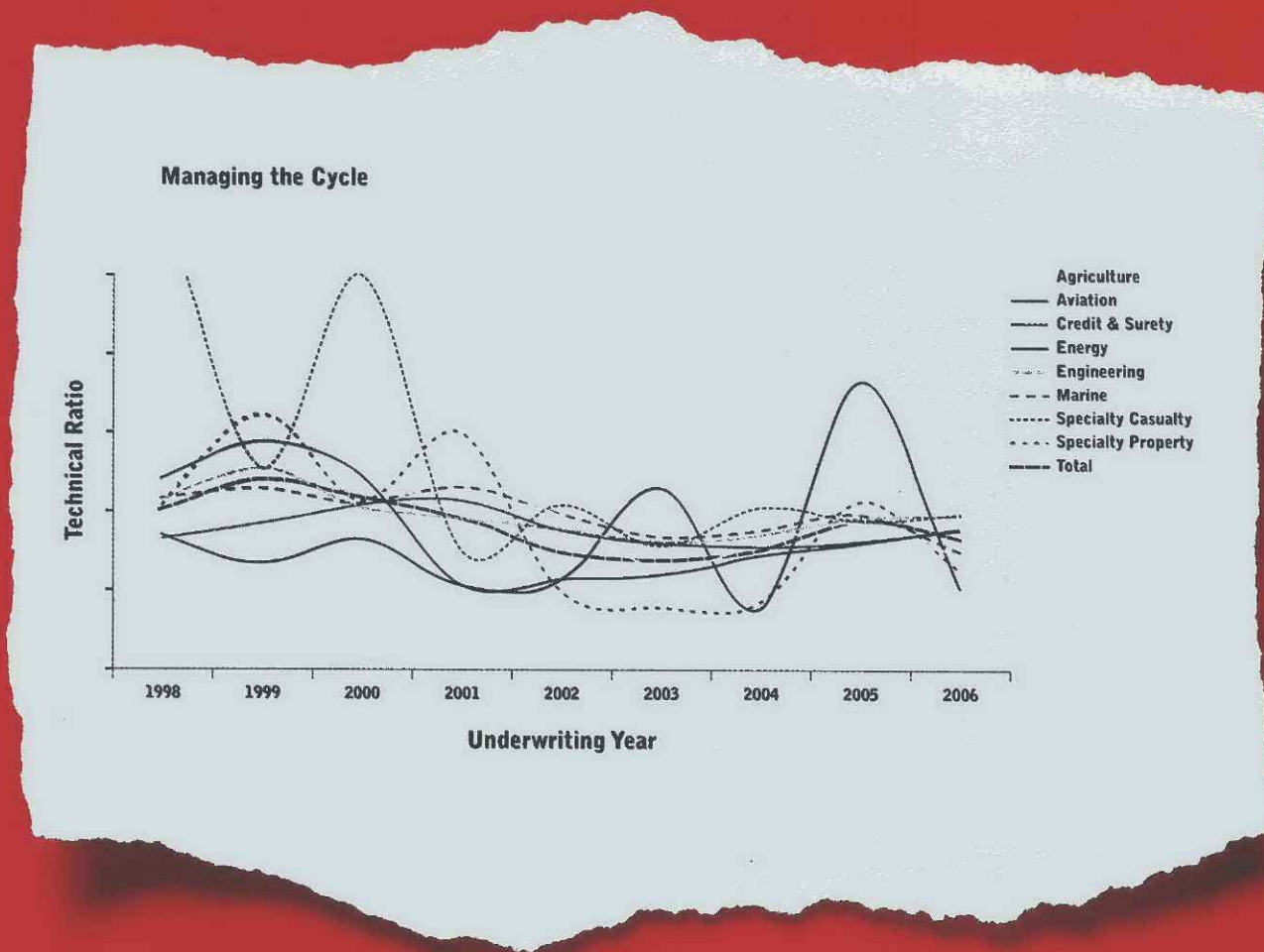
Reinsurers have been doing it well, said Mr. Priebe. No one has "raced into a market that didn't have the requisite skills and capabilities to properly underwrite and manage those lines," he said.

Reinsurers are "staffing up with experienced underwriters," said Ms. Roberts. They are thinking about their business model and what they want to invest in, in the future. They will "sharpen their pencils, but not be foolish about it because the value of the information they have is very good," she said.

However, John Berger, CEO of Hamilton, Bermuda-based Harbor Point Ltd., said, "We see companies diversifying for the sake of diversifying" and writing underpriced business. This business must be well-priced and have an appropriate

See **DIVERSIFICATION** page 22

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Diversification: Reinsurers seek growth

CONTINUED FROM PAGE 20

margin, "and we think some companies are missing the boat there."

Paddy Jago, New York-based CEO of Willis Re Inc., the reinsurance unit of brokerage Willis Group Holdings Ltd., said, "It's an extraordinary thing, where rating agencies try and push reinsurers into greater diversification, not realizing this often encourages ignorant people to do even more ignorant things."

At the end of the day, higher-grade reinsurers "will stick to their knitting and focus on those factors that made them top grade and not

look outside for the benefit of the rating agencies," Mr. Jago said.

But those threatened with falling ratings because they are monoline "may look to embark into other areas," he said. "I think it's a grave mistake, and I think they will suffer as a consequence. It's difficult enough to get things right in your own business," he said. "To get things right on somebody else's business is even more challenging."

"There's a fine line between diversification and getting into business that you don't understand," said Jeff Palmer, managing partner at Devon, Pa.-based SMART Business Advisory & Consulting

L.L.C., a general business consulting firm.

John Gwynn, managing director at Morgan Keegan & Co., a Memphis, Tenn.-based financial services firm, said, "I'm not sure how profitable" diversification is going to be aside from that embarked upon by major reinsurers such as Swiss Re and Munich Re.

Most reinsurers "tend to have pretty narrow specializations reflecting fairly small staffing levels and I'm not sure how well-equipped the second tier of reinsurers are to balance their books of business with profitable diversification," Mr. Gwynn said.

Insurers keep more risk despite drop in rates

Strong balance sheets, push for net growth cuts reinsurance needs

By JUDY GREENWALD

Primary insurers traditionally buy more reinsurance in a softening market, but that is not happening this time around—at least not so far.

Observers attribute the trend to

insurers' strong balance sheets, which have made them more comfortable about retaining risk, and a desire to show higher growth rates.

But if reinsurance rates continue to decline, primary insurers may be unable to resist shedding some of the risk from their books, observers say.

"Client retention is one of our biggest competitors right now," said Jamie Veghte, Stamford, Conn.-based executive vp and chief executive of reinsurance operations for XL Re, a unit of XL Capital Ltd. "We're seeing many, many clients absorb more of their own business, which is slightly counterintuitive to what is expected in softening market conditions."

"I believe there are probably two things driving it," Mr. Veghte said. "One is the industry has been extremely profitable over the past couple of years. Balance sheets are that much stronger, which puts clients in positions to be able to absorb more of their own risks."

"Secondly, growth is a challenge right now for primary insurers," which are retaining more risk in an effort to "create net growth in that fashion," said Mr. Veghte.

David Priebe, chief executive officer of the global specialty group at New York-based Guy Carpenter & Co. L.L.C., said: "This has had a major impact on the reinsurance community as ceding companies have been taking significantly higher net positions or dropping reinsurance altogether, and a lot of this has really come from doing more enterprise-based capital and risk modeling within their own companies."

"They have already built diversification in areas that aren't necessarily correlated in terms of their loss activity and found a number of underlying reinsurance structures are not really providing justifiably large enough capital relief support, so the decision, 'Do I buy it or do I retain it?' became more of a capital decision" rather than a matter of buying reinsurance "right off the product line," Mr. Priebe said.

William J. Adamson, CEO of Carvill America Inc. in Chicago said, though, "We won't know for a few years" whether retaining this risk is the right decision.

Some observers say there has been some increased purchasing of reinsurance, but at the top layers.

"Basically, the primary companies have increased their retentions but also bought higher up in layers on the excess loss side," although there has not been much change in the quota share market, said John Laubach, senior financial analyst at Oldwick, N.J.-based A.M. Best Co. Inc.

Anne Marie Roberts, CEO of BMS Intermediaries Inc. in Dallas, a unit of BMS Group Ltd., said middle-market insurers with which BMS deals "are very reinsurance-dependent so, from our perspective, we're seeing them retaining more but still buying the catastrophic coverage"

See **RETENTIONS** page 24



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Retentions: More insurers buying less reinsurance

CONTINUED FROM PAGE 22

they need.

Some observers believe it is only a matter of time before ceding companies generally start to buy more reinsurance.

"It hasn't happened yet because the margins are still very good," said Mark Lane, an analyst with William Blair & Co. in Chicago. "It will be interesting to see what happens next year."

During the last soft market, "the quality of the business was eroded to the point where a number of insurers changed from a 'buy and hold' to a 'buy and sell,' at which point the cession rates definitely turned the other way and started moving up again," said Patrick Mailoux, Armonk, N.Y.-based president and chief operating officer of Swiss Reinsurance Co.'s P&C Americas division.

This will happen again, say observers.

As pricing deteriorates on core business and primary insurers realize more losses, reinsurance cessions will begin to pick up, Best's Mr. Laubach said.

The inflection point—when it becomes more economical to buy reinsurance than to retain the risk—"is bound to happen," said Best Senior Financial Analyst Devin Inskeep.

"I think we're certainly headed in that direction," said Richard D-Clemente, president and CEO of

New York-based THB Intermediaries Inc. "It will come for sure, especially after the benign season we've had for catastrophes."

But, Eric Brosius, senior vp and manager of reinsurance for Liberty Mutual Insurance Co. in Boston, said, "I'm certainly not anticipating an increase in purchasing next year as a result of lower prices." Often, "When reinsurance is very, very cheap, the reinsurers find themselves in trouble" and unable to pay losses, "and that turns out not to be a bargain at all."

Two profitable underwriting years could spark mergers, acquisitions

Bermuda reinsurers seen as likely targets of any M&A activity

By JUDY GREENWALD

Flush with capital after two strong underwriting years and seeking to further diversify their business, reinsurers are expected to embark on merger and acquisition activity with other reinsurers in coming months, many observers say.

Some observers point to Bermuda reinsurers as the most likely candidates to be involved in M&A. Oth-

ers, though, say the reinsurance sector is already highly consolidated, which makes significant M&A activity unlikely.

Some believe reinsurers may pursue other ways to shed excess capital, including share buybacks and distributing higher dividends to shareholders.

M&A activity among reinsurers is inevitable, said Skip Hagerty, managing director at Philo Smith & Co.,

a Stamford, Conn.-based investment banking firm. "You look at how much capital there is now and you look at how the market is softening," he said.

There is plenty of sophisticated capital in Bermuda "and those folks demand returns and I think as those returns become harder and harder to come by, they're obvious-

Continued on next page

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CONTINUED FROM PREVIOUS PAGE

ly going to seek exits," said Mr. Hagerty.

"History would suggest that in market conditions such as we're experiencing right now," there would be M&A by reinsurers and primary insurers, said Jamie Veghte, Stamford, Conn.-based executive vp and chief executive of reinsurance operations for XL Re, a unit of XL Capital Ltd.

"It would seem to me that the natural M&A candidates would be newer reinsurers" that perhaps have not fully utilized their capital and are struggling to diversify, said Mr. Veghte.

"As we move into this phase of the cycle, it's natural" for M&A

activity to take place, said David Priebe, chief executive officer of the Global Specialty Group at New York-based Guy Carpenter & Co. L.L.C.

"As people are looking for growth or trying to achieve greater efficiencies and economies in their operations, we think we will see that opportunity in terms of companies coming together" that have complementary portfolios or distribution sources, such as Bermuda and Lloyd's of London entities in various lines, Mr. Priebe said.

Others cite Bermuda reinsurers as likely M&A candidates as well.

"I do think there's going to be a drive towards consolidation because the (Bermuda) Class of '05 returns

have been very mediocre," said Steve McElhiney, president of Dallas-based EWI Inc., a reinsurance intermediary. "I think capital providers are looking for an exit," so 2008 should see a "flurry of acquisitions."

Among the Bermuda reinsurers, "everybody's sort of eyeing each other, and I think as we get out of the high-risk period for hurricanes we might start to see" M&A, said Cliff Gallant, an analyst with Keefe, Bruyette & Woods Inc. in New York.

"It depends on the capital markets," said Richard DiClemente, president and CEO of New York-based THB Intermediaries Inc. It is "clear there is pressure on companies to grow and diversify

and to grow their bottom lines. If they can't do that through their core business, that leads to consolidation and perhaps reinsurers being acquired by larger reinsurers."

But the question is whether the capital will be available, said Mr. DiClemente. "Capital is not as cheap as it was six months ago," he said.

Also, uncertain capital markets "might be offsetting some of the appetite for doing M&A work," said Jeff Palmer, managing partner at Devon, Pa.-based SMART Business Advisory & Consulting L.L.C.

Reinsurers will be more cautious in making deals than they have been in the past for fear of acquiring someone else's problems, said

Devin Inskeep, senior financial analyst with Oldwick, N.J.-based A.M. Best Co. Inc. Instead of rescuing distressed companies, reinsurers are seeking strategic partnerships, he said.

"I would be impressed if 50% of these M&As were ultimately successful as a consequence of failing to look under the carpet and indeed do due diligence," said Paddy Jago, New York-based CEO of Willis Re Inc., the reinsurance unit of Willis Group Holdings Ltd. "I suspect there are some acquirers who may come unstuck in the long run in terms of it. However, M&A is here to stay."

But others say they do not anticipate significant M&A activity.

"I would not expect that M&A activity will be a major trend in the foreseeable future because the segment's already very concentrated," said John L. Ward, CEO of Cincinnati-based Cincinnati Partners L.L.C., an insurance advisory firm.

Mark Lane, an analyst with William Blair & Co. in Chicago, said the reinsurance market "is a lot more consolidated than the primary market, so we expect to see more consolidation" in the primary market, although "this is not to say that you might not see a deal here or there in the (reinsurance) market."

Damien Magarelli, a director at New York-based Standard & Poor's Corp., said while he would not be surprised to see more M&A deals, "we're not expecting anything substantial. We're not expecting anything that is going to change the competitive dynamics in the reinsurance market."

Brian McGuire, senior vp at New York-based reinsurance intermediary U.S. RE Corp., said M&A activity may not be "as attractive today as it was, say a couple of years ago, simply because most companies today have very similar books of business."

"I think you have to look at the value that one gets out of acquiring a portfolio" that is similar to the acquiring company's, he said.

"I don't expect too much on the M&A side reinsurer to reinsurer," said Mr. McGuire, adding that he would not be surprised to see reinsurers acquiring insurance entities, including excess and surplus lines insurers.

Not everyone is turning to M&A deals to shed excess capital. Swiss Reinsurance Co. is among companies whose board of directors has authorized share buybacks, said Patrick Mailloux, Armonk, N.Y.-based president and chief operating officer of Swiss Reinsurance Co.'s P&C Americas division.

Its board has authorized the repurchase of up to 6 billion Swiss francs (\$5.1 billion) in shares, of which 2 billion Swiss francs (\$1.7 billion) has already been purchased, he said. "It's a recognition on the part of insurers and reinsurers that if they reach a point where frankly they can't deploy the capital, they're just going to return the money to shareholders," he said.

This approach has been well-received by shareholders, as well as rating agencies and financial analysts, he said. "It is a sign of discipline."

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Capital markets risk transfer products gain wider acceptance

Catastrophe bonds still strong while use of sidecars slides as crunch in reinsurance capacity continues to ease

By **DOUGLAS McLEOD**

Capital markets are well on their way to becoming permanent players on the risk transfer scene, but the volume of business in certain products will still rise and fall with changes in market conditions, market observers say.

The dollar volume of catastrophe bond issues so far this year has already surpassed last year's total, as more insurers turn to bonds to cover a wider range of perils and as the pool of potential cat bond

investors grows.

Growth in the cat bond market may not be as explosive as it was in the immediate aftermath of Hurricane Katrina and other 2005 storms, but market participants predict it will continue beyond the \$6 billion in issues expected for this year (see story, page 28).

Meanwhile, activity in other types of capital markets products varies. Formation of sidecar facilities to create new capacity has slowed considerably since the capacity crunch that followed the 2005

storms. On the other hand, contingent capital deals, generally aimed at the largest, most creditworthy insurers, have revived after a brief pause caused by the recent credit crunch, market observers report.

Overall, though, capital market products—particularly cat bonds—are gaining increasing acceptance among insurers and investors and will likely continue as a standard risk transfer alternative.

"The (cat bond) market is still there and we believe it's going to be there from here on in," said

Emmanuel Modu, managing director and global head of structured finance at Oldwick, N.J.-based A.M. Best Co. Inc.

With more than \$20 billion in principal invested since 1997, the cat bond market remains among the most established segments of the insurance-linked securities market. Growth in the market this year has been helped by the widening array of perils covered by single bond issues: Rather than covering simply U.S. windstorm risk, for example, several large bond issues

have covered U.S. and European windstorm, U.S. and Japan earthquake and even wildfire and winter storm risks.

Securitized risks are spreading beyond property catastrophes as well.

Earlier this year, Hannover Ruckversicherungs A.G. protected itself from defaulting reinsurers with a bond issue similar in structure to some used for property cat risks. Hannover Re formed Merlin CDO I B.V., a Netherlands Antilles special purpose vehicle that sold €95 million (\$135.8 million) of notes in several tranches using collateralized debt obligation technology. The notes provide the German reinsurer with credit risk coverage in the event of a reinsurer's insolvency or failure to pay losses.

Mortality catastrophe bonds protecting life insurers also have become more common. Swiss Reinsurance Co. in Zurich earlier this year issued \$705 million in notes through Vita Capital III to cover the risk that mortality rates in the United States and several other countries would exceed defined percentages. Scottish Re Group Ltd. and AXA S.A. launched similar bond issues in 2006.

'The (cat bond) market is still there and we believe it's going to be there from here on in.'

Emmanuel Modu, A.M. Best Co. Inc.

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Not every corner of the capital markets is seeing growth. Formation of sidecars—special purpose vehicles capitalized temporarily to provide quota share reinsurance capacity to a sponsoring insurer or reinsurer—has slowed in the past year.

Debt and equity issued by sidecars jumped in 2006 to \$4.5 billion from \$1.86 billion in 2005, spurred by the capacity crunch that followed hurricanes Katrina and Rita. Through July of this year, though, capital raised for sidecars amounted to only \$1.61 billion, according to Best figures.

That trend isn't necessarily a bad thing, market observers say.

Sidecars are normally set up with the intention of repaying investors and unwinding within three years, observers note.

The falloff "is entirely consistent with what sidecars are intended for," said Christopher McGhee, head of North American operations for the GC Securities unit of Guy Carpenter & Co. "That is capital that comes in when there is a market capacity crunch... (and) the reinsurance capacity crunch has faded."

"That's the whole point of a sidecar. It allows an institution to take

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Cat bonds set record

2007 transaction volume seen hitting \$6 billion

By DOUGLAS McLEOD

The worldwide dollar volume of catastrophe bond transactions in 2007 has already broken last year's record, and the market is expected remain strong despite softening reinsurance prices as issuers explore new risks and new structures for bonds.

Cat bond transactions so far this year total \$4.83 billion, compared with \$4.69 billion for all of 2006, according to the New York-based GC Securities affiliate of Guy Car-

penter & Co. L.L.C.

Total cat bond volume for 2007 will likely reach \$6 billion, A.M Best Co. Inc. estimates.

While Hurricane Katrina and other storm losses sparked the market's explosive growth after 2005—when cat bond transaction volume amounted to only \$2 billion—growth this year has been helped along by several trends, including the increasing sponsorship of cat bond issues by insurers in addition

See **CAT BONDS** page 30

Capital markets: Products win acceptance

CONTINUED FROM PAGE 26

advantage (of tight market conditions) and raise temporary capital," said Judith Klugman, managing director and head of distribution for Swiss Re Capital Markets in New York.

The Florida state government's expansion earlier this year of the state's hurricane catastrophe fund has hastened the decline of sidecars, since the state fund is now writing business in layers that existing sidecars supported, said Gary Martucci, a director with Standard & Poor's Corp. in New York.

Sidecars formed this year include

Starbound Re II Ltd., created to assume Florida property cat risk from Hamilton, Bermuda-based Renaissance Reinsurance Ltd.; K5, a transaction in which Hannover Re ceded property cat, aviation and marine risks to Kaith Re Ltd., a special purpose vehicle in Bermuda; and another Hannover Re transaction, Kepler Re, which was formed as a segregated cell within Kaith Re to provide excess of loss reinsurance on Hannover's worldwide natural catastrophe risks.

The market for contingent capital deals, meanwhile, has also seen ups and downs this year. Another capital markets innovation for mitigat-

ing cat risk, contingent capital arrangements typically involve an insurer issuing debt or equity under pre-defined terms to restore its capital base after a triggering loss event.

In July, Los Angeles-based Farmers Insurance Group completed such a deal, acquiring the right to issue \$500 million in subordinated notes to a syndicate of banks if it suffers a windstorm loss of more than \$1.5 billion in Texas, Louisiana, Arkansas or Oklahoma in the next five years. The arrangement, supplementing Farmers' existing reinsurance program, would be the equivalent of coverage for a one-in-250-year event if fully drawn down, according to Swiss Re, which arranged the deal and would buy some of the Farmers subordinated notes.

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'That's the whole point of a sidecar. It allows an institution to...raise temporary capital.'

Judith Klugman,
Swiss Re Capital Markets

"The structure avoids having all this capital on the balance sheet waiting for the one-in-a-hundred year event and at the same time demanding a return," Tom Skwarek, managing director with Swiss Re's Capital Solutions unit, said at the time.

Because such deals involve credit as well as insurance risk, they are available only to insurers with strong balance sheets, Mr. Skwarek added in an interview.

The Farmers deal closed just as the subprime mortgage-induced credit crunch was gathering steam, and the crisis slowed the market for contingent capital deals temporarily, Mr. Skwarek said.

The market has since recovered somewhat, though the cost of contingent capital has gone up: While Farmers is paying a commitment fee of around 50 basis points a year to its banks, the cost of a similar deal today may be at least 10 to 20 basis points higher, Mr. Skwarek said. Farmers, a unit of Zurich Financial Services, also would pay a defined percentage above the London Interbank Offered Rate on any notes issued after a loss.

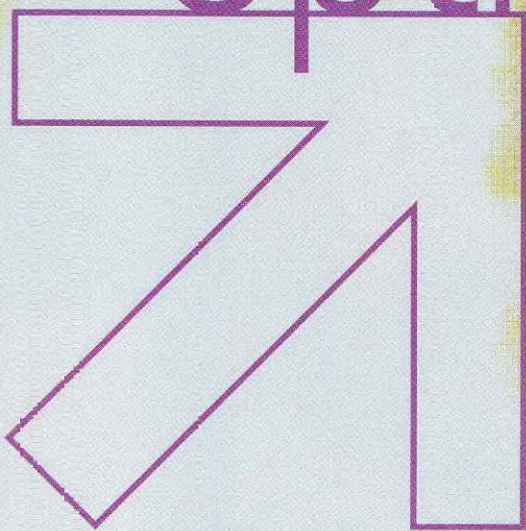
Meanwhile, the subprime mess may actually help the development of capital markets products, market observers say.

The risks of insurance-linked securities are largely uncorrelated to other investment risks, and yield-conscious investors shying away from mortgage-backed collateralized debt obligations and other securities affected by the crisis may turn to cat bonds and other insurance-linked offerings, said Mark Rouck, a senior director with Fitch Ratings in Chicago.

The flip side of the argument, though, is that hedge funds and other investors may swoop into the depressed mortgage-backed securities market looking for bargains, Mr. Rouck added.

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Life/health: Reinsurers expand product offerings to secure growth

CONTINUED FROM PAGE 34

difficult to work with in terms of terms and conditions," said Tim Wood, consultant for Watson Wyatt Worldwide's insurance and financial services unit in Berwyn, Pa. "I think the whole relationship took a bit of a beating."

The potential for further market consolidation, meanwhile, is less than it was 10 years ago because there are so few dominant players and cedents may be concerned about concentration in the sector, said Mark Rouck, senior director and global head of reinsurance for Fitch Ratings Ltd. in Chicago.

"I don't expect to see further significant consolidation in the life/health reinsurance industry," Ms. Kinnaid said. "There are even some new players."

New reinsurers such as XL Re Life America Inc. and Wilton Re have entered the field but have market shares well below 2%. While direct writers welcome new entrants, they are concerned about risks involved with partnering with new enterprises, said Robert Hafner, associate director for Standard & Poor's Corp. in New York.

"There are some new players, but industry statistics suggest that they are not gaining much market share

and part of that is attributed to them probably being prudent in their pricing," Mr. Hafner said.

Wilton Re has adopted a disciplined pricing approach, Mr. Araldi said. "If we think we have priced a piece of business properly, we don't feel compelled to get into a bidding war with our competitors."

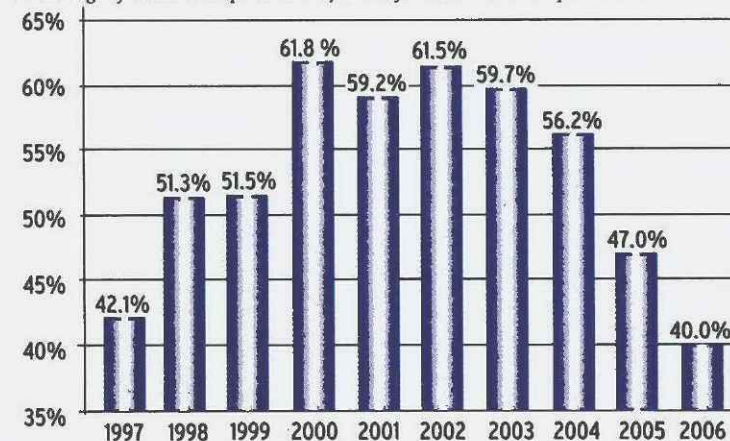
In addition to new companies entering the market, some existing life reinsurers are expanding their operations. Last week, Hannover Re Group announced that it has established a life reinsurance subsidiary in Bermuda, Hannover Life Reassurance Bermuda Ltd.

With cession rates declining, reinsurers are looking to develop new products to ensure continued growth, including long-term care where growth is foreseen due to the aging of the population, said John Dunleavy, senior vp, at reinsurance intermediary D. W. Van Dyke & Co. of Connecticut Inc. in Westport, Conn. "People are starting to look at their long-term needs."

Munich American Re is interested in developing a combination product for long-term care and annuities to take advantage of significant tax benefits created by the Pension Protection Act of 2006, said Jim

CESSION RATES

Percentage of reinsurance purchased by U.S. life insurers over the past decade:

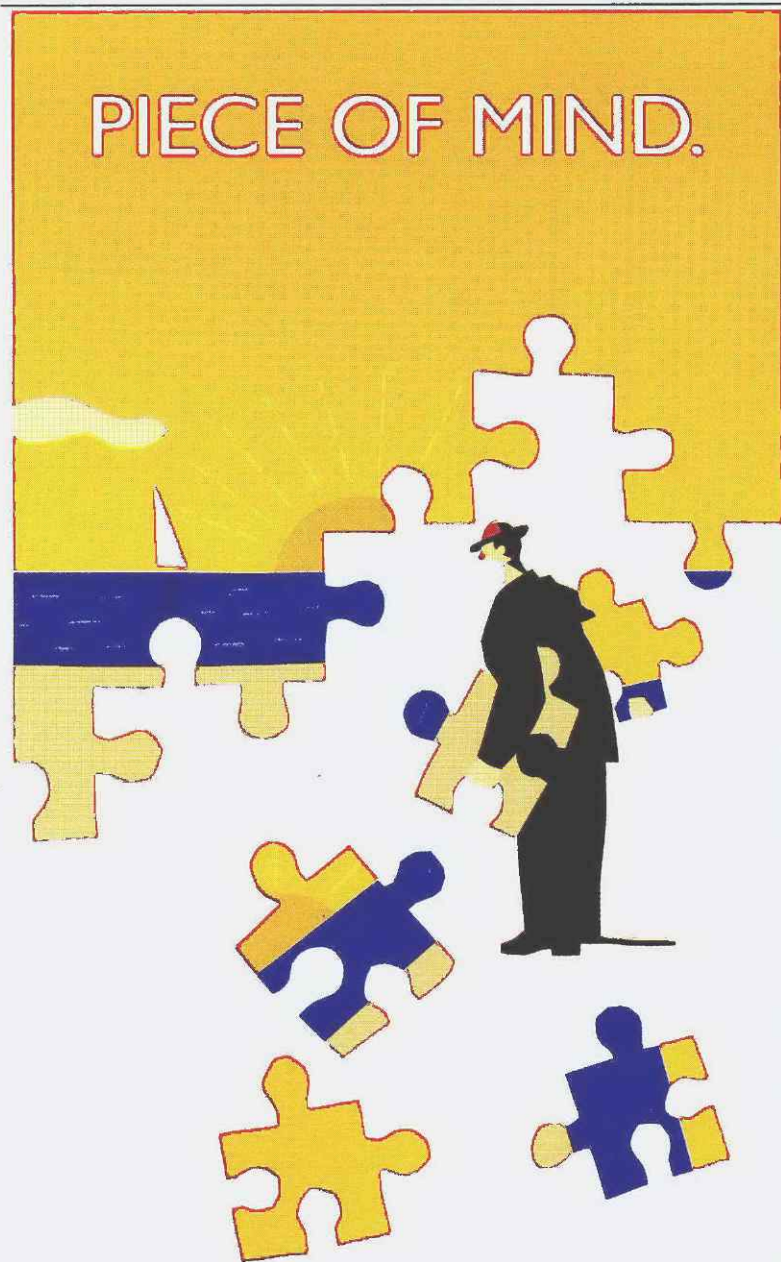


Source: Society of Actuaries

Sweeney, executive vp in Atlanta. Under the PPA provisions, withdrawals from certain annuities intended to pay for tax-qualified, long-term care expenses or insurance no longer will be taxable income as of Jan. 1, 2010.

"Although that market is very small today, we expect it will really explode over the next few years," Mr. Sweeney said.

The life and health reinsurance sector also faces other factors that could affect the industry, including the 2008 U.S. presidential elections, potential changes in U.S. collateral requirements and the possible adoption of principle-based reserving. "If (principle-based reserving) develops, it would reduce the need for any of these solutions, including life reinsurance," Mr. Hafner said.



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Facultative reinsurance market offers expertise, extra capacity

Policyholders could benefit from increase in fac programs

BY ROBERTO CENICEROS

Policyholders often depend on facultative reinsurers' support to fill coverage gaps or obtain large coverage limits for specific risks.

Yet unless policyholders ask, they may be unaware that facultative reinsurance underwriters have reviewed their account details and are helping share in their risks, reinsurance experts say.

That is a similarity facultative reinsurance shares with treaty reinsurance and capital market funding in which business arrangements between insurers and reinsurers remain invisible to the policyholder, said Elliot Richardson, chief executive officer of Aon Re Global Fac in London.

But facultative reinsurance, which accounts for less than 10% of the estimated \$55 billion in annual U.S. reinsurance premiums, plays a unique role by reinsuring individual risks. By contrast, treaty reinsurance, which accounts for the vast majority of the reinsurance market, can back an entire line of an insurer's business.

"Fac," as it is known, relies on close relations between insurers and reinsurers, has its own underwriting requirements, and is more profitable than treaty insurance, observers say.

Insurers seek facultative reinsurance when they lack the expertise necessary to underwrite a specific policyholder account and want help pricing the coverage, said

William Donnell, head of Americas facultative operations in Overland Park, Kan. for Swiss Reinsurance Co.

Insurers also turn to the facultative market when they need capacity not provided through their treaty arrangements or are uncomfortable assuming the entire limits sought by a particular policyholder.

Whereas treaty reinsurers often see fewer than 100 submissions a

'Fac is part of an overall reinsurance buying strategy.'

William Donnell, Swiss Reinsurance Co.

year, facultative underwriters might see 1,000 submissions annually, making it a volume business, said John Trace, managing director in New York for GCFac, a unit of Guy Carpenter & Co. L.L.C.

Facultative reinsurers deal, "with underwriters at insurers on a weekly or daily basis where treaty (reinsurers) might do it once a year for two months, but then they are not involved after that," Mr. Trace said.

Facultative arrangements are made daily throughout the year rather than specific renewal seasons, agreed Kevin Davidson, president in Princeton, N.J., of direct facultative, a division of Munich Rein-

surance America Inc.

Because the coverage requires insurers and reinsurance underwriters to work closely, facultative operations looking to expand often value a potential hire's time-tested relations with insurers more than underwriting skills, sources said. Even so, seasoned underwriting acumen is valued.

Underwriting facultative reinsurance is more like underwriting primary coverage than underwriting treaty reinsurance, observers say. Treaty reinsurance requires underwriting the insurer, while facultative reinsurance calls for underwriting individual risks.

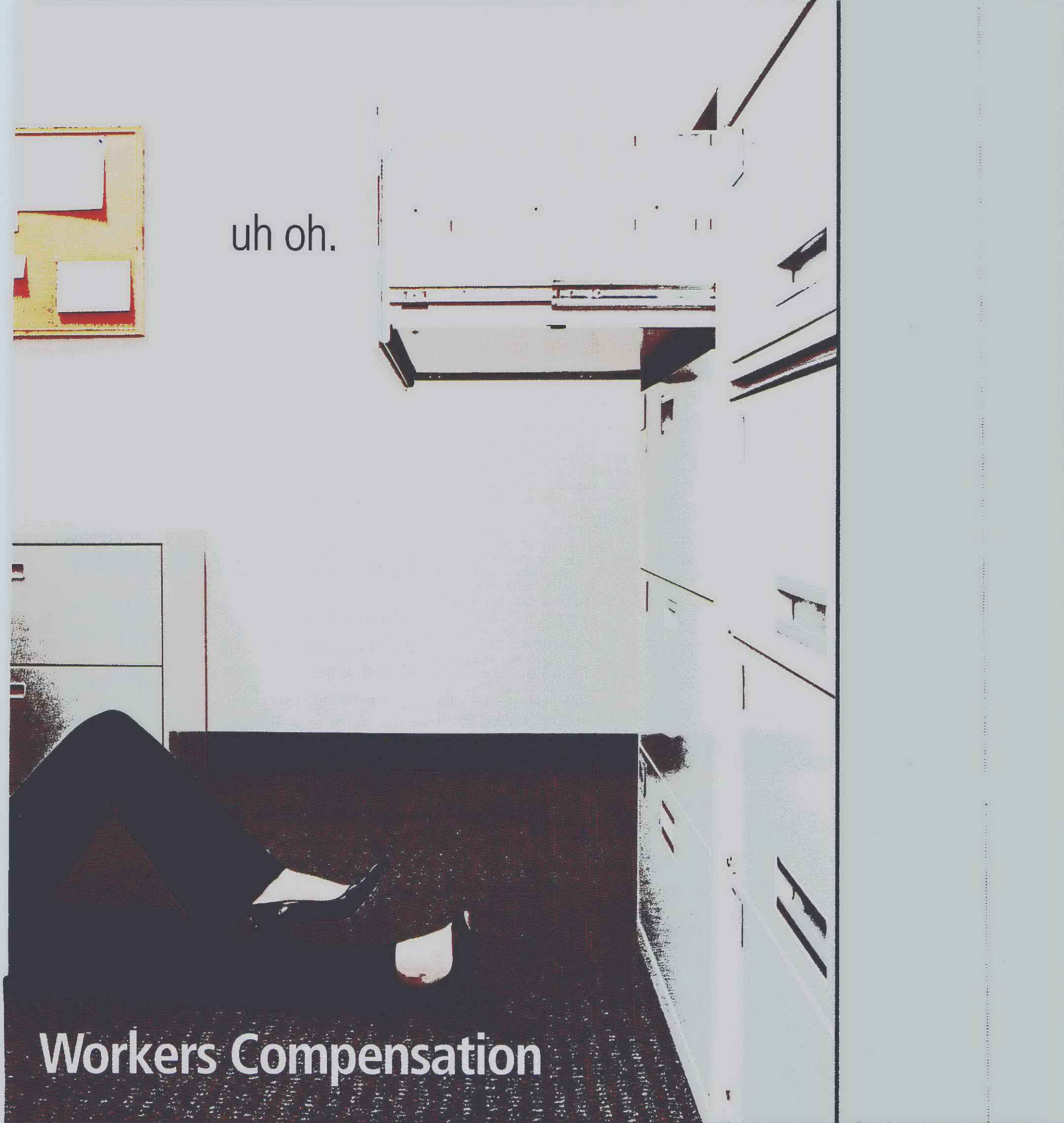
So, like primary insurers, fac underwriters must review each insured's risk circumstances and evaluate issues such as their loss experience, risk control efforts, growth plans and policy language. And fac underwriters often acquire expertise about specific industry groups they insure.

"All of our underwriters are former primary underwriters," Munich Re's Mr. Davidson said.

Facultative business also can produce higher profit margins than treaty business, Mr. Davidson said. But treaty business accounts for a much larger share of reinsurers' premium volume and revenue.

Facultative's need for seasoned underwriting expertise, its dependence on close insurer-reinsurer relations and its profitability likely

See **FACULTATIVE** page 36



uh oh.

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Facultative: Reinsurance market offers expertise, extra capacity

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are factors in a dispute between an industry stalwart and a recently launched operation, observers say.

Bermuda-based Arch Capital Group Ltd. and Stamford, Conn.-based General Re Corp. are locked in a non-compete court dispute stemming from the departure of four Gen Re facultative staff members who joined Arch in the spring (BI, May 28).

Arch launched a property faculta-

tive operation in April while Gen Re has operated its property faculty business since 1956.

Arch declined to discuss the litigation and Gen Re did not respond to a request for comment. However, earlier this month a state court judge issued a temporary injunction against Arch, barring it from using any Gen Re proprietary information (BI, Oct. 22).

Policyholders would benefit from more facultative underwriting operations providing coverage for large or

difficult risks, say observers, who see few new facultative operations being launched.

Insurers often seek facultative commitments for the difficult portions of specific accounts.

Darrin Doherty, BMS Facultative Ltd.

Within the past several years, though, program facultative business has helped fuel industry growth, several sources say.

Program business considered an efficient practice because it relies on underwriting a series of homogeneous exposures, for example sports stadiums, that share similar risk characteristics.

Brokers can play a significant role in putting together program business. Though in recent weeks, that role has come under scrutiny, with Connecticut's attorney general filing suit against Guy Carpenter, alleging that the broker stifled competition through the use of various facultative programs (BI, Oct. 15).

Insurers often seek facultative commitments for the more difficult portions of specific accounts, said Darren Doherty, director in London for BMS Facultative Ltd., a unit of BMS Group Ltd.

On a nationwide U.S. property risk program, for example, an insurer might provide a client with coverage

across most states except Florida because of catastrophic risk limitations, Mr. Doherty said. The insurer could turn to a facultative arrangement to fill the coverage void.

In another example of meeting specific policyholder needs, Mr. Trace said GCFac recently provided coverage for a restaurant chain. Treaties obtained by insurers covering the restaurant chain excluded liquor liability, which then required a facultative arrangement to cover the liability, he said.

Because fac cover is often used to reinsure difficult parts of a risk, market-hardening events stemming from the 2005 hurricane season helped the facultative industry prosper, sources said. Even so, fac is a cyclical business in which short-term prospects rise and fall with each insurance cycle.

Experts said in the longer term, fac is expected to continue growing and become a permanent insurance industry niche. But the current availability of capital means insurers are now taking larger net retentions, several sources said. So the need for reinsurance, including fac, is softening, they added.

But facultative sometimes plays a countercyclical role to treaty reinsurance, observers say. As insurers take on greater treaty reinsurance risk, they may purchase facultative reinsurance for other exposures.

"Fac is part of an overall reinsurance buying strategy," said Swiss Re's Mr. Donnell. "It's interrelated with treaty. The fac placement can go hand-in-hand with treaty because there are certain risks that don't fit within the treaty that need to be placed on a fac basis."

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NAIC works to modernize reinsurance regulation

New York's changes not being discussed by task force

By MEG FLETCHER

A key subgroup of the National Assn. of Insurance Commissioners is ignoring New York's recent proposal to reduce collateral for non-U.S. reinsurers doing business in the state and concentrating instead on resolving new questions about reciprocity.

The NAIC's Reinsurance Task Force, which is drafting model law amendments to modernize the nation's regulation of reinsurance, is now shining the spotlight on non-U.S. jurisdictions, especially the London market and European Union companies. U.S. regulators are concerned about the practical application of those entities' current and proposed rules on U.S. reinsurers doing business in those countries.

"I have some serious questions and concerns about reciprocity," said John Oxendine, the Georgia insurance commissioner, and task force chair during an Oct. 25 conference call. "I'll be honest. I'm not convinced that the E.U. is as open as some people may imply."

New York's proposal was mentioned during the call by Hildegard Stuke, associate director of the Germany-based Hannover Re Group. Mr. Oxendine said that the New York proposal "is not being discussed. That has nothing to do with the Reinsurance Task Force."

New York recently proposed relaxing collateral requirements for highly rated non-U.S. reinsurers operating in the state and imposing a sliding scale for collateral on other reinsurers.

New York plans to adopt such changes administratively. Most states would have to seek legislative approval for such major changes to

their laws, which technically regulate how U.S. cedents can take credit on their balance sheets for risks they transfer via reinsurance.

The U.S. regulatory system's complex approach to credit for reinsurance could limit the impact of New York's plan to intrastate transactions. If parties were located in other states, the regulators of those states have authority to conduct independent solvency examinations that could be "burdensome," Mr. Oxendine said in an interview. He also recommends a collaborative approach to reinsurance modernization to avoid patchwork regulation.

The debate, which has been running for several years, centers on requirements for non-U.S. reinsurers to post collateral that matches their exposures for U.S. risks. Many U.S. insurers and reinsurers have opposed any relaxation, citing financial security concerns; overseas companies, most notably in London, have pushed for a relaxation of the regulations, arguing that their companies offer security that is comparable with, or better than, many of their U.S. competitors.

The NAIC subgroup's current plan is a broad, principles-driven effort to ease market access for reinsurers based outside the United States, with a new emphasis on preserving the domestic operations of U.S. reinsurers and insurers, observers say.

The NAIC proposal "is long on principle, but rather short on specifics," said Ron Joas, director of financial reporting for Standard & Poor's Corp. in New York.

Under the plan, a financially secure non-U.S. reinsurer would undergo a voluntary, two-step review process to write coverage in the United States and post collateral ranging from 60% to more than 100% of its U.S. liabilities. The minimum collateral would be less than

See NAIC page 38

NAIC: Organization works to modernize reinsurance regulation

CONTINUED FROM PAGE 36

what U.S. regulators currently require, but substantially higher than the zero minimum that NAIC members considered earlier this year.

The NAIC's previous proposal "was biased against the U.S.'s own regulatory system and would have provided little reason for U.S. reinsurers to remain domiciled in this country," said Bryan Fuller, NAIC senior reinsurance manager, who summarized the proposal at the NAIC's fall meeting.

Under the latest plan, a typical non-U.S. reinsurer would begin the

process by asking a new NAIC Reinsurance Supervision Review Department to determine how regulation in the reinsurer's home jurisdiction is "functionally equivalent" to U.S. regulation, although the term's definition is still being discussed.

Then the non-U.S. reinsurer would apply for certification from a "port of entry" state. To obtain that designation, a state would have to meet minimum guidelines that would be developed by the new department.

That state's regulator would assess the company's financial and operational strengths and place it in one of five classes with correspond-

ing collateral requirements ranging from 60% to more than 100%.

The NAIC proposal encourages supporters of change by emphasizing concepts like functionally equivalent regulation and mutual recognition. Also, an NAIC study shows that some non-U.S. reinsurers would save an estimated \$22.7 billion in collateral. At the same time, some U.S.-based reinsurers would have to post a total of about \$14.2 billion in collateral.

Both opponents and proponents of change are expected to make their views about reciprocity known at an NAIC subgroup meeting Nov. 7-8 in Atlanta.

A spokesman for the Washington-based American Insurance Assn. said a representative from the London-based Kendall Freeman law firm will be available at the meeting to answer questions about an AIA-funded report, which the AIA recently sent to regulators. The report includes information about three countries that currently require collateral and explains why non-E.U. reinsurers may face new regulatory and financial burdens when doing business in the E.U., according to the firm's documents.

In addition, the E.U. expects to release a paper on its treatment of non-E.U. companies soon, sources

said.

Officials of the Brussels, Belgium-based European Commission and the Committee of European Insurance and Occupational Pension Supervisors said in a Sept. 21 letter that they were extremely disappointed with the task force's proposal to return to a minimum 60% collateral for the most financially secure non-U.S. reinsurers, up from zero in the prior draft. Such discriminatory actions are incompatible with mutual recognition and if not changed, the European Commission "will be forced to explore other routes to ensure that E.U. reinsurers receive a fair treatment," they wrote.

In addition, the NAIC subgroup also plans to discuss appropriate regulation of transactions among affiliate companies. It also will discuss the need for uniform port of entry rules to prevent non-U.S. reinsurers from seeking out "overly friendly or lax" jurisdictions, which could lead to a "race to the bottom" in terms of regulatory standards, Mr. Oxendine said.

The NAIC subgroup's goal is to adopt a good proposal that is strongly supported by the group's members, Mr. Oxendine said. It remains to be seen whether that can be accomplished by its current target date of the NAIC's meeting, which will be held Dec. 1-4 in Houston.



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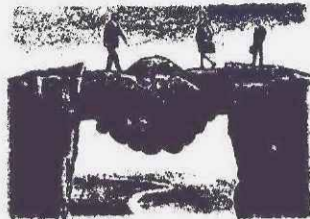
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ENGLISH & AMERICAN INSURANCE COMPANY LIMITED NOTICE OF ANNUAL MEETING OF SCHEME CREDITORS

A meeting of the Scheme Creditors of the Company has been convened by the Scheme Administrators, pursuant to Clause 8.1 of the Scheme of Arrangement between the Company and the Scheme Creditors for the purposes set out below.

The meeting will be held at KPMG's offices, 1-2 Dorset Rise, London EC4Y 8EN on Tuesday 11 December 2007 at 2.00 pm. A report concerning the progress made in implementing the Scheme and the conduct of the Company's affairs generally since the last such report was prepared will be laid before the meeting pursuant to Clause 8.1.2. Scheme Creditors will have the opportunity to address questions to the Scheme Administrators concerning the report at the meeting.

A copy of the report is being sent to the last known addresses of all known creditors, potential creditors and brokers of the Company. Any person entitled to attend the meeting who has not received the report by 23 November 2007 can obtain a copy free of charge from the Scheme Administrators of the Company at KPMG LLP, 8 Salisbury Square, London EC4Y 8BB.

Queries regarding Scheme Creditors' claims should be directed to the helpline on +44 (0) 1452 782 543.

T. A. Riddell, Joint Scheme Administrator

LEGAL NOTICE

IN THE HIGH COURT OF JUSTICE (CHANCERY DIVISION)
 COMPANIES COURT
 CLAIM NO. 7517/07 OF 2007
 IN THE MATTER OF
ST. PAUL REINSURANCE COMPANY LIMITED
 and IN THE MATTER OF
ST. PAUL TRAVELERS INSURANCE COMPANY LIMITED
 and IN THE MATTER OF
UNIONAMERICA INSURANCE COMPANY LIMITED
 and IN THE MATTER OF THE
 FINANCIAL SERVICES AND MARKETS ACT 2000

NOTICE IS HEREBY GIVEN that St. Paul Reinsurance Company Limited ("SPRe"), St. Paul Travelers Insurance Company Limited ("STIC") and Unionamerica Insurance Company Limited ("UIC") presented an application to the High Court of England and Wales (the "Application") pursuant to Part VII of the Financial Services and Markets Act 2000 for an order sanctioning the transfer (the "Transfer") to UIC of (i) all of the insurance/reinsurance and retrocession business carried on by SPRe as insurer/reinsurer or retrocessionaire, and (ii) the London market insurance/reinsurance and retrocession business carried on by STIC as insurer/reinsurer or retrocessionaire before 1 January 1994 (other than certain intra-group reinsurance) including business written under the St. Katherine name, such transferring business together known as the "Transferring Business".

A copy of the report (the "Report") prepared by an independent expert, Michael Barkham, a fellow of the Institute of Actuaries, of Ernst & Young LLP on the effects of the Transfer on the policyholders of SPRe, STIC and UIC, and a copy of a statement setting out the terms of the Transfer and a summary of the Report (the "Summary") will be available on www.unionamericainsurancecompany.com. These documents will also be made available free of charge to anyone requesting such copies from the date of publication of this notice until the date on which the Transfer will be heard before the Court by contacting St. Paul Travelers Special Services Limited ("STSSL") in writing at 23-27 Alie Street, London, E1 8DS (for the attention of the Part VII Team) or by email on partvii@spt.com. All claims in relation to the Transferring Business are currently being dealt with by STSSL on behalf of SPRe and/or STIC and will, after the proposed transfer, continue to be handled by STSSL on behalf of UIC in the same manner. Future claims arising under the policies included in the Transferring Business will be similarly dealt with by STSSL on behalf of UIC. The proposed transfer will secure the continuation of or against UIC of any legal proceedings commenced by or against SPRe and/or STIC that relate to rights and obligations in respect of the Transferring Business.

The Application is directed to be heard before a Judge of the Chancery Division at the Royal Courts of Justice, Strand, London WC2A 2LL on or about 13 December 2007 and any person, including any employee of UIC, SPRe or STIC, who claims to be adversely affected by the Transfer may appear at the time of the hearing in person or by Counsel and/or making written representations. Any person who intends so to appear, and any person who dissents from the Transfer but does not intend so to appear, is requested to give not less than five clear business days' notice prior to the hearing date in writing of such intention or dissent, and the reasons relating thereto, to the Solicitors named below.

NORTON ROSE LLP
 of 3 More London Riverside, London SE1 2AQ
uapartvii@nortonrose.com
 Solicitors to SPRe, STIC and UIC (Reference RAXH/LN05792)

IN THE SUPREME COURT OF BERMUDA CIVIL JURISDICTION **ARION INSURANCE COMPANY LIMITED** and IN THE MATTER OF THE COMPANIES ACT 1981, SECTION 99

NOTICE OF TERMINATION OF SOLVENT SCHEME OF ARRANGEMENT

NOTICE IS HEREBY GIVEN that the scheme of arrangement between Arion Insurance Company Ltd (the "Company") and its Scheme Creditors, which became effective on 30 March 2007 (the "Scheme"), has been fully implemented in accordance with its terms. In accordance with the provisions of Clause 8 of the Scheme, the Scheme is terminated upon all Scheme Liabilities having been paid in full. The date of Scheme termination is 13 October 2007. No further payments shall be made to Scheme Creditors by the Company in respect of Scheme Claims. Should you have any questions regarding this notice, please address them to:

Jocille Blakeney, Arion Insurance Company Limited,
 Suite 535, Par-la-Ville Road, Hamilton HM 11, Bermuda
 (Telephone: +1 441 295 2950, facsimile: +1 441 292 1467)

LEGAL NOTICE

IN THE MATTER OF THE LIQUIDATION OF UNION INDEMNITY INSURANCE COMPANY OF NEW YORK Supreme Court County of New York Index No.: 41292/85

NOTICE
 On July 16, 1985, Union Indemnity Insurance Company of New York ("Union") was placed into liquidation and then Superintendent of Insurance of the State of New York James P. Corcoran and his successors in office were appointed as Liquidator (the "Liquidator") of Union. Pursuant to the New York Insurance Law ("Insurance Law") and the Liquidation Order, the Liquidator was given the responsibility of, among other things, marshalling Union's assets and adjudicating claims consistent with Article 74 of the Insurance Law. The Liquidator has submitted to the court supervising Union's liquidation proceeding (the "Court") a verified petition (the "Verified Petition") seeking approval of: (i) the initial report on the status of Union's liquidation (the "Initial Report") and the financial transactions delineated therein; (ii) the establishment of November 15, 2007 as the bar date for presentation of all claims other than administrative costs and expenses; (iii) the payment of all administrative costs and expenses; and (iv) a distribution, to the extent that assets are available after payment of all administrative costs and expenses and in accordance with the priorities set forth in Insurance Law Section 7434, to those creditors of Union possessing allowed claims.

A hearing is scheduled on the Verified Petition on December 18, 2007 at 12:00 Noon before the Supreme Court of the State of New York, County of New York at the Courthouse, IAS Part 3, Room 248, 60 Centre Street, New York, New York. If you wish to object to the Verified Petition, you must serve a written statement setting forth your objections and all supporting documentation upon the Liquidator and Clerk of the Court, at least fifteen business days prior to the hearing. Service on the Liquidator shall be made by first class mail at the following address:

The Superintendent of Insurance of the State of New York as Liquidator of Union Indemnity Insurance Company of New York
 123 William Street
 New York, New York 10038-3889
 Attention: Jack A. Franceschetti, Esq.

By filing the Verified Petition, the Liquidator is seeking permission from the Court to pay in the near future a monetary distribution to certain creditors possessing allowed claims pursuant to Insurance Law Section 7434. For this reason, creditors of Union are advised to review all available information and to ascertain all of their rights before considering any proposal offering to buy or otherwise compromise their claims.

The Verified Petition and Initial Report are available for inspection at the above address. In the event of any discrepancy between this notice and the documents submitted to Court, the documents control.

Requests for further information should be directed to the New York Liquidation Bureau, Creditor Claims Department at (212) 341-6814.

Dated: October 19, 2007
 ERIC R. DINALLO
 Superintendent of Insurance of the State of New York as Liquidator of Union Indemnity Insurance Company of New York

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

HELP WANTED

HELP WANTED

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Business Insurance, a weekly news magazine and Web site serving the commercial insurance industry, is seeking an Associate Editor to report and write stories for print and the Web. Candidate will work closely with the news editor to report and write breaking news and generate feature content. Successful candidate must have solid reporting skills with at least 3 - 5 years' business reporting experience. Must be deadline oriented, with the ability to develop and report news and feature stories. Daily news reporting experience preferred. Position based in New York, with occasional domestic travel.

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International NEWS

Risk management still the exception in Portugal

Companies with plans focus mainly on finance

By RODRIGO AMARAL

LISBON, Portugal—More than two-thirds of Portuguese companies haven't awakened to the advantages of risk management, according to a recent gathering of experts in Lisbon.

And in far too many cases, companies still assume that the government will bail them out if disaster strikes, they say.

These assertions were made earlier this month at The Risk Management in Production Activities Conference, an event designed to raise awareness of risk management in Portugal. The conference was organized by Centro de Riscos da Universidade do Porto, a research institute linked to the University of Porto.

"Our goal is to promote a broader concept of risk—not only the risks of construction or the financial risks of banks, but those that are relevant to companies and to society as a whole," said António Campos e Matos, an academic at the university who chaired the conference.

"Portuguese banks and big companies that work in other countries possess a concept of risk management already. But small and medium companies and public bodies don't," he said. "A global transformation is affecting Europe as a whole and Portugal in particular. We had the habit of expecting the state to provide solutions to all our problems. If a construction project cost five times the original budget, the government would pay for it. Now that's over and risks must be allocated to someone else," he remarked.

Mr. Campos e Matos said he believes CERUP and other institutions, such as the Associação Portuguesa de Gerencia de Riscos, the country's risk management and insurance association, have a lot of work to do.

"Studies show that over 70% of Portuguese companies don't have a risk management system in place," noted Pedro Esquível, president of the northern division of the Portuguese Assn. for Quality.

"Many of them probably do apply risk management practices but don't know that. The large majority will have only very rudimentary systems dealing mostly with financial risks," he continued. But Mr. Esquível stressed that regulatory and corporate governance pressures, particularly on listed companies, are helping to change this situation.

Nongovernmental organizations such as Instituto Portugues de Corporate Governance, the Portuguese institute of corporate governance, and bodies such as Comissão do Mercado de Valores Mobiliários, the country's securities commission, have pressed the point recently. "New rules require that listed companies detail their risk management

'New rules require that listed companies detail their risk management systems.'

Pedro Esquível,
Portuguese Assn. for Quality

systems," Mr. Esquível said.

Jose Manuel Dias da Fonseca, president of APOGERIS, pointed out that the perception of risk in Portugal has evolved significantly in the last 30 years. "Some time ago, people would shrug off labor accidents as something that is part of our lives. Today, a company risks being lambasted on the front page of the local newspaper if such a thing happens," he said.

But Mr. Dias da Fonseca said that many companies in Portugal prefer to leave risk management to insurance brokers and other external parties. "It is necessary to move from the insurance phase, which of course is a very important one, to a broader organization of the management of risks," he commented.

The nascent stage of risk management in Portugal was illustrated by Mr. Dias da Fonseca with the figure that only about five companies have created captives to provide a more efficient tool to insure large risks.

One such company is Porto-based Sonae SGPS S.A., a business group with worldwide interests in the paper and pulp, retail and other industries.

Sonae's captive company was created in 1999, recalled Domingos Sequeira de Almeida, Sonae's director of audit and risk management. By then, the group was implementing a systematic approach to risk management that went beyond technical activities, he said.

Other topics of debate during the conference were coastal erosion, flash floods, environmental risks, construction risks, risk management at ports and energy risks.

Execs of defunct insurer sentenced

Prison terms imposed in financial coverup prior to 2001 collapse

By SARAH VEYSEY

LONDON—Former officials of defunct U.K. insurer Independent Insurance Co. Ltd. last week were sentenced to jail following their conviction on charges stemming from the probe into the insurer's 2001 collapse.

Michael Bright, Independent's former chief executive officer, was sentenced to seven years in jail for fraudulent trading. Two other former directors also received jail sentences for their roles in a fraud that covered up Independent's true financial position prior to its collapse in 2001.

The judge, Mr. Justice Rivlin, sentenced Mr. Bright, who was found guilty by a jury on two counts of conspiracy to defraud, to two seven-year terms—the maximum sentence he was permitted to impose for fraudulent trading—to run concurrently.

In sentencing the three former directors, the judge said that while he recognized their actions had not been intended to "raid the till" at Independent and that the fraud had not caused the company's financial collapse, their fraudulent mismanagement of claims and misrepresentation of the company's reserve position to its actuaries, among other things, had likely worsened the losses suffered by the insurer and its employees and policyholders.

Independent had been an important property/casualty insurer for



Michael Bright, former CEO of Independent Insurance Co., has been sentenced to seven years in prison.

small and medium-size companies in the United Kingdom, Ireland and Australia. At the end of 2000, the insurer had about 40,000 commercial policyholders.

The company's true financial position was concealed and its 2000 year-end results were calculated to deceive the market, the judge said.

Those results showed a profit when, in truth, "they ought to have shown an enormous loss," the judge told the court.

That loss would have been about £110 million to £120 million (\$177.1 million to \$193.2 million), he said, with the financial picture having been distorted by a further

£100 million (\$161.0 million) by fraudulent use of reinsurance. The true loss for 2000 was in the range of £210 million to £220 million (\$338.1 million to \$354.2 million) or "very probably more," the judge said.

He said he had been unimpressed by the "breezy" manner in which Mr. Bright had sought to blame others in the company for the fraud, and said it had done little to persuade him that Mr. Bright was truly sorry.

Dennis Lomas, Independent's former finance director who also was found guilty on two charges, was sentenced to serve two four-year prison terms to run concurrently.

The judge said that while he had been convinced that Mr. Lomas had felt increasingly frightened and shocked by the extent of the dishonesty being perpetrated at Independent, he had lacked the character to say "enough is enough."

The company's former deputy managing director, Philip Condon, was sentenced to serve three years in prison. He was found guilty on one charge of conspiracy to defraud and acquitted on charges related to fraudulent use of reinsurance.

The judge said Mr. Condon had "foolishly felt a greater loyalty to (his) old friend and mentor Mr. Bright" than to many innocent people who suffered losses as a result of the fraud and financial collapse.

Austria insurers defend long-term contracts despite EC concerns

By RICHARD MILLER

VIENNA, Austria—Austria's insurance association has continued to defend the use of long-term contracts after the European Commission expressed concern about the practice in its final report on competition in the business insurance sector.

In its recent report, the commission singled out Austria, where the average duration of insurance contracts was calculated at approximately eight years—the longest in Europe. The commission expressed concern that "networks of long-term contracts in Austria may restrict competition," according to a supplemental memo to the report on the European Commission's Web site.

"This is not a definite conclusion, but it needs to be examined more closely," the commission's memo stated. "The commission is simply saying that at this stage, its concerns in relation to the situation in Austria have not yet been addressed and that this requires further analysis. It intends to liaise with the Austrian Competition Authority," it added.

In its interim report, published in

January, the commission also singled out Italy, the Netherlands and Slovenia as markets where there were concerns about the prevalence of long-term contracts. But since then, according to a spokeswoman for the commission, changes in those markets have meant that the commission's concerns there have "substantially diminished."

Reacting to the final report, published late last month, Vienna-based Austrian insurance association Versicherungsverband Österreich issued a statement explaining that contracts were long because customer loyalty in Austria is "traditionally very high." However, the VVO emphasized that the contracts are "individual arrangements" between client and insurer that vary in terms of length and cancellation options.

Long-term contracts are more common among small to medium-size companies, said Rudolf Schiel, head of insurance at RHI A.G., a global manufacturer of refractory products based in Vienna.

One reason contracts are longer may be the limited number of business insurers in Austria, noted Brigitta Schwarzer, general secretary and member of the management

committee at Wienerberger A.G. in Vienna, an international brick and clay roof tile manufacturer.

"I do think that the consequence of long contract periods, due to the volatile insurance market, is not significant, as the long-term contract will be to the advantage of the insurer in one year and to the advantage of the insured in the other year," she said.

Karin Mair, senior manager, forensic and dispute services at Deloitte Wirtschaftsprüfung GmbH in Vienna, said long-term insurance contracts usually allow for a premium discount of about 10%, unless negotiated for higher.

But with buyers becoming more aware of the market cycles and price competition among insurers, she believes that that may lead to shorter-term contracts.

From a European perspective, long-term contracts of eight years or more are not optimal for buyers, said Marie-Gemma Dequae, president of the Federation of European Risk Management Assns. "If it is longer than three years, then you lack the link to the insurance market and a lot of things are changing in the insurance market," she said.

Wellness: Efforts follow workers abroad

CONTINUED FROM PAGE 4

and personal health care services delivered via onsite clinics, has reduced illness-related absenteeism from a high of 10.11 days per worker per year in 1991 to just 1.2 in 2007. Over the same time period, occupational injury rates have fallen while plant production has increased 400%, according to Dr. Curiel.

As a result of these accomplishments, the IHPM awarded DuPont Mexico's Integrated Health Services team the 2007 International Corporate Health and Productivity Management Award.

Moreover, DuPont's social security program payments—the tax assessed on companies to finance the government-run health care system—have fallen because, under the system's rules, employers whose employees access health care services less frequently receive a discount, Dr. Curiel said.

In Australia, employers are being pressured to improve employee health and productivity because of the strain the deteriorating health of the country's population is putting on government funds, according to Louise Stewart, managing director and founder of the Revive Group, a wellness program provider based in Western Australia. "It will bankrupt the system if this

trend continues," Ms. Stewart warned.

More than 7 million of the country's adult population—67% of men and 52% of women—are overweight, costing the government-run health care system more than \$2 billion each year, she said.

Santa Clara, Calif.-based Intel Corp., which has offices and facilities

'The government (of Mexico) doesn't provide preventive care. So if you want a checkup, you have to pay for it yourself.'

Dr. Bernardo Curiel, DuPont Mexico

ties in 294 locations across the globe, offers supplemental health benefits that include wellness and preventive health care services to its employees in every country in which it operates, according to Patti Clavier, global team leader for health and productivity management based in Colorado Springs, Colo.

Among the programs are diabetic and hypertension workshops, health coaching, AIDS awareness, nutrition, fitness, smoking cessation, health screenings and vaccina-

tions.

"We believe health and productivity is a competitive advantage," she said.

But in some countries, implementing programs such as health risk assessments has been challenging because of government restrictions, Ms. Clavier said. For example, under a 1995 European Union directive, privacy regulations for personal health information are far more restrictive than the Health Insurance Privacy & Portability Act in the United States, she said.

"We have to reassure people they won't lose their job or their health insurance if they participate," Ms. Clavier said.

Some employers are finding that wellness programs can enhance employee loyalty and trust, which are essential ingredients to maintaining a stable workforce, according to Linda Roberts, director of business development for Abbott Laboratories in Abbott Park, Ill.

Abbott Laboratories' first initiative was in China, where it focused on anemia due to poor nutrition, obesity, hypertension and diabetes. Ms. Roberts said 5% of the country's population currently suffers from diabetes, and the proportion is projected to grow to 14% by 2010. The company plans to launch similar initiatives in several other countries next year.

Employee safety, productivity and health steady within work weeks of 40 to 59 hours

By JOANNE WOJCIK

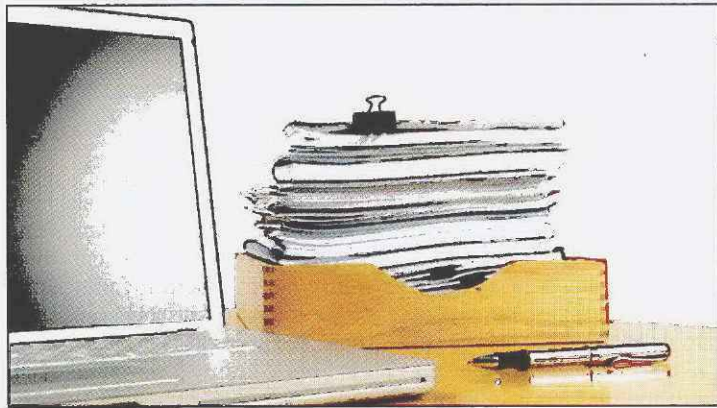
SCOTTSDALE, Ariz.—The vast majority of full-time employees can work up to 60 hours per week without jeopardizing their health, productivity or safety, a study shows.

In fact, people who generally work less than 40 hours per week are more likely to suffer adverse outcomes than those who work between 40 and 59 hours, according to the study by Harris Allen Group L.L.C., a Brookline, Mass.-based consulting firm, and International Truck & Engine Corp., the former International Harvester Corp.

The study was requested by the United Auto Workers union in anticipation that mandatory overtime would be required if labor shortages develop as predicted by economists, said Dr. William Bunn, vp of health, safety, security and productivity for the Warrenville, Ill.-based manufacturer.

Dr. Warren and Harris Allen, principal of Harris Allen Group, presented the study, which was published in several medical and business journals, during a session at the Institute for Health & Productivity Management's seventh annual conference held Oct. 17-19 in Scottsdale, Ariz.

The study group included



2,746 workers, of which 67% were hourly and 33% were salaried. All hours worked outside of the normal workday between May and September in 2001 were treated as overtime, including night and weekend work, regardless of whether a worker completed 40 hours during the regular work week. All overtime work performed by study participants was voluntary.

The study database included employee surveys, workers comp and short-term disability claims, group health and paid prescription claims, in-house absenteeism data and in-house data on job characteristics.

"People who worked less than 40 hours were much more likely to experience adverse outcomes than those who worked 40

hours, and the impact was minimal for those who worked more than 40 hours," said Mr. Allen.

The only measurable adverse impact occurred among workers who performed 60 hours or more of work per week. These workers were more likely to have acute/trauma and other types of injuries. But these injuries occurred primarily among males with a history of disease and disability episodes, according to Mr. Allen.

The study also found that working 60 or more hours a week increased the likelihood of onset of a new disease diagnosis, but this was mostly among older employees who had a history of at least one prior medical condition.

Measurable returns aside, wellness programs growing

SCOTTSDALE, Ariz.—One in five multinational employers offer wellness programs outside of North America, according to a survey by Buck Consultants L.L.C. that was presented at the Institute for Health and Productivity Management's seventh annual international conference held Oct. 17-19 in Scottsdale, Ariz.

Goals for the programs vary by region, with Canadian employers citing employee attraction and retention as their primary objectives, European employers seeking to reduce illness-related absences and employers in various other geographies seeking to improve workplace morale.

However, improving worker productivity is also among the top objectives cited by employers across the globe, according to the Buck survey, which included responses from 555 organizations that have approximately 7 million employees worldwide.

Components of global wellness initiatives also vary by region, the survey found.

The most popular are employee assistance programs, health risk assessments and immunizations. The fastest-growing components include technology-driven tools such as Web portals, online programs and personal health records.

Although one-third of U.S. employers report a reduction in health care cost trend rates attributable to their wellness initiatives, many employers have yet to produce measurable returns on investment for the programs, the survey found.

Despite this, employers indicate significant plans to expand these programs in the next one to three years, the survey found.

Buck's survey report, "Working Well: A Global Survey of Health Promotion and Workplace Wellness Strategies," is available for \$100 from Buck's Global Survey Resources, 500 Plaza Drive, Secaucus, N.J. 07096-1533; 800-887-0509. It can also be ordered online at www.bucksurveys.com.

—By Joanne Wojcik

Benefits: Value-based plans

CONTINUED FROM PAGE 4

cantly higher medical costs when they failed to comply with their treatment regimens: \$8,892 vs. \$6,135 per employee per year.

"Our job is to work with those individuals, educate them and to provide them with the tools and resources they need to make better decisions," Mr. Scibelli said.

In addition to using data mining to target employees likely to benefit most from value-based design strategies, many employers are using health risk assessments, which allow patients to identify their health risks themselves, as another way to encourage greater consumerism.

While most employers currently use incentives, such as gift cards or reductions in premium contributions, to encourage compliance, some are considering a more punitive approach, particularly for health risk assessments.

"We will go to the stick from the carrot eventually to boost participation," said Patti Clavier, global team leader for health and productivity management at Intel Corp. in Colorado Springs, Colo., during another session at the IHPM conference.

Ms. Clavier said only about 40% of Intel's eligible employees are currently completing HRAs. The company provides \$25 American Express gift cards for completing the HRA and another \$25 for attending an initial health coaching session.

The ultimate objective of a value-based health plan design is to keep the focus on health, rather than the benefits, said David Evans, director of compensation and benefits at Cerner Corp., a health information technology company based in North Kansas City, Mo.

Under Cerner's value-based design, employees who take advantage of the company's onsite clinics receive care at no charge, he said.

Because visits to clinic doctors are double the length of typical doctor's office visits, "people who visit the clinic even once spend less overall on health care in the community," Mr. Evans said.

"We've got to change how we pay for medical care," insisted Robert Smoldt, chief administrative officer of the Mayo Clinic in Rochester, Minn., during an opening keynote address at the IHPM conference.

For years, the focus of many employers has been "on unit cost, but we're not looking at the use rate. In most cases, it costs more in the long run to pay less upfront," he said.

Mayo Clinic instituted a form of value-based benefits in 2004 in which employees make no copayments when they use a "medical home" approach that has primary care physicians coordinate their care, Mr. Smoldt said.

The strategy has reduced Mayo Clinics' benefit costs to a point where they were lower in 2006 than they were 2003, he said, not providing specific figures.

Cardiac program helps to save plant, improves employees' overall health

By JOANNE WOJCIK

SCOTTSDALE, Ariz.—A cardiac disease management program that enlisted the support of the local physician community is responsible for resuscitating a Cartersville, Ga., auto parts plant about to be shut down.

"This was a plant that was slated to close. Some of the work was headed for Mexico. The rest was going to China," said Terri Forman, benefits manager for Warren, Mich.-based TI Automotive, during a session at the Institute for Health and Productivity Management's seventh annual international conference.

The plant's health care costs were increasing at a 12% annual clip, with costs per employee projected to surge to \$25,140 by 2016, Ms.

Forman said.

Under the cardiac care program, all employees were required to undergo lipid screenings at the plant. If their cholesterol was found to be at unhealthy levels, they were instructed to make changes in their diet and to exercise. After eight weeks, employees whose cholesterol levels weren't lowered by diet and exercise were referred to their physicians for medical intervention. However, even in those cases, employees were dissuaded from relying primarily on medication to control their cholesterol.

"The easy thing to do is to pop a pill, but it may not be the necessary thing to do," Ms. Forman said.

The program also allowed no exceptions for employees who blamed their high cholesterol on heredity.

"They have a history of eating poorly, as did their parents and their grandparents," she said, maintaining that the only permanent solution to their cholesterol problems was to make lifestyle changes. "We treat it almost as if they have an allergy to cholesterol," she said.

When some employees came to her complaining that their doctors disagreed with the company's findings, Ms. Forman approached the doctors herself and explained the direness of the situation, that their patients were risking not only heart disease but their livelihoods as well unless they made the necessary lifestyle changes.

"That was the beginning of a relationship with doctors in the community," she said.

By the end of the initiative's first year, the plant's monthly health care costs per employee dropped 29%, falling from \$899.37 in 2005 to \$635.88 in 2006, granting the Georgia plant a reprieve from its slated closure, Ms. Forman said.

Since then, "costs have continued to decrease, falling another 18% from 2006 to 2007," she said.

Now, instead of closing the plant, TI Automotive is expanding it.

"We're about to add another 140 jobs," Ms. Forman reported. Employees are "much more productive and we've got a community that's also supportive of the initiative. It saved not only their jobs, but a viable employer in the community."

Health conference draws 520

SCOTTSDALE, Ariz.—A total of 520 employer and health benefit industry representatives from across the globe attended the Institute for Health and Productivity Management's seventh annual international conference Oct. 17-19 at the Hyatt Regency Scottsdale in Scottsdale, Ariz.

Next year's international conference will be held Oct. 15-17,

2008, at the same location where it was held this year.

The IHPM also sponsors a health management conference each spring in Orlando, Fla., with the 2008 meeting slated for March 31-April 2.

For more information about IHPM and its conferences, visit www.ihpm.org.

—By Joanne Wojcik

Treaty: Amendments clarify deductions

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found it difficult to abide by the current treaty because of the uncertain tax treatment for pension contributions.

"There's an awful lot of noncompliance under the current rules," Mr. Theroux said. "What you get is a type of paralysis and people look the other way."

The United States is the No. 1 source country for foreign workers in Canada, with 24,830 Americans working in Canada as of Dec. 1, 2006, according to Citizenship and Immigration Canada, the govern-

ment immigration bureau.

In 2000, 58,465 Canadians worked in the United States on a temporary basis, according to the U.S. Census Bureau study that year, the latest data available.

The changes would remove a possible disincentive for commuters and temporary work assignments, observers say.

"I think this really will help," Ms. Lee said.

The amended tax treaty must be ratified by the governments of both countries. In the United States, the treaty must be approved by the U.S. Senate Committee on Foreign

Relations followed by the full Senate, while the treaty must be approved by the House of Commons in Canada.

If ratification occurs before the end of 2007, the amendments become effective for tax years that begin in 2008. Otherwise, the changes would apply to tax years that begin the calendar year after the amendments are ratified.

Industry experts said they believe the amendments would be approved by both nations, but said it is unlikely that the governments would take action by the end of this year.

Elections: Industry opposes referendum

CONTINUED FROM PAGE 4

no evidence from other states that consumer protection laws increase insurance rates."

The spokeswoman stressed that the referendum addresses first-party insurance claims only.

Ms. Childers also said that the change is not needed because policyholders can sue their insurers and recover emotional distress awards under the "unreasonable" standard. The Approve 67 spokeswoman

said that the relative weakness of the state's consumer protection laws justify the change.

"Washington currently has one of the weakest consumer protection laws in the country," she said. "Forty-five other states have tougher laws and tougher penalties for insurance companies that treat people unfairly. Under our current law, an insurance company who unreasonably delays or denies a legitimate claim is only required to pay the claim it denied in the first

place. There are no consequences under the law."

"R-67 simply says if you paid your premium on time, if you have a legitimate claim, the insurance company has to honor its commitment. If they don't honor that commitment and you can prove the insurance company treated you unfairly, a judge may award triple damages to the consumer plus attorney fees."

The change would not apply to health insurance.

Business Insurance PERSPECTIVE

TRIREA extension vital for industry

By Gregory Case
and Aaron F. Davis

The recent approval by the full House and a key Senate committee of legislation to extend the Terrorism Risk Insurance Act is crucial to the financial well-being of companies across the nation as well as to the insurance market as a whole. This key legislation provides for assurances that U.S. businesses and their employees will be protected if a terrorist incident occurs.

After the 9/11 terrorist attacks, many insurance companies excluded terrorism events from their insurance policies—for fear they would not be able to afford to cover such losses in the future. As a result, Congress passed the Terrorism Risk Insurance Act in 2002. TRIA created a federal backstop to protect companies against terrorism-related losses.

In 2005, Congress extended the program for two additional years, and on September 19th, the House of Representatives took an important step to ensure that the principles under which TRIA was created are maintained for the long term.

As a partner in the pursuit of prudent risk management, Aon supports the Terrorism Risk Insurance Revision and Extension Act of 2007. While there have been positive developments on the modeling and risk transfer capacity front since TRIA's inception, the simple fact is that the private market is not prepared to handle this risk now or in the near term without some form of public/private partnership.

The argument that TRIA has stifled private market development is untrue. It has, in fact, helped create the market for U.S. terrorism risk transfer—enabling the insurance industry to understand, analyze and quantify the impact of terrorism rather than exclude it altogether.



Gregory Case (top) is president and CEO of Chicago-based brokerage Aon Corp. Aaron F. Davis is director of National Terrorism & Property Resources for Aon.



TRIA has also performed an important function in fostering private market participation by essentially creating a private market retention level that covers losses before the federal government steps in to provide excess catastrophic capacity. Just think how much better off things would be in New Orleans had a program of this nature been in place in advance of Hurricane Katrina.

To date, TRIA has provided the U.S. economy with a needed economic safety net that has encouraged the private market to cover all but the most catastrophic of losses. TRIREA, if signed into law by the president, will foster broader affordability and availability for terrorism insurance for property owners, corporations, public entities and insurers, and this means that all Americans can feel confident that a terrorist incident will not cause irreparable, long-term damage to our nation's corporate infrastructure.

We hail Congress' support for extending the TRIA program, and we call on the Bush administration to do the same.

Audit: Helps cut health care costs

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"It was something we needed to do for some time," said Jane Bruce, human resources director at Nashville, Tenn.-based Vanderbilt University, which culled 6% of its dependents from its rolls following last year's audit. The audit, which was conducted by Chicago-based Aon Consulting, resulted in an estimated savings of more than \$650,000.

"We were aware that we needed to raise the awareness of our population, that it's a cost to the whole of the plan to have people on who aren't eligible," said Ms. Bruce.

The audits help cut health care costs, observers say.

Paige Claus, benefits manager for Carrollton, Texas-based McLane Cos., a convenience store distributor, says her firm saved an estimated \$3.5 million in future health care costs as a result of removing 10% of dependents from its rolls following its audit earlier this year. This "enables us to not have to increase our employee contributions for next year, or make any type of plan design change," said Ms. Claus.

As a result, the firm has embarked on its open enrollment period "with absolutely no changes to any of our plans, which is really hard to do these days," said Ms. Claus, whose firm worked with Dallas-based HRAdvance on its audit.

Employers have already exhausted "the more traditional areas of cost savings," said Mark Rucci, a Princeton, N.J.-based consultant with Gallagher Benefit Services Inc. "They've raised contributions, they've restricted benefits, they've changed the plan designs," and they have introduced wellness and disease management programs.

"This is sort of the last, greatest chance to save money and the ROI

on these things is pretty high. They're a great source of savings to a health plan for a typical employer," said Mr. Rucci.

In general, dependent audits can find that 6% to 8% of dependents are ineligible, although the total can reach as high as 15%, said Keith Bird, vp of sales for Suwanee, Ga.-based Impact Interactive, which conducts audits.

It may be hard to precisely pinpoint the savings arising out of these audits immediately, though, because claims may not necessarily have been filed on behalf of the ineligible dependent, said Ms. Johnson. Without studying claims experience, "it's hard to put a number on that," she said. In some cases, employers will have to wait a year to see if claims costs decline.

Audits can help employers avoid potential liability as well, observers say. Under ERISA's exclusive benefit rule, "it is the plan sponsor's responsibility to make sure that there are no claims paid for ineligible participants," and those that are paid do "create some exposure to liability on the part of plan sponsors," said Brennan L. Clipp, senior vp of sales and marketing, with HRAdvance.

Furthermore, publicly held employers are obligated to remove ineligible dependents under the Sarbanes-Oxley Act, which requires management to sign off on the quarterly data's financial accuracy, said Ms. Clipp. However, "a lot of times you don't see the (chief financial officer) really coordinating with the HR or benefits department," which could mean potential exposure under Sarbanes-Oxley, she said.

The best time to conduct an audit is either before or after open enrollment, but not during, observers say.

"It's a bad idea for the most part" to conduct the audit during open

enrollment because there is so much going on then, said Monica Trusley, assistant vp at Willis of Ohio Inc. in Cleveland.

Employers generally offer an amnesty period when they announce an audit for employees in order to encourage them to voluntarily come forward about their ineligible dependents, observers say. Providing that opportunity is "a nice way for the employer to give that benefit of the doubt to the employee and still reap the benefits of the dependents coming off the plan during this amnesty period," said Ms. Trusley.

Wayne K. Soud Jr., executive vp with Lockton Cos. L.L.C. in Atlanta, said he recommends that as part of the audit process firms require employees to fully document their dependents' eligibility by providing supporting evidence, including marriage certificates, tax forms and birth certificates for those eligible under the plan. Employers will typically offer an appeals process in cases where dependents are removed, he said.

Generally, employers simply remove ineligible dependents from the plan with no further repercussions when employees either do not respond to an audit, or indicate they have ineligible dependents. In some cases, though, employers will pursue repayment of claims and payment of additional premium and, in rare instances, terminate the employee, observers say.

Ford Motor Co., for instance, which has dropped 80,000 ineligible dependents from its rolls since it began these audits in 2000, has had two amnesty periods, but now seeks reimbursement for benefit overpayments from employees with ineligible dependents, said a spokeswoman for the Dearborn, Mich.-based auto maker.

Fraud cases not prevalent

Ex-spouses, common law spouses who are not covered by an employer's plan and "aged out" children are among the most frequent categories of ineligible dependents that are discovered when employers conduct dependent audits.

Observers say the reasons they are enrolled to begin with include forgetfulness, ignorance and, to a lesser degree, fraud.

Children who are too old to qualify as dependents, or who are no longer students are often among those found to be ineligible. In addition, stepchildren, nieces and nephews, grandchildren and others who may be living with an employee but are not legal wards are also among those who are found to be ineligible, say observers.

When Carrollton, Texas-based McLane Co., a convenience store distributor, conducted its audit, "We found a lot of folks that were divorced a year or two, or three years that just continued to cover their spouse on the plan," said benefits manager Paige Claus.

The firm also found a lot of stepchildren that "were not in fact stepchildren" either because they did not qualify under the plan's definition, or the employee was not married to their parent, said Ms. Claus.

Often, a father will be confused because he has received a divorce court's order to pay for his children's health care, said Mark Rucci, a Princeton, N.J.-based consultant with Gallagher Benefit Services Inc. But the children may have moved

with their mother to another state, where she takes a deduction for them in her own tax returns and so are not covered under the father's plan, he said.

"Just because the court says he has to pay doesn't mean the employer has to cover them. People confuse the rules for the health plan with divorce court rules and the qualified support orders," said Mr. Rucci.

"I think that outright fraud is probably lower than a lot of people think," said Susan Johnson, Atlanta-based senior consultant with Watson Wyatt Worldwide. The two biggest issues are employees who forget to remove those who are no longer dependents, or do not understand the dependent rules.

"That's not the kind of thing you're thinking of when you go through a divorce," said Ms. Johnson.

And immigrant populations' "understanding of benefits and dependent definitions can be very weak," she said. "In some cultures, dependent means anybody who lives in your house that you're feeding."

At Akron, Ohio-based Myers Industries, a polymer products manufacturer, which culled 5% of dependents from its rolls as a result of its audit, "probably 90% of them were just mistakes and oversights and misunderstandings about who could be enrolled," said risk manager Scott James, who estimates his firm, which has 3,500 U.S. employees, saved about \$200,000 as a result of its audit.

—By Judy Greenwald

Procedure changes needed

If employers don't introduce improved procedures following a dependent audit, ineligible dependents may wind up right back on the health benefits plan roll, say observers.

Employers that fail to set up protocols and best practices to catch ineligible people going forward "may have to duplicate the audit in a few years," said Monica Trusley, assistant vp at Willis of Ohio Inc. in Cleveland.

"Reach out to employees and really share the outcome of what happens" as a result of the audit, recommends Dianne Geiger-Chin Loy, vp with Aon Consulting in Atlanta. Make it clear that the employer "did not do this in a vacuum" and that the audit will help trim costs.

At Akron, Ohio-based Myers Industries Inc., a polymer products manufacturer, "We're redrafting the eligibility provisions of our medical (summary plan description) based on the

audit's results" and on the recommendation of Suwanee, Ga.-based Impact Interactive, which conducted the audit, to tighten up eligibility requirements, said risk manager Scott James.

The company also plans additional in-house training of its human resources personnel at its different manufacturing facilities. In addition, "we're going to be requiring some additional documentation from people going forward," Mr. James said.

Vanderbilt University in Nashville, Tenn., now discusses this issue at its new staff and faculty orientations, said human resources director Jane Bruce. After its open enrollment period, it also examines the records of employees who had been found to have ineligible dependents and requests documentation if they have been adding dependents back on the health plan, she said.

—By Judy Greenwald

Infection: Liability issues loom as bug spreads

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written by a group of medical professionals affiliated with the Centers for Disease Control & Prevention in Atlanta and health departments, hospital and medical schools in several states. The study appeared in the Oct. 17 issue of the Journal of the American Medical Assn.

To gauge the prevalence of the bacteria, the study's authors used data from nine communities that participated from July 2004 through December 2005 in an infectious disease observation effort run by the CDC and public health agencies in several states—the Emerging Infections Program Network.

The authors then extrapolated their data to form their conclusions about how pervasive MRSA has become. According to the study, invasive MRSA infections were associated with 18,650 deaths in the United States in 2005.

By comparison, the CDC esti-

mates there were 16,316 deaths from AIDS in the United States in 2005.

But many people who died while infected with MRSA may not have died because of the bug, said Dr. Elizabeth Bancroft in an interview. Many MRSA-infected patients also have other medical problems, said Dr. Bancroft, a medical epidemiologist with the Acute Communicable Disease Control unit of the Los Angeles County Department of Public Health in Los Angeles. At JAMA's request, Dr. Bancroft wrote an editorial that accompanied the study.

Among the MRSA-related deaths, 85% were associated with medical facilities, with 26.6% occurring less than 48 hours after patients were admitted to hospitals and 58.4% occurring among individuals who obtained health care treatment recently, had invasive medical devices or previously were infected with the MRSA strain common in

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O'Hara: Internal candidate appointment predicted

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ket. Mr. O'Hara was there at its 1986 inception, moving from Trenwick Group Inc. to become XL's president and chief operating officer. Eight years later, he succeeded Michael Kevany as CEO.

After going public in 1991, XL invested in, and later took over, property catastrophe reinsurer Mid Ocean Ltd. and its Lloyd's of London operation, Brockbank Group P.L.C.; acquired Folksamerica General Insurance Co. and NAC Re Corp., which became U.S.-based insurance and reinsurance units; and launched operations in Latin America, Europe and Asia.

In 1986, XL wrote \$206 million in U.S. excess liability premiums from a small office in Bridgetown, Barbados. By 2006, it recorded total revenues of \$9.8 billion from an array of property/casualty and life products written through 72 offices around the world; it reported total assets of \$59.3 billion and shareholders equity of \$10.1 billion.

2005 brought trouble to Mr. O'Hara and XL's top managers, though. After reporting \$1.47 billion in catastrophe losses for that year's third quarter and a \$182.9

million increase in reserves for NAC Re losses, XL was forced to take an

'Mr. O'Hara appears to have stabilized the company following a shaky run earlier in the decade.'

David Small, Bear Stearns & Co. Inc.

\$830 million fourth-quarter charge against earnings after losing an arbitration case with Winterthur Swiss Insurance Co. over reserves for a Winterthur unit that XL had acquired in 2001.

The cat losses and Winterthur charge damaged XL management's credibility, some analysts said at the time, and Standard & Poor's Corp. downgraded the insurer's financial strength rating to A+ from AA-

XL responded quickly with a risk management initiative, reducing its property cat exposure, exiting

unprofitable lines and shoring up its balance sheet.

In June 2006, the company also restructured its top management, creating an Office of the CEO and reducing the number of XL executives reporting directly to Mr. O'Hara. The OCEO comprises the company's chief financial officer, chief investment officer, chief operating officer, chief executive for business services and chief of staff, all of whom report to Mr. O'Hara.

Since its rocky 2005 performance, XL has posted seven straight quarters of solid results—including last week's announcement of \$328 million in net income for 2007's third quarter and a combined ratio of 87.4% for insurance operations—and criticism of its management has abated.

"I don't think that same pressure is on the organization today," said Jeff Berg, senior vp with Moody's Investors Service in New York.

Asked about the timing of Mr. O'Hara's retirement, an XL spokesman said, "The company is in great shape. If you were going to do this at any time, why not do it now?"

Analysts were generally positive

not only about XL's performance this year but of its succession planning, including its intent to look outside the company for a new CEO.

"We believe this is a good time for a leadership change," Bear Stearns & Co. Inc. Analyst David Small wrote in a research note. "Mr. O'Hara appears to have stabilized the company following a shaky run earlier in the decade and at this point a new leader will not be walking into a crisis situation."

Regarding XL's consideration of outside candidates, Mr. Berg added, "It's the smart thing and the disciplined thing for the board to look at all their options before making a decision."

"They have a duty to shareholders to find the best candidate possible," agreed Tana Higman, a director with Fitch Ratings Ltd. in Chicago.

Analysts with Goldman Sachs & Co. and Lehman Bros., meanwhile, predicted that an insider will ultimately be the XL board's choice. Jay Gelb, a Lehman analyst based in New York, suggested who that is likely to be.

"We anticipate XL's chief operating officer Henry Keeling will take

TIMELINE: BRIAN O'HARA

1975-1979: Worked at General Re Corp., ultimately managing its captive reinsurance business.

1979-1986: Senior vp and chief underwriting officer at Trenwick Group Inc.

1986-PRESENT: Joined XL at its inception as president and chief operating officer; appointed chief executive officer in 1994. Guided XL's expansion from a Fortune 500 excess liability insurer with \$206 million in gross premiums in 1986 to a global property/casualty insurer and reinsurer with total revenues of \$9.8 billion in 2006.

JUNE 2006: XL creates an Office of the Chief Executive Officer, comprising five top XL officials reporting to Mr. O'Hara and assuming direct responsibility for five broad areas of the insurer's operations.

OCTOBER 2007: XL announces that Mr. O'Hara will retire as CEO in mid-2008 and that he will serve as chairman for a year after his retirement.

on the CEO role in a smooth transition after current CEO Brian O'Hara retires," Mr. Gelb wrote last week.

Mr. O'Hara could not be reached for comment.

Infection: Simple procedures can reduce spread of deadly bacteria

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hospitals.

The study's authors concluded that the deadly, invasive strain of the bacteria "is a major public health problem" that is primarily found in health care settings, but may not remain there.

MRSA has been an issue in health care settings since the 1960s, but the problem has worsened because the bacteria has become resistant to

many types of antibiotics; patients are entering the hospital sicker and less resistant to the infection than in the past; and more patients are bringing the bacteria into the hospital, Dr. Bancroft said.

To date, though, few medical malpractice charges have been pressed against health care facilities for failing to protect patients or family members from MRSA infections, according to observers.

Nashville, Tenn.-based HCA Inc.,

the nation's largest multihospital organization, has been hit with only a few claims related to MRSA infections, but usually that allegation is not the central point of claims, said James D. Hinton, vp-risk and insurance.

Among all health care facility clients, Marsh Inc. has not seen many MRSA-related claims, said Holly Meidl, a Nashville, Tenn.-based managing director and the broker's national health care prac-

tice leader.

But, Ms. Meidl noted, because publicity surrounding the issue has been recent and medical malpractice claims can lag incidents up to 36 months, MRSA-related claims could be in the offing.

Roberta Carroll, a Tampa, Fla.-based senior vp with the health care practice at Aon Risk Services Inc., also said she anticipates seeing more claims related to MRSA infections.

Unless underwriters begin adding infectious disease exclusions, health care facilities would be covered for such liability claims, brokers said.

But according to experts, health care facilities can vastly reduce, if not eliminate, the spread of the bug by:

- Making hand sanitizers readily available and posting signs to encourage staff and visitors to use the sanitizers before and after visiting patients.

- Testing patients during admission to determine whether they might be carrying MRSA.

- Isolating infected patients and requiring staff to wear masks, gloves and gowns when treating them.

- Properly disinfecting rooms and equipment, including items such as wheelchairs, and providing clear instructions to custodial staff.

"It's not necessarily difficult" to curb MRSA, said Carol Burkhart, a Denver-based vp with Marsh Risk Consulting. But in the fast-paced health care field, where facility staffing often is inadequate, those measures often fall victim to shortcuts that overworked staff take to make timely rounds, she said.

At HCA, Chief Medical Officer Dr. Jonathan Perlin in January implemented a systemwide MRSA

prevention program designed in part to short-circuit shortcuts. Among measures HCA has implemented, reminder and warning letters are handed to staff observed violating the program.

And hand sanitizers have been installed at each bed. That has led to a 600% increase in the use of sanitizers between the end of March and end of September, Dr. Perlin said.

Another particularly effective measure for HCA has been evaluating incoming patients with a high risk of infection. A study by the Assn. for Professionals in Infection and Epidemiology suggests that less than 5% of all new admissions carry MRSA. HCA has found that 20% of those it identified as high-risk patients carry the bacteria, Dr. Perlin said.

Other health care facilities report that they have drastically cut their infection rates by implementing similar measures.

For example, the University of Pittsburgh Medical Center halved its MRSA infection rate among intensive care patients at its main hospital since 2001 by, among other things, screening patients for the infection, according to Richard P. Kidwell, vp of risk management.

The hospital is now evaluating how to expand the program to other areas of the facility.

And in a unit at a Veterans Affairs hospital in Pittsburgh, MRSA infections were cut 71.3% from 2002 through 2004 using many of the basic measures—plus some facility-specific steps—for fighting the infection, according to the Pittsburgh Regional Health Initiative, a health care safety and quality consortium.

Schools work to prevent MRSA infections

While schoolchildren face the smallest risk in the general population of contracting a potentially dangerous and drug-resistant bacteria that causes skin infections, recent student deaths tied to the bacteria are prompting some schools and school groups to take bigger roles in preventing the infections.

Pinpointing schools as the source of the bacteria—methicillin-resistant staphylococcus aureus—would be difficult, said Jim Evans, a principal consultant with Albert Risk Management Consultants in Needham, Mass. But the facilities generally would be covered if found liable for any harm to students, he said.

An exception would be if a doctor at a campus clinic were held liable, noted Robb Jones, a senior vp and general counsel for claim management and risk research at United Educators Insurance, a Chevy Chase, Md.-based risk retention group for primary and

secondary schools, colleges and universities.

Costs associated with closing schools to sanitize them, however, typically would not be covered if the closures were not caused by property damages, experts said.

But Richmond, Va.-based Markel Corp. last week introduced extra expense insurance that would cover a school's cost to disinfect its facilities if the school were shuttered by a public health official.

Communication about the virus is a big part of school risk management efforts to minimize the health threat.

United Educators has been consulting with its 1,160 policyholders for 10 years on preventing other contagious diseases. The same risk management practices would go far in preventing MRSA virus infections, Mr. Jones said.

Staunton River High School in Moneta, Va., reacted with several

measures earlier this month after at least two students and possibly a third contracted the MRSA bacteria at about the same time. One of the students died Oct. 15. All schools in the county were closed for a day to allow community fears to subside, said Scott Simpson, the school's assistant principal.

The high school brought in professional cleaners to sanitize the facility, and school officials are considering bringing them in periodically as a backup to the school's custodial staff, Mr. Simpson said.

In addition, the school has mailed parents literature on personal hygiene tips designed to prevent the spread of the bacteria; posted small bacteria-prevention notices in high-risk areas, such as the cafeteria and locker rooms; and placed hand sanitizers in every classroom, Mr. Simpson said.

—By Dave Lenckus

News In Brief

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placements. The U.S. unit of ACE Ltd. did not admit to the charges, but agreed to settlements with attorneys general of Florida, Hawaii, Maryland, Massachusetts, Michigan, Oregon, Texas, West Virginia and the District of Columbia. ACE was named in 2004 as one of several insurers allegedly colluding in the bid-rigging scheme in a lawsuit filed against Marsh by then-New York Attorney General Eliot Spitzer. In 2006, it paid \$80 million in restitution and penalties to resolve investigations by New York, Connecticut and Illinois.

House panel approves health tax credit boost

The House Ways and Means Committee has approved trade legislation that would boost federal health insurance premium subsidies for employees who lose their jobs due to foreign competition and older pension plan participants whose plans fail. H.R. 3290 would provide an 85% tax credit—up from the current 65%—that eligible employees could apply toward their health insurance premiums. Senate Finance Committee Chairman Max Baucus, D-Mont., earlier introduced a bill with similar provisions, but the Senate panel has not taken up the measure.

Bill would encourage better building codes

A bipartisan group of House lawmakers has introduced legislation that would reward states that adopt and enforce strong building codes. Under the Safe Building Codes Act, states that enact comprehensive building codes would be eligible for additional federal disaster relief funds after a catastrophe. The bill enjoys broad support from the insurance industry.

Aetna investor lawsuit claims misrepresentation

Aetna Inc. and its current and former officers face a securities suit claiming fraudulent misrepresentation and a failure to disclose increased medical cost ratios affecting the insurer's operations. The suit, filed in the U.S. District Court for the Eastern District of Pennsylvania, seeks class action status. Aetna cited strong membership growth as the primary reason for higher earnings in the second half of 2005, but "shocked" the market on April 27, 2006, when it disclosed a rise in its medical cost ratio, resulting in a drop in its stock price, according to the lawsuit. "This higher MCR, coupled with large membership growth, meant that the company was underpricing its health plans in order to speed up enrollment," the lawsuit states. Aetna says the suit is without merit.

Fire: Forced closures spark business claims

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will be "generally limited."

Most commercial property losses involve smaller businesses located near residential areas, rather than large employer operations, several brokers and insurers agreed. Establishments such as restaurants, health clinics, strip malls, and retail shops around residential areas likely were hit hardest, they said.

But a San Diego risk manager who spoke with several area risk management colleagues last week said at least one large company expects it suffered direct fire damage to a building. Due to conditions in the area, the company had not yet reached the building to survey it.

Some of his colleagues at large insured entities notified their insurers of potential business interruption claims because they were impacted by mandatory evacuation orders, said David Dolnick, risk manager for Brady Cos., a San Diego-based commercial construction contractor.

Unanswered questions

"If they have any kind of direct impact to their property or (were under) a governmental order to shut down because of the fires, pretty much everybody that is in that boat has put their carriers on notice," Mr. Dolnick said. "There are some that anticipate having to go forward and file those claims."

About 80% to 90% of claims that commercial policyholders have notified insurers they intend to file stem from civil authorities forcing closures, said Gary Brown, senior vp in Glendale, Calif., for independent claims adjuster McClarens Young International.

Small manufacturing operations

and hotels that lost business because of event cancellations when patrons could not reach them are among entities intending to file such claims.

Only a handful of direct fire damage loss claims have been reported in San Diego and Malibu, Calif., including a "significant church" in Malibu that was badly damaged, Mr. Brown said.

San Diego County suffered the most extensive evacuations in Southern California. Companies in the area said they closed for a variety of reasons, including mandatory government evacuation orders and the closing of transportation routes used by employees. Others said they closed because of officials' recommendations that residents stay off roads, out of concern for employee safety and because many employees were among the residents fleeing areas under mandatory evacuation orders.

Each policyholder's particular circumstances and their individual policy language will determine whether business interruption coverage will be available to them, said Kevin Kilkenny, chief executive officer of Arrowhead Wholesale Insurance Services L.L.C. in San Diego.

Policy language for business interruption coverage varies in several respects that include deductibles, which generally are expressed in terms of the number of days a company's operations are shut down.

Many employers around San Diego shut down only for two days or so, said Dominic Zullo, risk manager for San Diego-based defense and transportation contractor Cubic Corp. That may not be long enough to meet their deductible

period, he said.

His company shut down for two days but expects to make up for production lost during that period at a later point, Mr. Zullo said. Such situations could preclude business interruption coverage.

But many employers that closed did pay workers' wages while shut down, which could qualify them for extra-expense coverage, Mr. Zullo said.

"Business interruption claims are some of the most difficult of all claims to negotiate," he added. "You negotiate with (a certified public accountant) rather than with an attorney like other claims."

Shutdown type matters

Claims related to voluntary closures or stemmed from officials' recommendations will be tougher to press than those related to shutdowns under mandatory civil authority orders, said Paul McVey, a managing director for Marsh & McLennan Cos. Inc. unit Marsh Risk Consulting in New York.

Mr. McVey said he expects insurers will end up paying some business interruption claims.

Such claims stemming from ingress and egress problems also depend on specific policy language, noted Arnold Mascali, a managing director for Aon Corp. in New York.

Some policies state ingress and egress must be entirely prevented, while others state it only needs to be impaired or hindered, Mr. Mascali explained.

Both Messrs. Mascali and McVey said policyholders could also have coverage for measures taken to prevent damage. That could include such steps as closing to prevent smoke from entering their buildings and damaging sensitive equipment.

Insurers, brokers among those fleeing blazes

SAN DIEGO—Southern California insurance brokers and underwriters were among numerous businesses forced to close or curtail their operations last week, especially around San Diego, the area hardest hit by fires and evacuations.

Some employers were located in areas under mandatory evacuation orders.

Others shut their operations to comply with authorities who requested that unnecessary traffic stay off of roads. Businesses also said they closed out of safety concerns for their employees, many whom were among the hundreds of thousands of evacuees.

"That was clearly the position we took," said Paul Hering, managing principal and chief executive officer in San Diego for broker Barney & Barney L.L.C.

About half of Barney & Barney's 250 San Diego employees, including Mr. Hering, were ordered to evacuate their homes last week.

Barney & Barney operated under a business continuity plan it developed following major

fires that struck San Diego in 2003, Mr. Hering said.

In 2003, many San Diego businesses were similarly hampered by authorities closing major transportation routes and forcing employees to evacuate their homes.

Last week, many San Diego companies fell back on crisis management plans developed after 2003, said Dominic Zullo, director of insurance and risk management for Cubic Corp., a San Diego-based defense contractor.

As part of its crisis plan, Cubic used various communication measures to alert employees not to report for work during the early part of last week, Mr. Zullo said.

Cubic's human resources department also linked employees needing emergency shelter with other co-workers that volunteered to share space in their homes. The company also arranged for a "major hotel" to provide its employees discounted rooms at \$75 per night, Mr. Zullo said.

"It kept them out of Qualcomm

Stadium or Del Mar Fairgrounds or some of the other (public evacuation shelters) where the evacuees had to go," he said.

Several San Diego employers, including insurers, activated automated systems for notifying employees to stay home, said David Dolnick, risk manager for Brady Cos. The San Diego-based commercial construction contracting company closed for two and a half days.

"People needed to take care of their homes," Mr. Dolnick said. "They needed to be able to do that without worrying if they have a job" to return to.

A spokesman for Novato, Calif.-based Fireman's Fund Insurance Co. said it shut down a San Diego underwriting office for two days because of transportation corridor closures and employees needing to cope with evacuations from their homes.

Like other brokers and insurers, Fireman's Fund said it managed with a skeleton crew and forwarded calls to offices in other states.

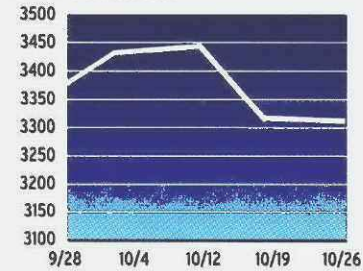
—By Roberto Cenicerros

Stock Index

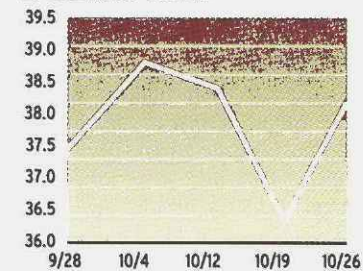
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Up-to-the-minute data for all 82 companies that comprise the BI Stock Index can be found at www.BusinessInsurance.com.

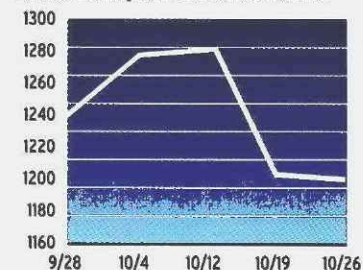
BI STOCK INDEX



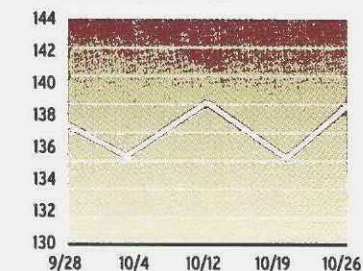
BI BROKERS INDEX



BI INSURER/REINSURERS INDEX



BI MANAGED CARE ORGANIZATIONS INDEX



Percentage change of BI Stock Index vs. key indicators

Indicator	Value	Change
BI/STOCK INDEX	3336.36	0.97%
DOW JONES	13806.70	2.11%
S&P 500	1535.28	2.31%

LARGEST GAINS

Selective Insurance	14.20%
CNA Surety Corp.	12.28%
Fairfax Financial	10.26%
IPC Holdings Ltd.	10.16%
Meadowbrook Insurance	9.71%

LARGEST LOSSES

Ambac Financial Group	-22.86%
MBIA Inc.	-12.05%
United Fire & Casualty	-9.59%
Old Republic International	-9.36%
Zenith National	-6.01%

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

Device detects smoker cheats

A 16-year-old's science project could help employers sleuth out people who've committed to company-sponsored smoking cessation programs but are cheating or employees who want to avoid an insurance premium surcharge because of their nicotine habit.

The project involved an experiment using a pulse CO-oximeter, a cliplike device doctors use to test for carbon monoxide levels in firefighters. The device reads percentages of carbon monoxide in the blood through a light that is shined through a fingernail.

Smokers who were tested were found to have carbon monoxide levels of 6% or more in their blood. The device also showed people who were exposed to secondhand smoke.

In presenting the science project's findings at a recent meeting of the American College of Chest Physicians in Chicago, Dr. Sridhar Reddy, a lung specialist in St. Clair, Mich., and his son, Ashray, suggested that the device might be a cheap and easy way for doctors to screen for smokers.

"Based on our data, we believe it should be routinely used in any program geared toward smoking cessation," Dr. Reddy said.

The study conducted among his father's patients also earned Ashray a medal at the local science fair.



Business Insurance END PAGE

Contributing: Louise Esola, Sally Roberts, Joanne Wojcik

Keeping it covered, but not insured

Her insurance policy didn't cost a thing.

That's because, setting the record straight in the Oct. 29 issue of Time magazine, Jennifer Lopez said she did not insure her world famous derriere for \$1 billion. Ever.

"It is kind of an urban legend," Ms. Lopez told Time. "It was something that started in London. Obviously, it doesn't exist."

The rumor started in 1999 when tabloids reported that Ms. Lopez had her entire body insured for \$1 billion. It was a time when the actress and musician emerged on the entertainment scene as a woman proud of her curvy figure. Namely, her butt.

The star's representatives denied the existence of an insurance policy, but that didn't stop the rumor from hitting legendary status—and focusing solely on the bottom for which Ms. Lopez became known.

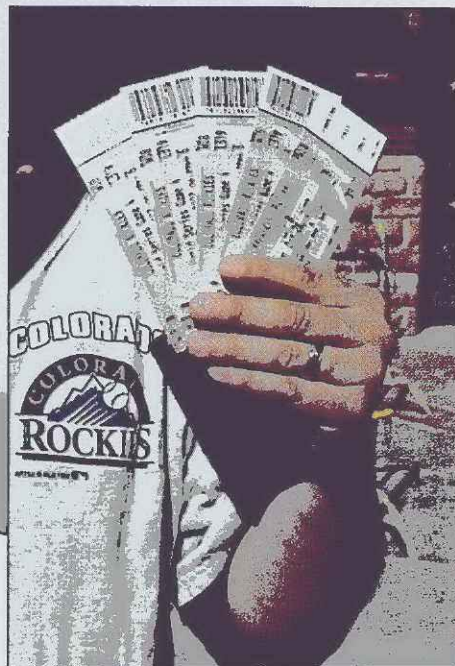
The tale wasn't too far-fetched, either.

Some of the famous insurance policies that have existed over the years include the legs of actress Betty Grable and the hands of pianist Liberace.

Ms. Lopez does have some connections to the insurance industry. Her father reportedly works at a New York insurer as a computer specialist.

Hackers pitch ticket shutout

Perhaps foreshadowing the beating the Colorado Rockies would take on the first night of the World Series by the Boston Red Sox, the team's Web site suffered a malicious attack by an apparent computer hacker, which temporarily shut down ticket sales.



AP

After more than 8.5 million hits on its Web site, resulting in potential purchasers either being booted off the system or encountering endlessly cycling computer screens, the system crashed and the Rockies announced they were suspending ticket sales.

"Our Web site, and ultimately our fans and our organization, were the victim of an external, malicious attack that shut down the system and kept our fans from being able to purchase their World Series tickets," Keli McGregor, Rockies team president, said in a statement.

The Rockies, which are playing in their first-ever World Series, and MLB ticket vendor, Irving, Calif.-based Paciolan Systems Inc., appeared to have fixed any problems as tickets sold out the next day in less than three hours.

Doctors getting rated by Zagat

The time is coming when you can pick up the "burgundy bible" to find the best restaurant in town, and then search a similar guide to find a gastroenterologist to treat the possible stomach ache afterwards.

Zagat Survey L.L.C., the world's most popular restaurant and hotel rating guide, will begin collecting doctor ratings and reviews from patients under a contract with Indianapolis-based WellPoint Inc.

Beginning in January, select members of WellPoint plans will be able to go online and rate their doctor based on four criteria—trust, communication, availability and environment—using the same 30-point scale that Zagat uses for judging restaurants and hotels.

WellPoint decided to approach Zagat because it "is a trusted consumer brand," said Eric Fennel, vp of consumer innovation for WellPoint in Alexandria, Va.

"This is the missing piece of information needed to engage consumers," he said. "Peer-to-peer information will complement the clinical and cost information" that WellPoint already provides to its plan members.

"With this tool, WellPoint is helping to give consumers the power to make smart decisions about selecting doctors based on other people's experiences," agreed Nina Zagat, co-founder and co-chair of New York-based Zagat Survey.

ZAGAT



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