

Business Insurance®

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\$5

Late News

MMC's CFO named Mercer chief exec

Marsh & McLennan Cos. Inc. has named M. Michele Burns, MMC's current chief financial officer, as chairwoman and chief executive officer of Mercer Human Resource Consulting, the world's largest benefit consultant. Ms. Burns joined MMC earlier this year. She previously held several positions with Mirant Corp., an Atlanta-based power company, where she developed a reorganization plan following the company's 2003 bankruptcy filing. She also was CFO of Delta Air Lines Inc. She succeeds Michael Caulfield, who is retiring. He will remain at Mercer until the end of the year to ensure an orderly transition. Succeeding Ms. Burns as MMC's CFO is Matthew Bartley who has been MMC's treasurer since 2001.

Federal charter bill introduced in House

Rep. Edward Royce, R-Calif., introduced legislation last week in the House of Representatives that would

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Insurers won't cover worst terror risks: GAO

By MARK A. HOFMANN

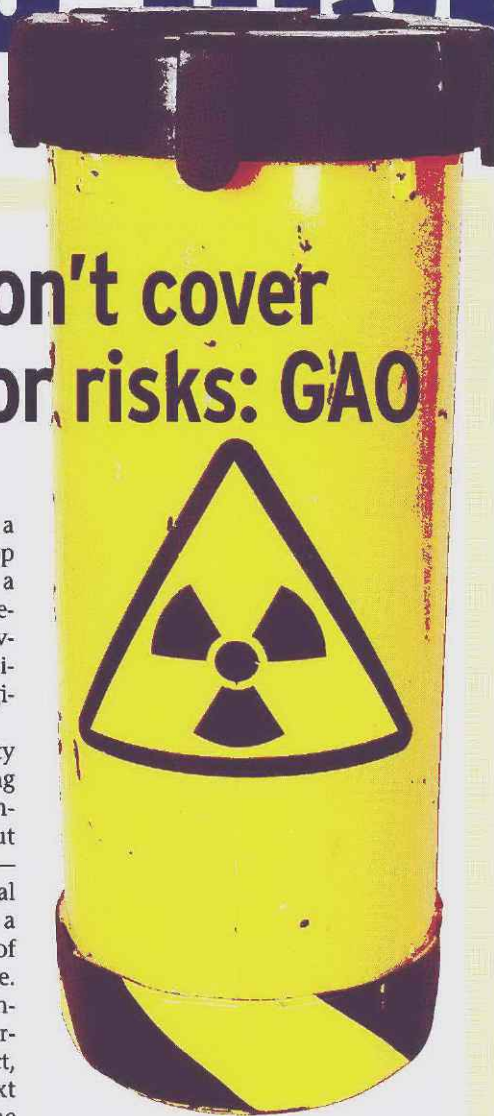
WASHINGTON—Proponents of a federal terrorism insurance backstop believe their cause will receive a needed boost courtesy of a federal report that holds that any market-driven expansion of coverage for chemical, nuclear, biological and radiological risks is "highly unlikely."

The Government Accountability Office's Sept. 26 report—"Measuring and Predicting Losses from Unconventional Weapons is Difficult, but Some Industry Exposure Exists"—came only days before a presidential working group was slated to issue a congressionally mandated review of the terrorism insurance marketplace. The working group's report was mandated by the Terrorism Risk Insurance Extension Act of 2005. That act, extended through the end of next year, is a scaled-back version of the federal backstop created in 2002.

The working group's report is scheduled to be released Sept. 30, although it may be delayed.

The GAO report does not make any recommendations for dealing

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RenRe ex-exec face charges over finite deal

*SEC lawsuit targets
former CEO, others*

By RUPAL PAREKH

NEW YORK—Federal regulators have brought civil fraud charges against three former top executives of RenaissanceRe Holdings Ltd. for allegedly orchestrating a finite reinsurance scheme designed to smooth the reinsurer's earnings and mislead investors.

The Securities and Exchange Commission's complaint, filed last week in a Manhattan federal court, levels various charges against RenaissanceRe's former chairman and chief executive officer, James N. Stanard—along with former Controller Martin J. Merritt and former Senior Vp Michael W. Cash—for their alleged roles in orchestrating a two-part sham reinsurance deal with Inter-Ocean Reinsurance Co. Ltd., a finite risk reinsurer now in runoff.

The effect of that transaction, the suit says, was to smooth and defer \$26.2 million of Pembroke, Bermuda-based RenaissanceRe's income from 2001 to 2002 and 2003 (see story page 21).

According to the complaint, the purpose of the two contracts was "to have a material impact during a future period when RenRe needed an earnings boost."

The former RenaissanceRe executives are not the first to be investigated or face charges in connection with the SEC's investigation of finite reinsurance.

"This is another case arising from our ongoing investigation of the misuse of finite reinsurance to commit securities fraud," Mark K. Schonfeld, director of the SEC's Northeast regional office, said in a statement. "The defendants enabled RenRe to take excess revenue from one good year and, in effect, 'park' it with a counterparty so it would be available to bring back in a future year when the company's financial picture was not as bright."

Additionally, the SEC in its complaint said that Mr. Merritt—with the knowledge of Mr. Stanard—intentionally misrepresented or omitted key facts to Renais-



Former RenaissanceRe
Chief Executive Officer
James N. Stanard faces
charges from the SEC.

PHOTO: DAVID SKINNER

House bill would boost HSA contribution limits

*Panel passes measure
but prospects unclear*

By JERRY GEISEL

WASHINGTON—Legislation approved last week by a House tax panel would enhance the appeal of health savings accounts by increasing contribution limits while opening the door for employers to replace first-generation consumer-driven health plans with HSAs.

H.R. 6134, which was cleared by the House Ways and Means Committee, does not make the dramatic changes to HSA rules that some employers have sought, such as giving employees the ability

to decide on a service-by-service basis whether to tap their HSA, flexible spending account or health reimbursement arrangement.

Still, the changes, which business groups will be urging federal legislators to take up during the special session following the November congressional elections, will "make HSAs more appealing. Several important issues are addressed," said Jeff Munn, a consultant in the Falls Church, Va., office of Hewitt Associates Inc.

"This will go a long way to give enrollees in HSAs, or those who are considering enrolling, greater comfort," said Scott Keyes, a senior consultant with Watson Wyatt

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XL'S CHIEF TALKS

Brian O'Hara discusses
XL's history and future.

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PLAN PROTECTION

Auto enrollment rules
would curb liability.

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INTERNATIONAL NEWS

PROFITS DIP

Lower investment income
causes decline in Lloyd's
first-half profits.

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SWISS RE JOB CUTS

Insurer details plans to
eliminate 2,000 jobs.

PAGE 17

How can you ensure you embed ERM in everything you do?

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— Lisa Kremer, managing director of Aon's Enterprise Risk Management practice

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AIG settles with Florida over TRIA premiums

Insurer to refund more than \$13 million to workers comp policyholders in the state. **Page 4**

Canadian directors face increased pressure

Employers in Ontario grapple with expanded liability under changes to securities laws. **Page 4**

HSA reform legislation deserves quick passage

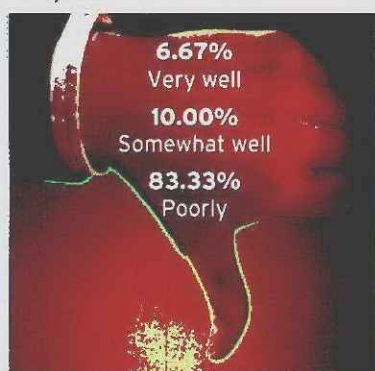
Measure eliminates illogical restrictions on HSA use, an editorial says. **Page 8**

Catlin cat deal provides \$200 million in cover

Bond protects insurer against losses from 'severe' natural catastrophes. **Page 17**

Online poll [9/25-9/29]

How well has the soon-to-be-adjoined Congress performed in dealing with issues of importance to you?



Participate in BI's online polls at www.businessinsurance.com.

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Reporting on corporate risk and employee benefit management news

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RIDE ALONG ENCLOSED IN EDITION 03

Health care costs outpace inflation

Surveys find downward trend in rates

By JOANNE WOJCIC

Two national surveys show that employers' health care costs are rising at a faster rate than overall inflation, although one survey concludes that employers that aggressively monitor and address these costs are doing a better job of keeping them in check.

The 2006 Employer Health Benefits Survey released last week by the Menlo Park, Calif.-based Henry J.

Kaiser Family Foundation and the Health Research & Educational Trust found that the cost of employer-sponsored health care coverage rose by an average of 7.7% in 2006 to an average of \$4,242 for single coverage and \$11,480 for family coverage. Premiums in fully insured plans grew more by 8.7% compared with premium equivalents in self-funded plans, which grew by 6.8%.

Looking ahead to 2007

Meanwhile, according to preliminary results of the Towers Perrin 2007 Health Care Cost Survey, also released last week, employers will pay an average of 6% more for em-

ployee health benefits in 2007, or \$4,392 for single coverage and \$12,948 for family coverage.

While both surveys found a downward trend in health care price increases—the 7.7% average increase reported by Kaiser is less than the 9.2% it reported in 2005 and the 13.9% peak in 2003—both rates of increase are significantly more than the overall inflation rate, projected at 3.5% for 2006.

Moreover, the Kaiser survey indicates that premiums and premium equivalents have grown 87% over the past six years, and the survey by Stamford, Conn.-based Towers Perrin estimates that employers' health care costs have increased more than 60% over the past five years.

The surveys differed in their findings on the effectiveness of employers' attempts to manage certain diseases among their employees.

Disease management

While the Kaiser survey found that just 17% of small employers and 28% of large employers believe disease management is "very effective" in helping reduce health care spending, the Towers Perrin survey found that employers paying the lowest average premiums for their health insurance were early adopters of disease management and other types of health promo-

See **COST** / page 22

Proposed rules offer auto enrollment liability protections

By JERRY GEISEL

WASHINGTON—For the first time, newly proposed Labor Department rules would protect employers from fiduciary liability if they automatically enroll employees in 401(k) and other participant-directed defined contribution plans and contribute a portion of employees' salaries to specified investment options.

The rules, mandated by Congress as part of pension funding reform legislation passed in August, provides guidance on steps employers must take to auto-enroll employees in defined contribution plans and be shielded from liability for the investment decisions they make on behalf of employees.

Auto enrollment programs address a widespread problem: employees who haven't told their employer whether they will participate in the 401(k) plan. In some cases, as many as 20% of employees don't say one way or another if they will participate.

To address that problem, roughly 25% of large employers, according to benefit consultant Hewitt Associates Inc., and 18% of all employers, according to the Labor Department, offer automatic enrollment programs.

Those programs are expected to increase significantly over the next few years as more employers freeze their defined benefit plans and their 401(k) plans become the sole source of employer-provided retirement income. Without automatic enrollment, many employees may lack

sufficient retirement income simply because they didn't sign up for their employers' 401(k) plan.

"We need to get employees into these plans," said Pam Hess, a Hewitt consultant in Lincolnshire, Ill.

"The growth of these programs really will accelerate," said Michael Weddell, a consultant in the Southfield, Mich., office of Watson Wyatt Worldwide.

Until now, though, employers have had little guidance on how these programs can be structured.

In the absence of such guidance, many employers, concerned they could be sued by employees if the investments they make on the employees' behalf perform badly, have taken conservative investment approaches, such as investing contributions in a low-yield but low-risk money market fund.

The Labor Department's proposed rules, though, would give other investment options for so-called default funds to which employers could direct contributions on behalf of employees that have been automatically enrolled in 401(k) plans.

Those options are:

- Life-cycle funds, in which the mix of equities and fixed income investments are adjusted to reflect employees' age.
- Balanced funds, which are a mix of equities and fixed income investments.
- Professionally managed accounts, in which a professional investment manager oversees employees' portfolios.

About **18%** of all employers currently offer automatic enrollment programs for defined contribution plans, according to the Labor Department.

XL chief stays focused on solid, stable growth

Strong underwriting remains key

HAMILTON, Bermuda—The past 20 years have seen XL Capital Ltd. grow from a monoline mutual insurer into a global commercial lines player, but the values and culture on which it was founded remain embedded in the company, President and Chief Executive Officer Brian O'Hara says. Mr. O'Hara spoke recently with *Business Insurance* Editor Regis Coccia about XL's history as well as changes in the insurance business and XL during his tenure.

Q: You were the first employee hired at XL back in 1986. Which achievements are you proudest of during your time at XL?

A: When I look back, what makes me most proud is that those values we had at the beginning have endured, even though we have grown so dramatically, both organically and through many acquisitions. XL has been able to retain its same culture, the key characteristics of which are underwriting discipline, being a large risk-taker and trying to bring value to our customers.

Remember, XL was born out of a crisis where our customers couldn't get coverage. So our guiding principles are to provide lasting value, maintain long-term relationships and keep an even keel and not go through these boom/bust periods that have marked the insurance industry and caused these capacity crises.

XL was a great, fresh start to try to do things the right way and avoid those pitfalls. If we promise that we will be dedicated to taking large risks, we can only do that if we have underwriting discipline that's dedicated to making a profit, recognizing that these large risks are going to have volatility.

That doesn't mean if we have a good year we cut rates or if we have a bad year we put rates through the ceiling or cut back on the coverage. That disciplined approach worked exceedingly well in our first 10 years, and the late '90s were a very trying period for everyone. But I think our culture



"Our guiding principles are to provide lasting value, maintain long-term relationships and keep an even keel."

Brian O'Hara
XL Capital Ltd.

came through that intact.

I'm most proud of the fact that XL has been able to retain what we've built over the last 20 years from being small to a large, global player. This business is all built on trust that you'll be there to pay in a disaster, in a calamity. What gives me comfort, not just about where XL is but where we're go-

See **ENROLL** / page 22

See **O'HARA** / page 6

AIG to pay \$13.6M to settle dispute over TRIA premiums in Florida

Insurer to refund workers comp policyholders

By ROBERTO CENICEROS

TALLAHASSEE, Fla.—American International Group Inc. will pay back \$13.6 million plus interest to workers compensation policyholders in Florida as part of a settlement with state authorities over the insurer's methodology of calculating rates for terrorism risks.

Florida Insurance Commissioner Kevin McCarty announced the settlement last week, more than three years after New York-based AIG submitted the disputed rates.

The submissions followed the passage of the federal Terrorism Risk Insurance Act of 2002, which allowed insurers to apply rates before they were approved or rejected, according to the commissioner's office.

Regulators in several other states also disputed AIG's methodology, which was used across the country. At issue was the insurer's departure from a methodology for calculating terrorism rates used by the Boca Raton, Fla.-based NCCI Holdings Inc., which is the agency that recommends workers comp rates for nearly 40 states.

AIG sought a terrorism charge of about 3% of manual premium while the NCCI suggested that policyholders pay about 2 to 3 cents per \$100 of payroll.

Some regulators complained that AIG's methodology resulted in rate increases that might not be justified (*BI*, April 12, 2004).

In all, more than 20 states eventually questioned AIG's methodology, an AIG spokesman said last

week. But only in Florida did the insurer face hearings that led to the agreement to reimburse policyholders, the spokesman said.

The insurer is pleased to have resolved the issue with the Florida commissioner, the AIG spokesman said.

AIG made the filing in 2003, which the Florida commissioner rejected. The insurer then requested evidentiary hearings before administrative law judges, who concluded that AIG failed to justify its charge for terrorism risks within its policies, according to the commissioner.

Florida's commissioner, in announcing the settlement with AIG, said the insurer's business units failed to justify rates "or used excessive and unfairly discriminatory



Florida Insurance Commissioner Kevin McCarty settled with American International Group Inc. over disputed workers comp premiums.

rates on coverage required by the federal Terrorism Risk Insurance Act."

There are about 11,000 AIG workers comp policyholders in Florida, according to the commissioner's office.

AIG also will pay \$300,000 to the Florida Office of Insurance Regulation for costs related to the settle-

See AIG / page 23

Canadian law raises concerns for directors

By GLORIA GONZALEZ

CALGARY, Alberta—Ontario's amended Securities Act has shot to the top of the list of concerns for independent directors of Canadian companies, although they appear to be covered by directors and officers liability policies for claims alleging violations of the revised law.

Independent directors of several large Canadian companies described their questions and concerns about D&O insurance policies and Canada's current litigation environment during the 31st annual Canadian Risk & Insurance Management Society Inc. conference in Calgary, Alberta.

The amended provisions of Ontario's Securities Act—known as Bill 198—impose civil liability for inaccurate or incomplete corporate disclosure in the secondary market. The amended law allows

secondary-market investors to seek compensation for damages suffered if the issuer or responsible individuals make written or oral public disclosures that contain an untrue statement of a material fact or fail to make a timely disclosure (*BI*, Nov. 14, 2005).

The law has significant implications for independent directors who serve on the boards of companies registered in Ontario, said Douglas Hayhurst, a Vancouver, British Columbia-based accountant who serves on the boards of several Canadian organizations.

"Any director who is paying attention will be scared to death by Bill 198 and will understand that there are no clear answers yet—that this is an evolving issue," Mr. Hayhurst said.

In particular, directors on audit committees have increased responsibilities under Bill 198, often overseeing risk management within the organization, he said. His concern was heightened recently because he is the chair of the audit committee of Vancouver-based Northgate Minerals Corp., which announced in September that it would restate earnings for the second quarter. When company officials and board members were contemplating how to address the situation, the first concern expressed by the lawyers was in relation to Bill 198, advising the directors and officers to move quickly and cautiously when restating the company's earnings, Mr. Hayhurst said.

In performing due diligence on whether D&O liability insurance policies will adequately protect directors in the event of a lawsuit alleging Bill 198 violations, Mr. Hayhurst has asked whether the audit committee chair or audit committee members would be more liable for Bill 198 claims than other mem-

House acts to streamline insurance regulation

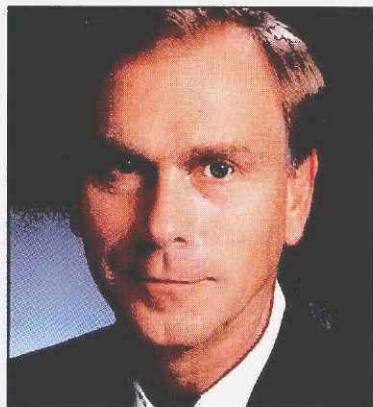
Senate action uncertain

By MARK A. HOFMANN

WASHINGTON—The House of Representatives last week approved a bill that would streamline the regulation of reinsurers and surplus lines insurers.

The 417-0 vote in favor of the Nonadmitted and Reinsurance Reform Act came early Wednesday evening. Among other things, the bill would create a uniform system for regulating and taxing the surplus lines insurance industry by making nonadmitted insurance subject to regulation only in the policyholders' home states (see box).

William Newton, president of the Kansas City, Mo.-based National Assn. of Professional Surplus Lines



Mr. Nutter

Offices Ltd., issued a statement calling the vote "an important milestone toward ultimately improving the operation and regulation of the surplus lines market."

Frank Nutter, president of the Washington-based Reinsurance Assn. of America, called the House

Regulatory reform

The Nonadmitted and Reinsurance Reform Act of 2006 would, among other things:

- Prohibit any state other than the home state of a policyholder from requiring any premium tax payment for nonadmitted insurance.
- Subject nonadmitted insurance solely to the regulatory requirements of the policyholder's home state.
- Declare the state of domicile of a reinsurer solely responsible for regulating the reinsurer's financial solvency if such state is accredited by the National Assn. of Insurance Commissioners.

passage a "clear sign that there is traction in having federal legislation to improve reinsurance regulation."

"It's a historic moment; it's the next critical step in insurance regulatory reform," said Joel Wood, senior vp-government affairs for the Council of Insurance Agents and

Brokers in Washington. "This is the first pure insurance regulatory reform that either house has approved since 1999.

Sooner or later this is going to be enacted," he said.

No companion legislation has been introduced in the Senate yet.

Forum to explore captive strategies and trends

By ROBERTO CENICEROS

SCOTTSDALE, Ariz.—The 16th annual World Captive Forum will explore cutting-edge risk financing trends, advanced captive strategies and best practices for forming and operating a new facility.

The captive forum is scheduled for Nov. 13-15 at the Fairmont Scottsdale Princess in Scottsdale, Ariz. It will feature several sessions with captive and industry experts discussing topics such as reinsurance and fronting, employee benefits financing and regulations.

The World Captive Forum is produced by *Business Insurance*, the Quest Group of Cos. and Towers

Perrin. To register, visit www.worldcaptiveforum.com/index.html.

The program is organized around three tracks: basic, advanced and benefit-related captive insurance issues. It also provides opportunities for networking, including a golf tournament beginning at 12:30 p.m. on Nov. 13. An opening reception follows at 6 p.m.

On Nov. 14, Robert P. Hartwig, senior vp, chief economist and incoming president of the Insurance Information Institute, will deliver the opening address reviewing insurance trends and statis-

tics, including information on major developments in the captive industry.

A keynote panel on Nov. 14 will discuss "The Role of Benefits Financing in the 21st Century as seen by Benefits and Finance Executives." Keynote Panel speakers include Christopher DeMeo, senior strategist, asset liability for Russell Investment Group, and Bill Fitzpatrick, vp-risk benefits, corporate insurance and risk management for Deutsche Post World Net.

Several sessions for each forum track will be offered Nov. 14 and

15. The topics will include a look at new trends in cell structures, case studies, tax and investments, the shrinking insurance market and much more.

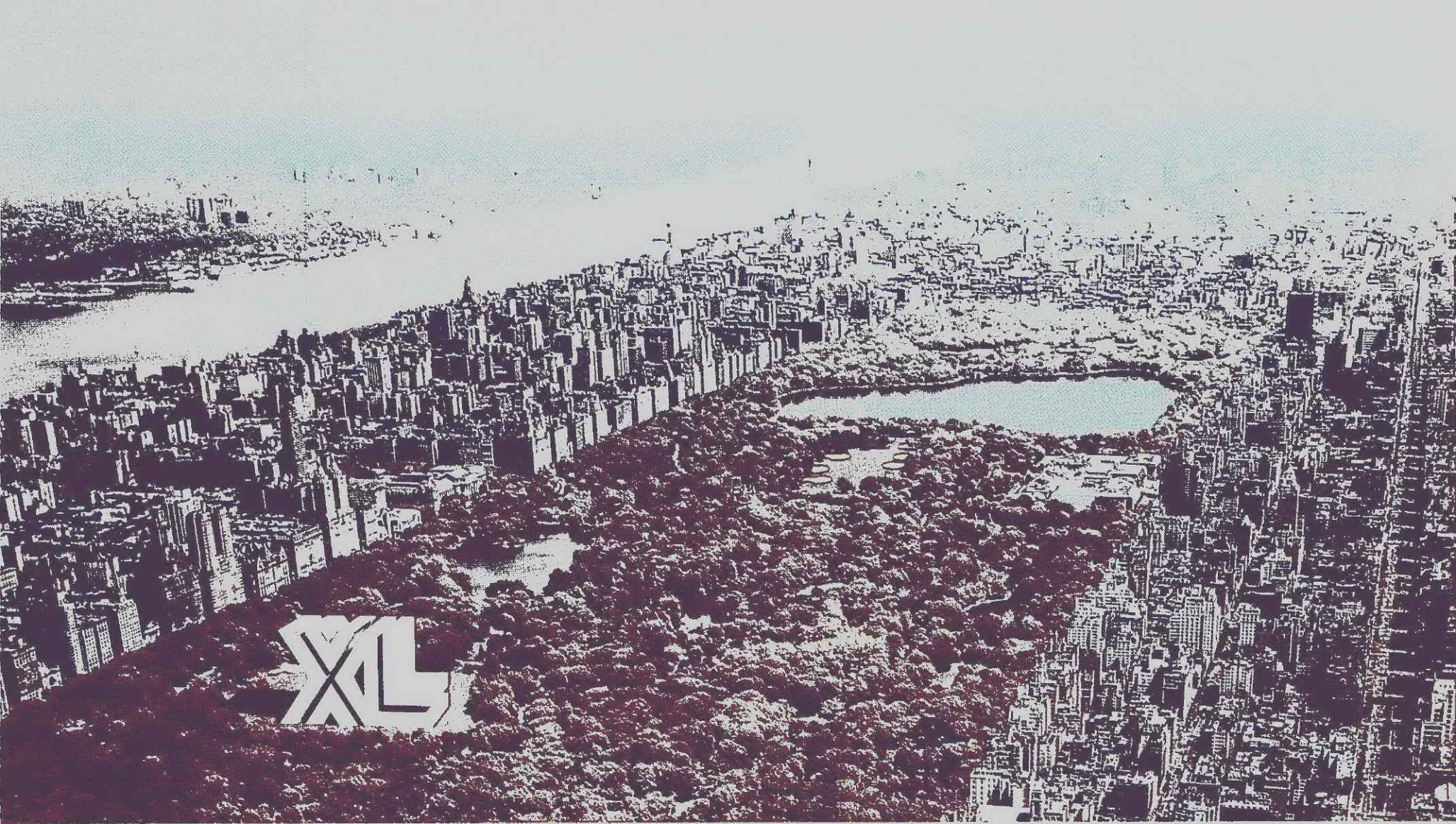
The full agenda is available on the WCF Web site.

Full registration is \$1,075 for risk managers and benefit managers and \$1,450 for others. Subsequent registrations from the same company are \$1,075. The fee for captive regulators is \$595.

There is a \$225 fee for participating in the golf tournament.

For more information, contact the World Captive Forum at 952-928-4659, or visit www.worldcaptiveforum.com.





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XL INSURANCE
FUNDAMENTAL STRENGTH — CAPITAL AND PEOPLE

O'Hara: XL focused on quality of business rather than quantity

Continued from page 3

ing, is the strength of our culture and the deep relationships we've built with large-risk customers around the world. The more we can work with customers on a level playing field, the less cyclical this business can be.

Q: How is XL celebrating its 20th anniversary?

A: It's been an exciting 20th anniversary, and we've done a lot of significant things to celebrate it, internally and externally. We started out at our annual general meeting at the end of April, where we had (basketball) Coach Mike Krzyzewski from Duke University talk about leadership. We felt like we were getting a great coaching. He said, "I did my homework on XL and I know you had a tough year, but what everybody told me is they can count on you, that what you say is what they'll get." That was very gratifying.

We followed on in May with the first of two congresses, beginning in Berlin, where we had an interesting array of speakers talking about the problems of our day. I introduced the congress with the concept that we're here to pay for disasters, but we also have to try to stretch ourselves as an industry to go beyond that in helping to be part of the solutions to the world's problems and be cognizant of all the pain and suffering that goes with these disasters. To that end, we've been trying to start an initiative in the industry to think more about that in our corporate social responsibility efforts industrywide.

I know others are thinking that way, too. Our 20th anniversary galvanized us to speak to this point.

The best part, though, was in mid-June. We had a global day of giving, where we closed our operations around the world to let our people perform community service. Our goal was to dedicate 20,000 man-hours to community service around the world. Our theme has been "One company without borders" and on this day everybody was doing something for their local communities.

The response from all the charities and organizations that we helped out was so overwhelmingly positive that, while we did this to celebrate our 20th anniversary, we're going to do it again next year. People got connected to the institutions that they were helping out.

We had more than 20 projects in Bermuda, and I went to four of them. I spent a lot of the day helping paint the house of the blind, which was in really bad shape. It felt so good at the end of the day to look at it and see how we had completely transformed it.

So many people bonded with the institutions that we're going to continue to do that. In the world today, there's a lot of competition for talent, and people that have talent can work almost anywhere. But the thing that cinches it is people want to work for an organization that is making the world a better place,

that has integrity and is trying to do the right thing. That really came through so clearly from our employees in our global day of giving.

Q: What were some of the lessons XL learned from the catastrophes in 2004 and 2005?

A: Even though we had four hurricanes in '04, they weren't devastating. We still had a reasonably good year because we had diversified a great deal and we have a lot of noncat-related premium income and a large asset base that helps us to absorb risk a lot better. Katrina in '05 was the real wild card, and what it brought out was that we do indeed take large net lines.

Catastrophe models don't really work for large-risk properties. They're better for broad risk portfolios and don't have good accuracy on large risks. What you had with Katrina was the double trigger of the wind and the flood. You can look back and say, well maybe we should've seen that coming. But nobody in the industry did, and we ended up with a lot of large lines especially exposed to business interruption.

Now that we are a much larger, diversified company with a broad array of shareholders, we unavoidably have to dial down our volatility that Katrina exposed. And the frequency we had in '04 and '05 was something that never happened before.

But now all of that has to be considered by everyone, including ourselves, so it does necessitate cutting back some of our larger net lines in property that are exposed to catastrophe. And we've done that. We're trying to use our diversification and not be overpowered by one particular line, one particular exposure.

Other than that, our underwriting discipline will take us through. Underlying that discipline is my refusal to put growth targets on XL's premium writings. I allow our people to come up with their best estimates based on market conditions and our position in the market. Everyone wants to grow; it's a natural orientation in business. In our business, anybody can grow—just take more risk, just say yes.

These days, people will plan on a flattish environment. But we still think we can grow book value and the bottom line well without having to grow the top line. It's the quality of the business, not the quantity. Intellectual honesty is pricing your existing business at the same level as new business. I find too many in our industry, in their hunger to get new business, are willing to be more aggressive on pricing, terms and conditions for new business vs. what they know is the right price on their existing book.

Q: We're only part of the way through hurricane season, so far with no major events, and not many people are thinking about earth-

Brian O'Hara, XL Capital Ltd.

On XL's approach to business

"If we promise that we will be dedicated to taking large risks, we can only do that if we have underwriting discipline that's dedicated to making a profit, recognizing that these large risks are going to have volatility."

On Hurricane Katrina

"What you had with Katrina was the double trigger of the wind and the flood. You can look back and say, well maybe we should've seen that coming. But nobody in the industry did."

On XL's management realignment

"The main thing is to help XL's units focus on their business and not get people bogged down in administrative detail.... It's not that anything was broken, we just think going forward we can operate at a higher level with this structure."

On XL's growth

"We've expanded broadly, but we're still very focused. We do not try to be all things to all people."

quakes. What's XL's outlook on natural catastrophes?

A: It's the 100th anniversary of the San Francisco quake. In fact, it was the first thought on my mind at New Year's. It should have us all concerned. I don't think anybody in our industry is confused today that we're in the risk business. I think in the late '90s people got very confused. But most of the drivers of behavior in our industry call for discipline and wariness, given everything that's happened in the last five years.

Terrorism is still a haunting specter. Most people think it's a matter of time. If earthquakes and hurricanes and terrorism events are just a matter of time, then you have to expect every year you're going to be beset by it and underwrite accordingly. That's got to keep everybody's minds very focused on the risks that we're taking. We can't afford to give it away or be lackadaisical about risk management.

Q: Earlier this year, XL created an Office of the CEO and realigned some of its senior management. What led XL to do this?

A: In consultation with the board, XL's directors wanted to see me have fewer direct reports so I can do what I do best. I like to have customer/broker interface, and I've been kind of locked inside for the last few years with internal, administrative activity. So one goal was to delegate more and reduce my direct reports, which is what the Office of the CEO achieves. It also helps our succession planning by giving greater responsibility to the upper-tier executives to take on greater challenges. The main thing is to help XL's units focus on their business and not get people bogged down in administrative detail.

It certainly doesn't help them serve their customers, grow our business and achieve their goals. It's not that anything was broken, we just think going forward we can operate at a higher level with this structure.

Q: What's in the future for you? Are you looking ahead to a time when you'll no longer be at XL?

A: That's going to happen to everyone eventually. But I'm only 58 and I do mean only. Last year

was a tough year, and I was worn out at year end. But I'm feeling very invigorated and optimistic about where we are in the market. I think we have better days ahead. I'm not in any hurry, but I know realistically I should plan to move on at the right time and give room for other people to get their opportunities.

Q: If the opportunity to join XL hadn't come along 20 years ago, what do you think you'd be doing now?

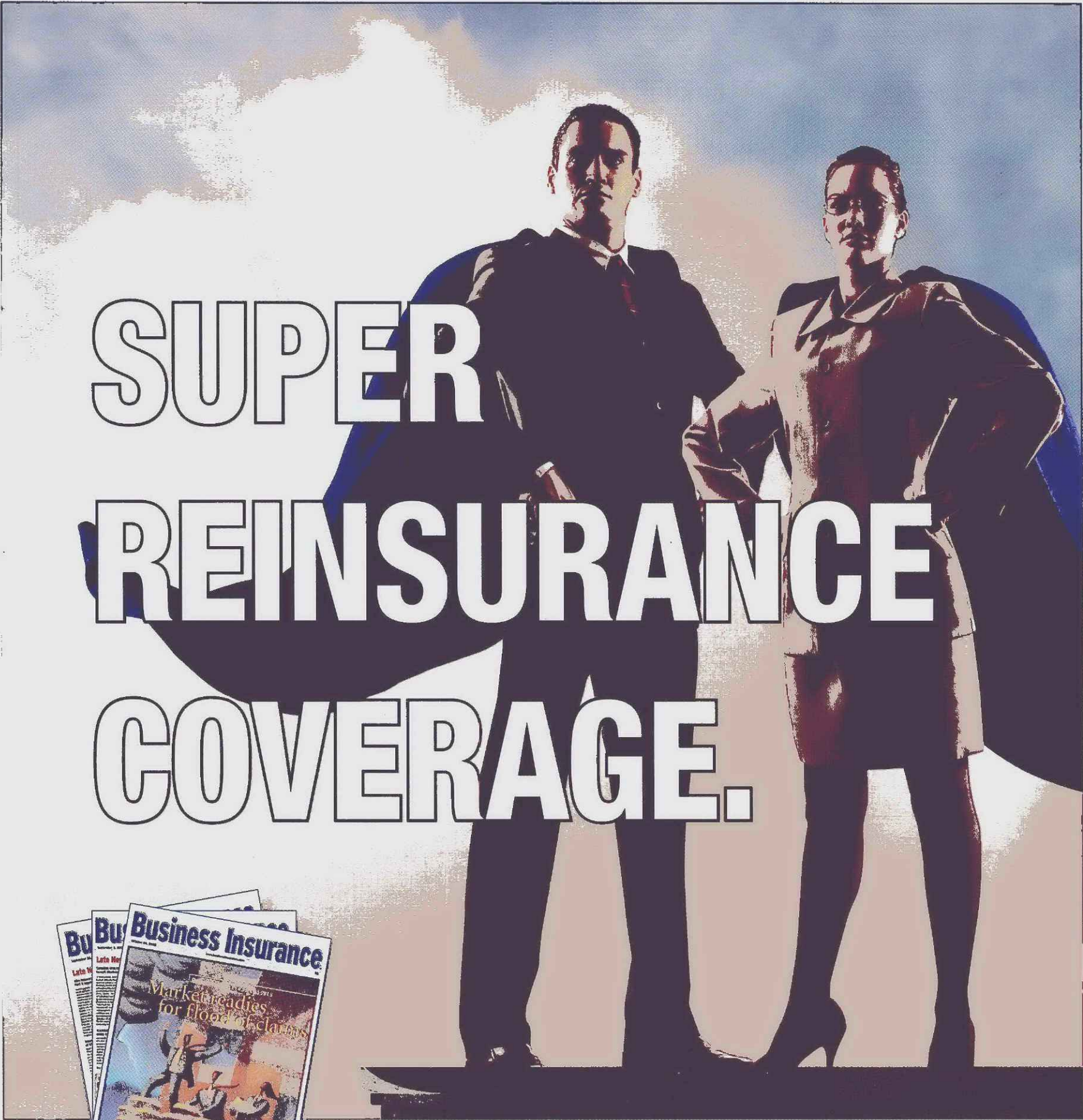
A: I was a founding principal of Trenwick before I came to XL, and I was proud of what we were building there. They were derailed by acquisitions, and almost all the acquisitions that occurred in the late '90s were a real problem for everyone. Trenwick's underwriting was fine but for many companies acquired at the time, the underwriting standards were much lower. If I had stayed at Trenwick, I'd like to think we wouldn't have done some of that. This opportunity at XL was so compelling, and I'm glad I took it. I was fortunate to be asked.

Q: Did you foresee that XL would grow as it has?

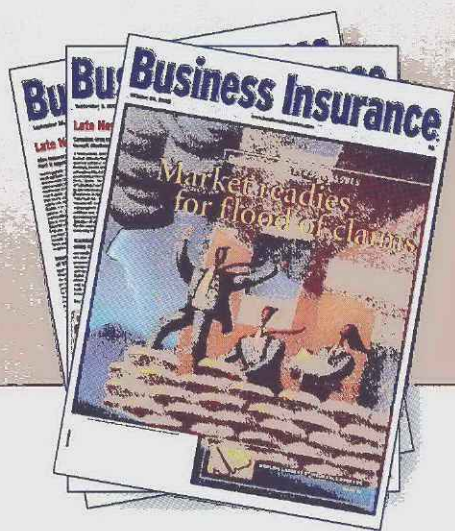
A: No way. Our goal at the beginning was just to survive. We were taking unprecedented risk—\$75 million net lines on companies I was taught to decline to underwrite. It was very scary. Fortunately, we had a market where we could charge what we thought were appropriate premiums and that mostly turned out to be the case. On some risks, you couldn't charge enough. We just were taking it one step at a time, dedicated to solving problems for our customers. That was our long-term plan: to create a consistent, large-risk, large-capacity market that our customers could count on. We achieved that, and the rest was a byproduct of that success. We put our capital to work and, block by block, organically and through acquisition, set out to build global capabilities and expand our lines. We've expanded broadly, but we're still very focused. We do not try to be all things to all people. Again, it's about having the discipline to stay within who you are and what you're good at and not overreaching.

Q: What helps you to relax and balance your professional and personal commitments?

A: Fortunately, I'm surrounded by a lot of people I really like. So I really enjoy coming to work and just being with our people. I don't find that stressful, I find that actually enjoyable. External factors can give me a lot of stress, but not internally. I have a great family situation, a beautiful home that's very tranquil. That helps in itself. I play sports. Keeping in shape gets your angst out and keeps the blood pressure down. And I try not to read bad press!



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Editorial

Common-sense reform deserves quick passage

WE HAVE A MESSAGE for Congress: Take action by passing health savings account reform legislation.

As we report on page 1, the House Ways and Means Committee last week cleared what we call a common-sense measure that would remove some of the inequities employees with HSAs now face.

For example, take the situation of an employee who switches jobs late in the year and begins to work on Dec. 1 for a new employer, which offers only an HSA-linked health insurance plan. Under current rules, the contribution to the HSA could be no more than one-twelfth of the annual maximum. That doesn't seem very fair as employees, regardless of when they are hired, face the same exposure to unexpected big medical care expenses.

The bill would remove that inequity by not basing the maximum HSA contribution on when an employee became eligible for the HSA.

Or, consider this illogical current requirement that affects employees with HSAs whose employers have adopted grace periods for flexible spending accounts, giving workers another 10 weeks after the end of the prior plan year to spend the balance remaining in their FSAs. Such grace periods reduce the likelihood of forfeiting FSA balances at the end of the plan year. Under current rules,

however, even if employees' FSA account balances are zero at the end of the prior year and their employer has an FSA grace period, workers can't make contributions to their HSA until the first month following the end of the FSA grace period.

If there is logic in that restriction it certainly escapes us. The remedy adopted by the Ways and Means Committee is simple but effective: Allow employees with zero FSA balances to make HSA contributions during the grace period or, if there is a balance, allow the employee to transfer that money to the HSA.

There are a host of other common-sense changes, including making it easier for employers to move from health reimbursement arrangements—the first generation of consumer-driven health care plans—to HSAs, and allowing employees in certain situations to contribute more to HSAs, build up bigger balances and thus be better able to meet future medical expenses.

Some members of Congress may feel that it is too early—given that HSAs have been around for only a couple of years—to change HSA rules.

But we believe it is never too soon to adopt logical, common-sense changes, which the Ways and Means package clearly is, and we urge federal legislators to do so quickly upon their return to Washington following the November elections.

Schillerstrom



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Public/private partnership necessary to insure terror risks

AS FAR AS WE'RE concerned, official Washington was treated to an exercise in the obvious last week when the Government Accountability Office reported that private insurance has no—and is highly unlikely to develop any—appetite for covering chemical, nuclear, biological and radiological terrorism risks.

That's hardly surprising since the insurance industry has been saying as much for years, and has received a generally sympathetic hearing on Capitol Hill. But the administration has insisted that the federal role in backing up terrorism insurance should be a very limited one, if there is to be a role at all.

We know that the existing federal backstop created by the Terrorism Risk Insurance Act of 2002 was never intended as a long-term solution. Disagreement over the proper role of government stalled it for about a year, and those arguments nearly destroyed the backstop when it came up for renewal last year. We heard repeatedly that the goal of TRIA and its subsequent renewal was to give the private insurance industry time to develop a permanent solution to financing terrorism risk.

That debate will continue. But the GAO study noted that terrorist attacks involving chemical, nuclear, biological and radiological

weapons are not insurable by private markets. While arguing over the finer points of federalism, both the legislative and executive branches of government must keep in mind that terrorists will use whatever means are at their disposal to cause disruption and chaos. To be sure, CNBR exposures are frightening and enormous.

We should recall that the 9/11 attacks at the time caused the largest-ever insured loss—exceeding \$20 billion for property alone—and they were conventional compared with CNBR attacks.

If terrorists one day succeed in re-creating a 9/11 type of attack, using more planes, the re-

sulting loss of life and property could be comparable to the oft-cited "dirty bomb" attack. Either way, the economic shock would overwhelm private insurers and reinsurers.

We believe that the GAO's finding that the private market won't bear CNBR exposures was the obvious one. We hope the administration accepts that obvious conclusion and recognizes that some risks are potentially so destructive that the federal government cannot shrug them off.

A public/private partnership of some sort is the only way to confront an inherently unpredictable risk, which includes all terrorism risk.

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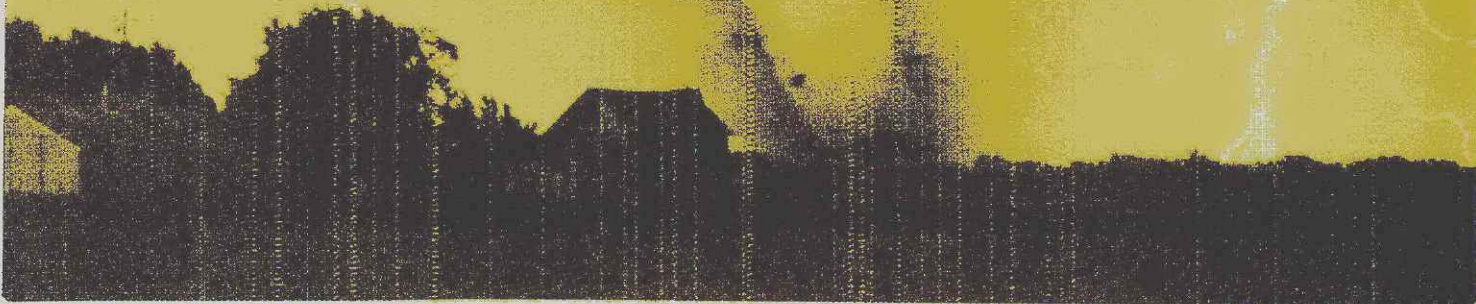
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Perspectives

Ask a Benefit Actuary

Defined benefit landscape changes

By William J. Miner

Q: As a plan sponsor, how will the Pension Protection Act affect our plans and what should we be doing to prepare?

A: The past few months have brought a flurry of significant changes to the retirement plan arena. Funding rules have been revamped, financial accounting is expected to change considerably and significant court decisions have been made.

President Bush signed the Pension Protection Act of 2006 into law on Aug. 17. This act arguably represents the largest change in employee benefit plans since the Employee Retirement Income Security Act. The whole landscape of defined benefit plans has changed and defined contribution plans did not escape its far-reaching effects. Interpretations and guidance on the act are likely to take years to complete. The outline that follows is based on early interpretation of the act, and our understanding may change as guidance is forthcoming in the next few months.

Defined benefit funding

The good news for defined benefit plan sponsors is that the interest rate relief offered in the Pension

Funding Equity Act of 2004 has been extended for 2006 and 2007. Without this extension, current liability would have been calculated based on 30-year U.S. Treasury bond rates, as was required prior to 2004, and cash contributions for many plans would have increased. With the extension, current liability will be computed under much more favorable corporate bond rates, as was done in 2004 and 2005.

In 2008, a major change will occur. Some plan sponsors are likely to see higher required cash contributions sooner than expected. The new rules will also impose benefit increase, benefit accrual, lump sum and executive deferred compensation restrictions when plan funding falls below certain percentages. Plan sponsors should talk to their actuarial consultant to see how their plan will be affected as this will vary significantly based on plan specifics. These rules will provide strong incentives to fully fund defined benefit plans. Plan sponsors should begin work now on their future contributions and understand the implications of funding at various levels.

PBGC premiums

Due to the underfunded plan liability that threatens the Pension Benefit Guaranty Corp.'s solvency, legislation earlier this year increased the annual flat rate per participant

premium from \$19 to \$30. In addition to this, the PPA will increase variable rate premiums for some plans. Beginning in 2008, there no longer will be a full funding limit exemption for this type of premium. With this exemption, plans could have had assets less than vested current liability, and still avoided the variable rate premium. In 2008, plan

definition of "reasonable" expected in future regulations. The new vesting rules will require all participants to be vested after three years.

In addition, for most plans whip-saw calculations are no longer required. As a result of these calculations, many plan sponsors were paying out lump sums much larger than the account balances defined

did not want to touch a plan type deemed age discriminatory. The reversal of this ruling, which was the first time an appeals court ruled on the age discrimination issue, combined with the new hybrid plan rules under the Pension Protection Plan may have reopened the door to cash balance plans. If your company is considering a plan change, a hybrid-type plan may be a viable, if not desirable, option that you may not have considered previously.

DC plans

Several provisions of the PPA make it easier for 401(k) plan sponsors to implement auto enrollment, including new rules for ERISA preemption of state wage garnishment and other laws, quick distributions for employees who don't want to be enrolled and a new ADP/ACP Actual Deferral Percentage/Actual Contribution Percentage test safe harbor. The act also directs the secretary of labor to issue default investment regulations for participants not electing investments. This will not relieve all fiduciary liability, but may help fiduciaries sleep better at night. Rules requiring diversification when plans hold company stock are also specified in the new law. Defined contribution plan sponsors should be reviewing these

See MINER / next page

The good news for defined benefit plan sponsors is that the interest rate relief offered in the Pension Funding Equity Act of 2004 has been extended for 2006 and 2007.

assets will need to exceed the new vested funding target to avoid a variable rate premium. Plans currently using this exemption may have variable rate premiums under new rules.

Cash balance plans

The PPA has clarified that cash balance plans are not age-discriminatory for plans created since June 29, 2005, and has specified standards for plan conversions. New rules were also set for vesting and interest crediting. The full impact of the requirement that interest credits not exceed a reasonable market rate of return will depend on the

under the plan. Under new rules, the account balance can be used as the lump sum amount instead of the more complicated and costly lump sum calculated under whip-saw. Cash balance plan sponsors need to plan how to implement these new rules.

Cooper vs. IBM

On Aug. 7, the 7th U.S. Circuit Court of Appeals overturned a 2003 district court ruling, which had found IBM's cash balance pension plan age discriminatory. This decision stopped nearly all cash balance plan formation since plan sponsors

Protecting economy from terrorism

Incentives can entice capital markets to help finance the risk



By Howard Mills

Speak with any American old enough to remember World War II from a stateside perspective and most will speak of the strong sense of unity and participation American citizens felt in the war effort: sugar rationing, scrap metal drives, saving animal fats and tinfoil, and of course, Americans buying war bonds.

Today, many Americans feel a distance from the war on terror. We support our troops in spirit but, with the exception of military families and families of the victims of terrorist attacks, we lack any real connection or sense of sacrifice. We don't need to ration life's necessities these days, but there is a critical element of our defense against terrorist attacks that investors and the business community could participate in—protecting the U.S. economy from terrorism.

In the months after 9/11, virtually all insurers stopped offering terrorism insurance. In response,

Congress enacted the Terrorism Risk Insurance Act, which provided a federal backstop for terrorism coverage. It was written to expire in three years, during which time it was expected that the insurance industry would design a free market solution. Last December, with the TRIA expiration looming, it was clear the private sector had not created a viable solution and so, in order to avoid the massive terrorism insurance market disruption that would surely have occurred with TRIA's end, the program was extended until Dec. 31, 2007.

TRIA extension unlikely

Congress has been very clear that another extension of TRIA in its current form is not likely and that a long-term free market solution that significantly reduces the role of the federal government has to be developed with industry consensus. I believe that the exposure of the federal government can be reduced by the private sector assuming more of the risk—to a point at which the ability of the industry to cope with the loss is exceeded. At that point, it is absolutely critical that the federal

The federal government can at least provide the incentive to the capital markets to participate in providing the confidence that we will rebound quickly from any such attack.

government act as a backstop.

The easiest and best way to create additional domestic capacity between existing insurance markets and TRIA is to securitize it by engaging the capital markets. To date neither the insurance industry nor the capital markets have had an appetite for getting involved in managing terrorism risk because of the difficulty in pricing the risk.

Terrorism attacks cannot be predicted, modeled or priced with confidence. If anyone did succeed in securitizing terror risk, it is widely assumed that the markets would bail out immediately after the next event, due to the great volatility that would follow. How then to coax investors to securitize terrorism risk over the long term and make available the tremendous ca-

capacity of the capital markets?

As always, the answer lies in providing incentives to the investor, in this case with changes to the federal tax code and allowing for the formation of special purpose vehicles in the United States to facilitate capital market investment in the financing of terrorism risk.

Enhancing the system

The first step is to exempt such investors from federal taxation to enhance the yield on the investments to compensate for the unpredictability associated with terrorism risk. Exemption is justified given the clear "public purpose" of the financing. In addition, the tax exemption helps assuage, along with hedging strategies, the correlation

of a terrorism event with the losses that can be expected to follow in the capital markets.

Next, insurance laws would have to be amended to allow for the formation and utilization of SPVs for this specific purpose. The SPV would enable ceding insurance companies to get credit for reinsurance, or the hedging of terrorism risk, on their financial statements. The interest income and tax benefit would inure to the investor—not the ceding insurer.

This SPV structure would have the added benefit of bringing this business onshore in the United States. One need only look at the fact that the bulk of new business in natural catastrophe bonds and reinsurance is all taking place offshore in Bermuda, the Cayman Islands and elsewhere—all because of the U.S. tax code. Thus we could create a new U.S. industry on U.S. soil and that industry would be based on a needed public benefit—protecting U.S. economic interests.

What is the alternative to bringing investors into the terrorism insurance risk coverage industry? Ab-

See MILLS / next page

Miner: Latest pension rules examined

Continued from previous page
new rules to determine what changes, if any, they will need to make to their plans.

Seek specifics

This column barely scratches the surface of the profound changes mandated by the PPA. Plan sponsors should seek more detailed specifics on the act, so they can respond appropriately to the new environment and reduce the likelihood of any surprises.

Ask A Casualty Actuary, Ask A Benefit Actuary and Ask A Risk Manager answer written questions from readers on risk and benefits management issues and actuarial problems.

This month's column on actuarial questions in the benefits field is written by William J. Miner, an actuary with Watson Wyatt Worldwide in Chicago. For more information about the retirement plan changes, please contact Watson Wyatt Worldwide at 312-525-2169. Mr. Miner was assisted in the preparation of this column by Christy Meehleis, a consultant in Watson Wyatt's Chicago office.

Address your questions to ASK, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601. Please give us your name, title and employer; however, Business Insurance will consider unsigned letters.

Mills: Investors key to finding TRIA solution

Continued from previous page
sent some federal involvement, we could return to the market failure that followed 9/11.

The irony is this: If we do nothing and a major terrorist attack occurs, we all know with certainty what the federal response will be—the same as after 9/11, after Hurricane Katrina and in keeping with the way it always is—a major rebuilding financed by the U.S. taxpayer.

Despite the global war on terror and the effort our country is dedicating to this war, an attack on U.S. soil is still a distinct possibility. The federal government can at least provide the incentive to the capital markets to participate in providing the confidence that we will rebound quickly from any such attack.

Congress has asked for a free market solution to terrorism insurance. The U.S. investor community could provide that solution and be great American patriots, as well. All Congress needs to do is make it possible for them to do so.

Howard Mills is the New York superintendent of insurance.

D&O: Liability uncertainty troubles Canadian independent directors

Continued from page 4
bers of the board. Mr. Hayhurst received varying responses from legal counsel, with some saying that audit committee members would be held more accountable while others said they would not be.

"The audit committee chair... wants to be able to go back to the rest of the board and give them assurance that they are properly protected," Mr. Hayhurst said.

Due to the uncertainty, Mr. Hayhurst assumes a worst-case scenario that as an audit committee member he would be more liable for such claims. "I have to act on that basis,"

he said, adding, though, that assuming a worst-case scenario breeds good discipline.

Coverage concerns

While the secondary-market exposure is a major issue, the potential liability for directors should not be a terribly frightening prospect because D&O policies, unless they include a Bill 198 exclusion, will provide coverage for such claims, said Richard Shaw, a partner with Calgary-based McCarthy Tetrault L.L.P., who vets D&O policies on behalf of independent directors.

For example, directors will be covered for allegations of fraud related to restated earnings, he said. "If you're not a guilty party, you will have coverage on a restatement of earnings," Mr. Shaw said. "If it's an innocent financial error, you should be covered."

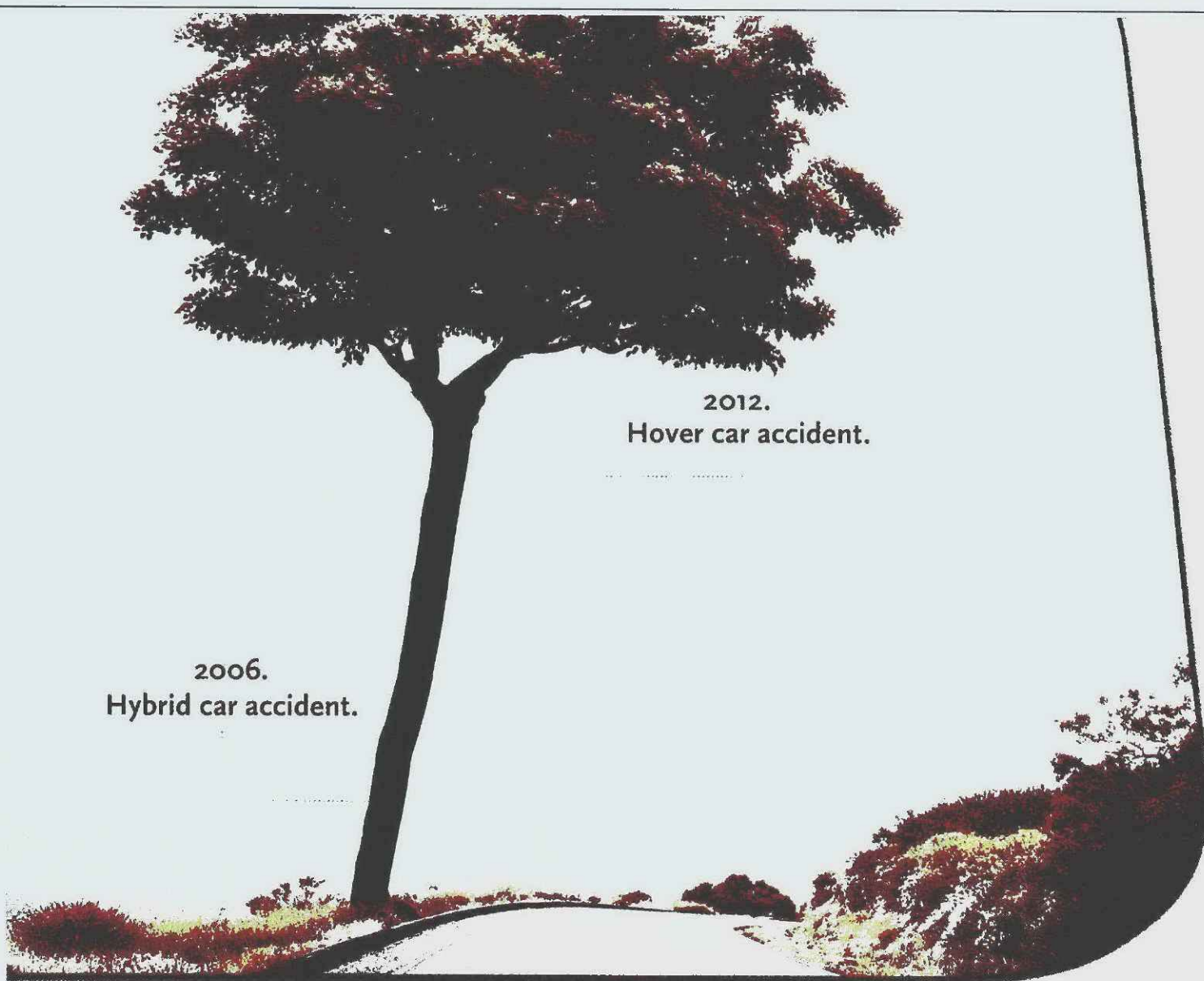
Aside from Bill 198 claims, independent directors have a number of other concerns about their exposures and their D&O coverage, the panelists told the Canadian gathering.

For example, income trusts, which have been increasing in popularity in Canada, are unique and

evolving structures that initiate a host of issues, including examinations of the roles of directors and whether U.S. insurers that have modified their domestic policies for Canadian customers have taken into account the distinct features of Canadian income trusts, Mr. Hayhurst said.

Another major concern for independent directors are cross-border listed companies—organizations that are traded on exchanges in Canada and the United States—because that creates additional issues,

See D&O / page 12



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The conference, which was sponsored by the Canadian arm of the Risk & Insurance Management Society Inc., featured sessions on executive risk insurance, enterprise risk management, the future of risk management and emerging risks in the areas of income trusts, pension liability and pandemics.

Next year's conference will be held Sept. 16-19, in Halifax, Nova Scotia. For more information, visit <http://rimscanada.rims.org/website/websitedisplay.cfm?WID=668>.

—By Gloria Gonzalez



D&O: Independent directors face challenges

Continued from page 11

particularly the need to navigate the deluge of U.S. shareholder lawsuits.

"That litigation mentality is much of what D&O insurance is about," said Harry Schaefer, a corporate director and business adviser with Schaefer & Associates Ltd. in Calgary, who serves on a number of boards, including as audit committee chair of Calgary-based TransCanada Corp.

In some cases, plaintiffs' lawyers are receiving bonuses if they can ensure that directors are forced to participate in any settlements, he

said. "Shareholders are paying bounties to get directors," Mr. Schaefer said.

Read the policy

As the lawsuits emanating from the collapses of Enron Corp. and WorldCom Inc. demonstrate, directors need to ensure that the company and risk managers purchase coverage that is exclusively for directors' benefit, rather than for the company, as plaintiffs pursue the resources of the company's D&O policy, Mr. Schaefer said. "You need to focus on who the policy is for

and what it covers," he said.

Having indemnification contracts in which companies agree to hold their directors harmless for claims is particularly important, especially in situations where there is a hostile takeover and the incoming board does not want to indemnify the outgoing members. In those situations, the outgoing directors can sue the company to force it to provide indemnification, but the process is time consuming and expensive, Mr. Shaw said. "This is really quite an area of risk for directors and officers," he said.

Another key limitation on indemnification is the financial stability of the company, Mr. Shaw said. If the company becomes insolvent, "the indemnities aren't worth the paper they're written on," he said.

Due to the risks inherent in serving as an independent director, many now insist that lawyers, such as Mr. Shaw, review the company's D&O policies so directors know the exact scope of coverage.

In such reviews, facets of D&O policies that are examined include policy limits, deductibles, terms and exclusions, he said. Some of the more common exclusions involve insider trading profits, deliberately fraudulent acts or omissions, and insured vs. insured exclusions that allow the company to sue the directors. Mr. Shaw said he asks insurers to expand coverage, for example, to cover directors who are sued by a bankruptcy trustee—an exception to the insured vs. insured exclusion that insurers are willing to provide.

Examine claim terms

For D&O policies that cover both directors and the company, Mr. Shaw advocates the addition of a priority of payment clause that would ensure directors would be paid first in the event of a claim.

Carefully examining severability clauses is necessary to ensure that the statement and knowledge of one insured cannot be imputed onto the other insured parties, he said.

The ability of insurers to rescind coverage under D&O policies is another factor that directors need to examine to learn which circumstances enable carriers to bring rescission actions, Mr. Hayhurst said. Directors as well as risk managers securing D&O coverage should carefully examine the wording and phrasing in these policies to check for any language that would allow insurers to deny coverage—even statements that are not explicit exclusions, but may function as exclusions because of broad phrasing.

With regard to rescindability of D&O policies, though, insurers in Canada do not rescind coverage very often and usually do so only because of prohibitions against the coverage, Mr. Shaw said. "The policies do provide decent coverage in my view," he said.

The session was moderated by Andrea Orviss, the Vancouver-based senior vp of Marsh Canada Ltd.'s Western D&O practice.

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Pension sponsors advised to cover fiduciary liability

By GLORIA GONZALEZ

CALGARY, Alberta—Canadian pension plans have become a growing source of litigation, making good risk management, including a thorough review of fiduciary liability insurance policies, a priority for Canadian risk managers.

The litigation that ensues over alleged breaches of fiduciary duty in the management of pension plans often takes the form of class actions seeking millions of dollars, said Donald McGarvey, an Edmonton, Alberta-based partner with McLennan

Ross L.L.P., who specializes in commercial litigation and insurance. "The class action lawsuit is absolutely tailor-made for pension disputes," he said during the 31st annual Canadian Risk & Insurance Management Society Inc. conference in Calgary, Alberta.

Risk managers should be concerned about the potential for lawsuits related to pension plans because of a number of factors including the aging of the population, which is creating more potential plaintiffs; the substantial amount of money at stake in pen-

sion funds; and the increasing sophistication and knowledge of plaintiffs scrutinizing all aspects of the administration of the pension plan, Mr. McGarvey said.

Uncertainty over the rules for managing pension plans is a key emerging issue in the fiduciary liability area, with several court decisions over the last few years contributing to the uncertainty and the potential exposures for plan sponsors.

The Supreme Court of Canada's June ruling in *Rogers Communications Inc. vs. Busch*, which said a common-law rule governing tradi-

tional trusts could not be invoked to force the termination of a trust holding the assets of a pension plan, was generally seen as favorable to sponsors because of the court's recognition that judges have to be careful in applying common-law principles governing trusts to pension plans (BI, July 10). The decision though, likely will result in further litigation over whether other areas of common law are also subordinate to pension legislation, Mr. McGarvey said. "When you don't know what the rules of the game are, you're more likely to

breach them," he said.

Another key legal question for plan sponsors is whether they can pay expenses from the pension fund, a common practice that became the basis of an adverse March ruling by an Ontario court in *Nolan vs. Superintendent of Financial Institutions and Kerry (Canada) Inc.* (BI, July 10) "This has left us in a state of flux," Mr. McGarvey said.

Lawsuit risk rises

Employers are also grappling with what changes they can make to their pension plans if they act in the capacity of a plan sponsor rather than as a fiduciary of the plan—a question the Quebec Court of Appeal addressed in a case involving Montreal-based Hydro-Quebec in *Provincial Assn. of Hydro-Quebec Retirees vs. Hydro-Quebec* (BI, April 18, 2005).

Due to the growing legal exposures, risk managers should purchase fiduciary liability insurance, Mr. McGarvey said.

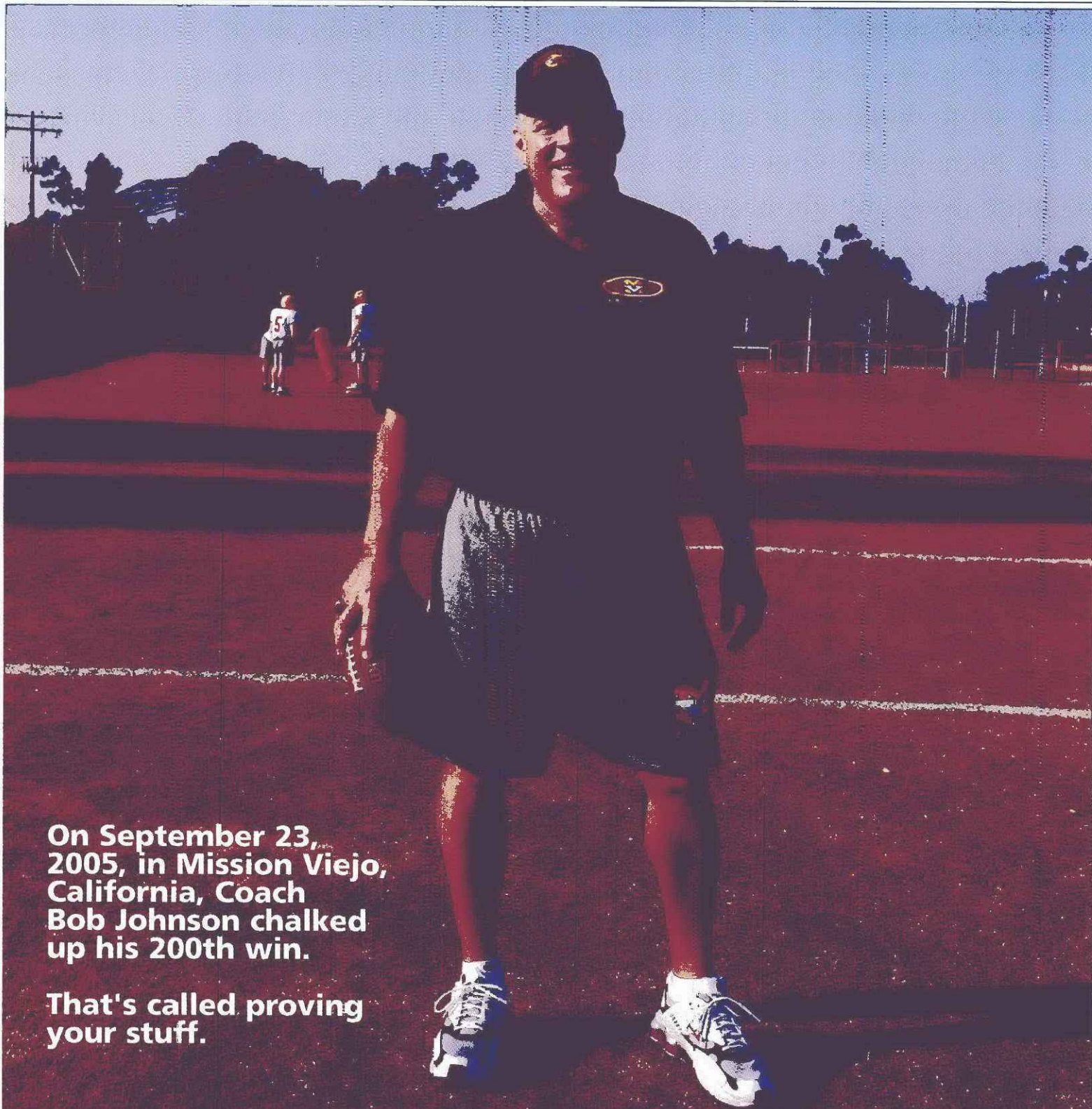
Fiduciary liability insurance protects fiduciaries and the company itself for breaches of fiduciary duty and errors in the administration of the company's employee benefit plans, said Murn Meyrick, vp of the executive risk practice of Willis Risk Solutions in Toronto.

For defined benefit plans, some alleged breaches of fiduciary duty that, barring exclusions, might be covered in the fiduciary policy are the taking of illegal contribution holidays, the wrongful payment of expenses from the fund, negligent investment decisions, claims that certain beneficiaries were treated more favorably than others and surplus entitlement claims, Ms. Meyrick said. In some situations, the policies may exclude the actual losses caused by these events, but may still cover the defense costs, she noted.

Lawsuits challenging decisions that plan sponsors make about surplus funds are considered to be a key area of risk, particularly in view of the Supreme Court's decision in *Monsanto Canada Inc. vs. Ontario (Superintendent of Financial Services)*, which required the company to distribute a portion of the surplus of a pension plan that was partially wound-up (BI, Aug. 9, 2004).

"We're by no means finished with surplus entitlement," Ms. Meyrick said.

Although lawsuits involving defined contribution pension plans have yet to be filed in Canada, Ms. Meyrick said she expects to see these types of lawsuits in the future. For defined contribution plans, the fiduciary liability policy may provide coverage for claims related to the selection and monitoring of service providers and the diversity of investment options, she said. Plan sponsors of defined contribution plans have to give their employees enough choice of investment options and must strike the right balance in offering education while not offering advice, Ms. Meyrick said.



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Risk managers urged to prepare now for crisis in the future

CALGARY, Alberta—Although few risk managers will likely have to deal with airplane emergencies, such scenarios offer valuable lessons about how to navigate a crisis—namely the importance of being as prepared as possible and remaining calm in an emergency, according to a airline pilot who survived a major crash.

Al Haynes, the pilot of United Airlines Flight 232 that crashed at the Sioux City, Iowa airport en route to Chicago on July 19, 1989, after the loss of all three of the airplane's hydraulic systems, outlined key lessons he learned that day at the 31st annual Canadian Risk &

Insurance Management Society Inc. conference in Calgary, Alberta.

Luck was a key reason why 184 of the 296 passengers and crew aboard the DC-10 survived the crash, Mr. Haynes said. The crash occurred during daylight, in good weather, at an airport close to two hospitals—a trauma center and a burn center—and National Guard units were nearby. In addition, a DC-10 pilot instructor also was aboard, although both pilots quickly realized there was no procedure to fly the plane if all three hydraulic systems failed. The failure took out the airline's brakes and other systems. "It

was something that wasn't supposed to happen, so it wasn't something we trained for," he said.

Good preparation and execution, though, were major contributors to the survival of so many people, Mr. Haynes said. Sioux City airport personnel were well-prepared long before UA 232 came onto their radar, skidded on the runway, burst into flames and then flipped over, he said.

Risk managers would be wise to ask themselves if they are as well prepared for a crisis. If not, they should make changes, Mr. Haynes said.

All businesses have standard oper-

ating procedures for various scenarios, but risk managers should also understand that they may have to develop solutions on the fly during a crisis, he said. "There's no such thing as a worst-case scenario."

Communicating and keeping calm are extremely important during crisis situations, Mr. Haynes said. The flight controllers at the Sioux City airport gave instructions and information to the flight crew while directing air traffic to other areas. The flight attendants followed standard procedures for crash landings, giving passengers instructions for a possible evacuation. The

passengers themselves stayed calm even though they knew the plane was in trouble, he said.

"The whole time in the air, there was no panic," Mr. Haynes said. "I don't care how bad it is, how critical it is, you have to remain calm. Once you've begun to shout, you've lost it."

Cooperation is also critical and risk managers should be willing to listen to colleagues who may have good ideas for handling the crisis, he said. "If you think you know the answer, they might just have a better one," Mr. Haynes said.

—By Gloria Gonzalez

Rules: Pension sponsors bear responsibility

Continued from previous page

A key consideration for defined contribution plan sponsors is that they still have fiduciary duties, even if they delegate the management of the plan to a third party. The belief that sponsors can contract out their liability is a "grave misconception," Ms. Meyrick said.

The plan sponsor has the ultimate responsibility to monitor, evaluate and confirm the quality of the performance of the service provider and may be sued if the provider does not perform up to expectations, she said.

An important risk management step for plan fiduciaries is ensuring that the pension plan is governed properly, with fiduciaries able to turn to a set of regulatory guidelines that codify the responsibilities of Canadian employers with defined contribution pension plans that allow participants to make investment decisions (*BI*, Dec. 19, 2005). These guidelines have widespread industry and regulatory support and address key issues related to defined contribution plans, said Adam Briklyn, senior vp, financial lines, for Toronto-based Executive Risk Services Ltd.

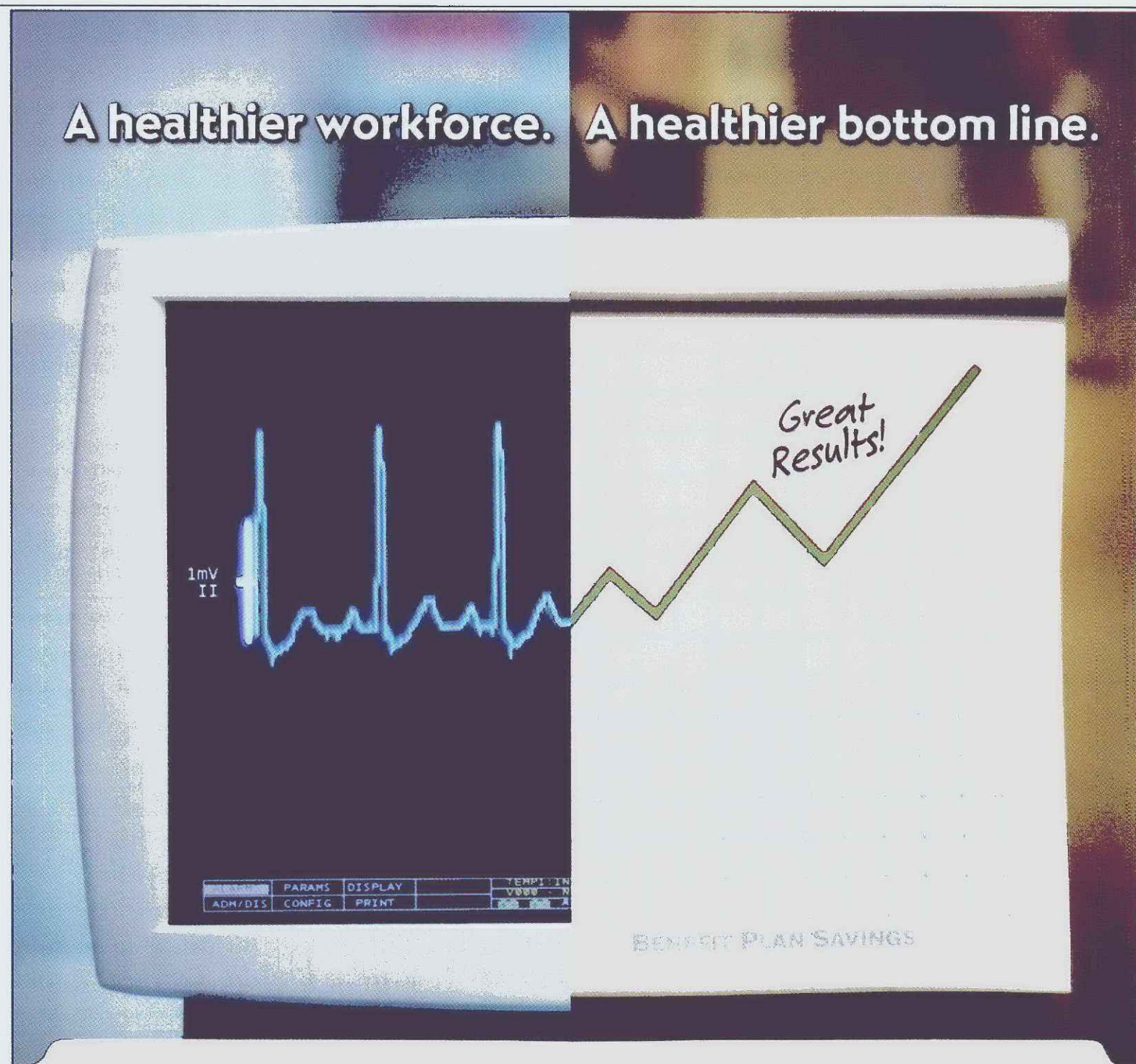
Shop early

Buyers should start shopping for fiduciary liability coverage early because there is so much pressure put on them with regard to other lines of business that the fiduciary coverage may be overlooked and they may not receive the coverage they want, he said. Risk managers should, for example, check if the fiduciary liability policy has an insured vs. insured exclusion—a directors and officers policy exclusion that should not be in a fiduciary liability policy, Mr. Briklyn said.

When reviewing coverage options, risk managers should keep in mind that fiduciary liability policies are negotiable. "Don't feel as if you have to take whatever is handed to you," Ms. Meyrick said.

The session was moderated by Steve van Halst, director of insurance and claims-risk management for Burnaby, British Columbia-based TELUS Corp.

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Between the Lines

Compiled by Joanne Wojcik

Mob daddy or daddy's mob?

Who should have more life insurance—Tony Soprano or Mike Brady? While one in four TV viewers say the mob boss needs more “protection” given his nefarious lifestyle, an expert says the 1970s sitcom dad’s large brood actually makes his coverage needs greater.

“How risky your job is really has nothing to do with how much life insurance you need,” says Brian Ashe, president of Brian Ashe & Associates Ltd. in Lisle, Ill., and immediate

past president of the Washington-based Life and Health Insurance Foundation for Education, which backed the survey of popular TV dads’ life insurance needs to illustrate how much coverage people really need.

The Sept. 7-10 poll of 1,019 U.S. adults rated “The Sopranos” lead as No. 1 in need of cover, chosen by 25%, ahead of fellow TV dads Homer Simpson of “The Simpsons,” 17%; Cliff Huxtable of “The Cosby Show,” 12%; Ray Barone of “Everybody Loves Raymond,” 12%; and “The Brady Bunch” papa, 10%.

In a recent poll, Tony Soprano ranked highest among popular TV dads in needing the most life insurance.

“It’s really surprising that Americans ranked Mike the lowest because if there ever was someone who needed a lot of life insurance, it’s him,” Mr. Ashe said.

“Mike is the sole breadwinner for a family of eight and his income also supports Alice, a full-time housekeeper,” Mr. Ashe said.

Some 23% of poll respondents said they either did not know or none of the paternal characters had the greatest life insurance needs.

Heel to toe

North Shore Animal League America, which bills itself as the world’s largest no-kill pet rescue and adoption organization, is pairing up with a leading diet firm to promote man’s best friend in the battle against obesity.

The Port Washington, N.Y., animal shelter and Weight Watchers International Inc. are co-sponsoring “Adopt a Walking Buddy” Oct. 27-29 to encourage fall and winter adoptions while saving the lives of homeless pets.

“Science has shown that consistent activity is a key tool in reaching and maintaining a healthy weight, therefore adopting a dog is one of the most effective ways to achieve consistent exercise,” the shelter’s promotional materials point out.

But folks considering this alternative to the gym are advised to steer clear of those pocket-size pooches whose little legs may not be able to maintain a brisk enough clip.

Instead, the shelter suggests a medium or large breed and advises new owners to start out slow just in case their newly adopted best friend was once a couch potato, too.

Illicit pick-me-up

A growing number of U.K. workers may have found a way to beat that late-afternoon slump: Positive tests for cocaine use have soared 3,000% during the past decade.

The findings are based on 480,000 drug tests performed since 1996 on U.K. workers across a variety of professions by Medscreen Ltd., a London-based drug testing lab.

Overall, more than 5% of U.K. workers are now failing drug tests, Medscreen has found.

The company, which handles about half of all workplace drug tests performed in the United Kingdom, also reported 7,000 positive test results during 2005 for traces of heroin, cannabis, ecstasy and other illegal recreational drugs.

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

COMINGS & GOINGS - INDUSTRY

Brokers

Chicago-based Aon Corp. has appointed **Carlos A. Oliveras** as managing director of its U.S. mergers and acquisitions group in New York. Previously, he was president and chief executive officer of CAO Advisors.

Swett & Crawford Group has named **Kyle Chapman** as director of business development and vp. Before joining the Atlanta-based broker, he was a senior associate at Banc of America Capital Investors.

Andrew T. Starnes has joined Integro Ltd.’s San Francisco office as a principal in the property practice. Previously, he was Western region manager of business development at Allianz Global Risks U.S.

Philadelphia-based Doyle Consulting Group, an employee benefits, actuarial and wholesale brokerage firm, has named **Mary Pat Kessler** as director of new business development. Previously, she was an account executive with Aetna Inc.

Ted Clayton has been promoted to senior vp and regional director for Kansas City, Mo.-based Westrope’s West Coast operation in Irvine, Calif. Previously, he was a vp and broker.

Also at Westrope, **Randy Sutherland** has been named senior vp and regional director for Westrope’s Southwest operation in Dallas. Previously, he was a vp and broker.

Insurers

Robert J. Broomall has joined the Argonaut Group Inc. as senior vp, business development, for the company’s select markets segment in Chicago. Previously, he was a senior vp at Arch Insurance Co.



Ms. Kessler



Ms. Dever



Mr. Deavens

Harleysville, Pa.-based Harleysville Insurance Cos. has promoted **Donna M. Dever** to senior vp of performance excellence to direct the company’s efforts to make its operational processes more effective and efficient. She most recently served as vp and associate general counsel.

Massachusetts Mutual Life Insurance Co. has appointed **Gregory E. Deavens** as senior vp and chief financial officer for the company’s U.S. Insurance Group in Springfield, Mass. Previously, he headed the financial planning and analysis, expense monitoring and control, and the rating agency relations function for New York Life Insurance Co.

RVI Group has named **Bill Jennings** as senior vp of the company’s new fidelity and crime insurance division in New York. Previously, he was executive vp at CNA Financial Corp.

Managed care

Indianapolis-based WellPoint Inc. has named **John S. Watts Jr.**, currently president and CEO of national accounts, as president and CEO for commercial and consumer business effective Nov. 1. He will oversee individual, local group and na-

tional business.

Also at WellPoint, **Mark L. Boxer**, executive vp and chief operations and technology officer, will assume an expanded role, leading service operations, information technology and e-business for WellPoint’s commercial and consumer business as well as senior and state-sponsored business.

And **Angela F. Braly**, executive vp, general counsel and chief public affairs officer, will assume additional responsibilities to include the WellPoint’s federal employee program.

Reinsurance

Greenlight Reinsurance Ltd. has named **Brendan Barry** senior vp and underwriter. Before joining the Cayman Islands-based reinsurer, he was vp, structured risk underwriter, for Platinum Underwriters Bermuda Ltd.

Surplus lines

Burns & Wilcox Ltd. has named **Linda Pope**, who most recently served as senior underwriter for Burns & Wilcox’s Atlanta office, as manager of the new Portland, Maine, office. She will continue to manage the Atlanta office.

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Catlin uses swap to gain extra catastrophe cover

Deal secures \$200M to cover quakes, storms

By ADRIAN LADBURY

HAMILTON, Bermuda—Catlin Group Ltd., the Bermuda-based insurer and reinsurer, said that its Bermuda-based subsidiary, Catlin Insurance Co. Ltd., has developed a catastrophe swap agreement that would provide it with coverage of up to around \$200 million.

The transaction would provide Catlin with fully collateralized protection against what it describes as "severe" natural catastrophes. This deal would complement the protection that Catlin already buys through the traditional reinsurance marketplace, the company said.

Catlin said that the catastrophe swap would respond to up to six covered risk events over a three-year period. No payout would be made for the first three events.

Bay Haven Ltd., the Bermuda special-purpose vehicle being created for the program, would pay Catlin Bermuda \$33.4 million per covered risk event after the third event, up to a maximum of six events.

The aggregate limit payable to Catlin Bermuda is \$200.3 million.

The bond would cover hurricanes in the East Coast, Florida and Gulf Coast of the United States, U.S. earthquakes in California and in

qualifying U.S. hurricane occurs during the period.

Catlin said that the catastrophe swap would be triggered for U.S. risk events if aggregate insurance industry losses worked out by Property Claims Services unit of Insurance Services Office Inc. meet or exceed defined threshold amounts.

Coverage for non-U.S. risk events would be triggered if specific parametric criteria, such as wind speeds or ground motions, are met or exceeded.

The stochastic risk analyses, definitions of covered events and parametric trigger solutions were developed by catastrophe modeling agency Newark, Calif.-based Risk Management Solutions Inc.

Reinsurance broker Guy Carpenter & Co. Inc. also worked on the deal.

Bay Haven is issuing two sets of floating rate notes to investors to fund the coverage—Class A and Class B notes. The transaction was brought to the securities market last week by the insurance and weather derivatives team at ABN AMRO in London.

Catlin said that the bond will be the first of its kind to offer "very low risk/low volatility investors, such as pension funds and life insurers, the diversification and yield benefits of natural catastrophe exposure."

Cat coverage

Catlin Bermuda's catastrophe bond would provide coverage for:

- Hurricanes hitting the East Coast, Florida and Gulf Coast areas of the United States
- U.S. earthquakes in California and the New Madrid Seismic Zone
- Windstorms in continental Europe and the United Kingdom
- Typhoons and earthquakes in Japan

the New Madrid Seismic Zone, U.K. windstorms, continental European windstorms, and typhoons and earthquakes in Japan.

Only one payment would be made for each covered risk event.

The catastrophe swap would, however, respond to multiple occurrences of a given category of risk event, such as if more than one

Swiss Re gives more details on plan to eliminate 2,000 jobs

ZURICH, Switzerland—Swiss Reinsurance Co. said last week it would begin informing employees of layoffs designed to save about \$300 million in costs in the wake of its merger with GE Insurance Solutions, the reinsurance arm of General Electric Co.

Swiss Re, which announced the plans to cut jobs in July, said in a statement last week that by the end of 2007, it would have eliminated about 2,000 positions worldwide—through natural attrition, early retirements and layoffs.

Of the job cuts, Swiss Re said that 55% were in Europe, 35% in the Americas, and 10% in Asia, Middle East and Africa. And 21% of those cuts will be in Switzerland, it said.

Swiss Re was the world's second-largest reinsurer, based on 2005 net premiums of \$22.4 billion, before its \$8.8 billion acquisition of the property/casualty business of GEIS, the insurance and reinsurance subsidiary of General Electric Co.

The acquisition, which was completed in June, included GEIS' fifth-ranked Employers Reinsurance Corp., which wrote net premiums of \$6.7 billion last year.

The size of the combined entity moved Swiss Re ahead of Munich Re Group, which wrote \$23.8 billion in premiums in 2005, according to *Business Insurance's* reinsurer ranking.

—By Sarah Veysey



Lloyd's of London said around \$3.68 of new capital entered the market in the first half of 2006.

Lloyd's sees decline in first-half profits as investments fall

By SARAH VEYSEY

LONDON—Lloyd's of London posted a profit of £1.35 billion (\$2.49 billion) in the first half of 2006, down slightly from the £1.38 billion (\$2.47 billion) recorded in the first six months of 2005, due in part to lower investment income.

The market's combined ratio for the first half of 2006 was 86.0%, compared with 87.3% for the same period last year.

Lloyd's said that while underwriting profit increased by 20% during the first half of 2005 to £852 million (\$1.57 billion), the market's investment income fell by 13.1% to £571 million (\$1.05 billion) for the first six months of 2006.

Gross written premiums were £9.97 billion (\$18.35 billion) for

the first half of 2006, up 18.7% compared with the prior-year period.

Lloyd's said that during the first half of 2006, about £2 billion (\$3.68 billion) of new capital entered the market and that five new syndicates have joined Lloyd's so far this year.

In addition, Lloyd's has set up a Cayman Islands-based special purpose vehicle, Thunderbird Re, to enable members of the market to issue catastrophe bonds.

A spokesman for Lloyd's said that the framework was now in place and that the market had set up a working group to discuss members' catastrophe bond requirements.

He noted that should any market participants wish to issue a bond, it is likely it would take between six to eight weeks.

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Medical care quality rises, but wide disparities remain

Report finds mental health care quality sees little improvement

By JOANNE WOJCIK

WASHINGTON—Though the quality of medical care provided by health plans participating in the National Committee for Quality Assurance's annual quality reporting initiative continued to improve last year, mental health care quality remains as poor today as it was a decade ago.

And enormous differences persist between the performance of the nation's health care system as a whole and the top accountable health plans, "The State of Health Care Quality: 2006" report has found.

Antidepressant medication management actually deteriorated between 1998 and 2005, the NCQA discovered. While 20.6% of health

plan members received optimal practitioner contacts in 2005, a slight improvement from 20.0% in 2004, that figure was down from 22.7% in 1998.

Effective treatment

Effective depression treatment would save employers more than \$30 billion per year in lost productivity, the NCQA estimates. In addition, total medical costs are reduced in patients remaining on antidepressants for at least 90 days, according to the NCQA.

The NCQA estimates that if the entire U.S. health care system performed at the level of the top reporting plans, between 37,600 and 81,000 lives would be saved, \$10

billion in lost productivity would be regained and almost 65 million sick days would be avoided.

Among the most significant gains in NCQA's 2005 report:

- 77.7% of children in commercial health plans received all recommended immunizations, up from 72.5% in 2004 and nearly three times the proportion reported eight years ago.

- Diabetics are more than twice as likely to have their cholesterol controlled to recommended levels as they were in 1998. In 2005, 67.5% of diabetics' cholesterol was being controlled vs. 64.8% in 2004 and 29.1% in 1998, the first year this protocol was measured by the NCQA.

- 96.6% of patients in commercial health plans who suffered a heart attack were prescribed beta-blockers to help prevent a second, often fatal heart attack, up from 96.2% in 2004 and only 62.6% in 1993, the first year the treatment

was measured.

Because of enrollment shifts away from traditional managed care plans, only one in four Americans are currently enrolled in health plans that collect and report data on the quality of care, the

The NCQA estimates that if the entire U.S. health care system performed at the level of the top reporting plans, **between 37,600 and 81,000 lives would be saved.**

NCQA pointed out, noting that this trend could have a detrimental effect on quality improvements since public reporting has been found to promote improvements in the quality of care.

However, the NCQA has stepped up efforts encouraging reporting by preferred provider organizations and other types of health plans. In

response, 80 commercial PPOs participated in the 2006 Health Plan Employer Data and Information Set, or HEDIS, report compared with only a handful for which only partial data was reported last year.

A total of 76.5 million Americans are enrolled in health plans that participate in the NCQA's annual measurement project, up from 64.5 million in 2004.

New federal requirements that Medicare Advantage PPOs and federal government employees' health plans report on HEDIS measures are also expected to boost participation.

Still, more than 100 million insured Americans are enrolled in plans that do not report to the NCQA.

"The State of Health Care Quality: 2006" may be downloaded at no cost from the NCQA Web site, www.ncqa.org.

Print versions can be purchased by calling 888-275-7585.

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Phone: (203) 363-1962.

In order to be eligible, completed bid proposals must be received by 3:00 P.M. EST on October 27, 2006.

All inquiries for additional information regarding the Invitation for Bid are to be directed, in writing via e-mail, to **William Mollica** at William.Mollica@towersperrin.com.

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HSA: House committee approves changes

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Changes in the measure, introduced by Reps. Eric Cantor, R-Va., and Paul Ryan, R-Wis., include:

- De-linking HSA contributions to health insurance plan deductibles. Under current law, the maximum annual contribution that can be made to an HSA is the lesser of the deductible of the health insurance plan linked to the HSA, or an indexed amount—set by law—which currently is \$2,700 for single coverage and \$5,540 for family coverage.

Instead, the legislation would set the contribution limits at the indexed amounts, with the deductible levels in the health insurance plan disregarded. That could mean, in some cases, that hundreds of additional dollars could be contributed to HSAs each year, resulting in bigger account balances that employees could draw on to pay for uncovered health care expenses.

"That would be a very encouraging development and be especially important during the first couple of years after an HSA is set up and the account balance is low," said Tom Hricik, national director-HSA product distribution with ACS/Mellon Financial Corp. in Pittsburgh.

"You solve two problems. You have more money to cover current expenses and you can save more to meet future expenses," said Paul Dennett, vp-health policy for the American Benefits Council in Washington.

- HRA and flexible spending account balance rollovers: The Cantor-Ryan bill would allow employers to roll over unused HRA and FSA balances to employees' HSAs.

Under the bill, rollovers from FSAs and/or HRAs into HSAs would be allowed on a one-time basis for a limited time. The amount to be transferred could not exceed the balance in the HRA or FSA at the time of transfer or as of Sept. 21, 2006, whichever is less.

That rollover provision is aimed at employers who established HRAs, which the IRS gave the green light to in 2002, but now want to scrap those arrangements in favor of HSAs, which under a 2003 federal law became available in 2004.

While HRAs and HSAs have certain similarities, such as being linked to high-deductible health insurance plans, they have one crucial difference: While only employers can contribute to HRAs, both employers and employees can contribute to HSAs.

Since employees are helping to fund HSAs, a growing number of employers believe they will give employees a greater financial incentive to use health care services more

carefully than HRAs since they are putting their own money into the arrangements.

As far as recent employer adoption, HSAs now seem to have more momentum than HRAs, said Hewitt's Mr. Munn.

But employers with HRAs that want to make the switch to HSAs have been stymied by one basic problem: They have no simple way of rolling over the balances they

FSA grace period, even if the FSA account balance was exhausted at the end of the prior year.

The bill would end that problem by permitting HSA contributions during the grace period if there was a zero FSA balance at the end of the prior year or if the FSA balance—as of the end of the plan year—was transferred to the HSA.

- Individual retirement account-HSA transfers: The Cantor-Ryan bill

HSA legislation specifics

What H.R. 6134 would do:

- HSA contributions no longer limited by health insurance plan deductible
- Allow one-time tax-free rollover of unused HRA or FSA balances to HSAs
- Permit employees hired late in the year to make full HSA contributions
- Allow HSA contributions during an FSA grace period
- Allow limited and one-time rollover of IRA assets to HSAs

have accumulated in the HRAs to employees' HSAs, a problem that the Cantor-Ryan bill would end by permitting direct rollovers.

- Late-year HSA enrollment: Under current law, the maximum annual contribution to an HSA is prorated to reflect when the employee

became eligible for coverage. For example, the contribution for an employee who became covered on Dec. 1 would be limited to one-twelfth of the annual maximum.

That limitation is such a concern that HSA sales dry up during the later part of the year, Mr. Munn said.

The Cantor-Ryan bill would ease that concern by allowing the maximum HSA contribution—regardless of when during the year an employee became eligible for coverage.

- HSA and flexible spending account grace period linkage: Under Internal Revenue Service rules,

employers can adopt FSA grace periods so that employees can tap FSA balances that remain in the plan at the end of the year to pay for health care-related expenses incurred during the first 10 weeks of the next plan year.

Since employees will have more time to spend FSA balances, adoption of the grace period reduces the likelihood that employees will have to forfeit FSA balances remaining at the end of the year under the IRS' use it or lose it rule.

The problem for HSA enrollees is another IRS rule that says HSA contributions can't be made during the

would allow employees with IRAs to make a one-time tax-free transfer of assets from the IRA to the HSA. The transferred amount could not exceed the legal maximum that could be contributed to an HSA that year.

That feature would benefit employees who just became covered under an HSA, don't have much money in the account and incur a big medical expense.

With the regular congressional session nearing an end, employers don't expect any action on the bill now. Their strategy is to convince federal legislators to attach the bill to a "must-pass" measure, such as legislation to extend several popular tax breaks that Congress will consider during its brief lame-duck session that will begin in mid-November.

The Benefit Council's Mr. Dennett believes that the HSA measure has a good chance of winning congressional approval because, he says, the proposal is not controversial.

"This would fix some of the mechanics of HSAs. These are a set of various sensible changes and the bill should not be viewed as controversial," he said.

On the other hand, some congressional Democrats are strongly opposed to the bill. "Why are we dedicating the few remaining hours of this Congress on a bill that does little more than provide a new billion-dollar tax shelter for the healthy," said Rep. Pete Stark, D-Calif., during the Ways and Means Committee consideration of the bill.

Rep. Stark was referring to a Joint Committee on Taxation Committee report putting the cost—in terms of reduced federal tax revenues—at about \$1 billion over 10 years.

"There may only be a slight chance of passing the bill, but still a chance," said Henry Saveth, an attorney with Mercer Human Resource Consulting in New York.

TRIA: Industry lauds GAO report

Continued from page 1

with such risks. The report says insuring such risks is "distinctly different from insuring other risks because of the potential for catastrophic losses, a lack of understanding or knowledge about the long-term consequences and a lack of historical experience with (such) attacks in the United States."

It adds, however, that although such risks "may not fully satisfy the principles of insurability," some insurers may refuse to offer coverage while others "may choose to offer coverage for some or all of the risks." The report points out, for example, that state laws require insurers to cover the peril in workers compensation policies.

"Representatives of workers compensation, life and health insurers expressed concerns that the prices they currently charge may not cover their potential exposures to (CNBR) risks, sometimes because of regulatory limitations, and generally because of difficulties in measuring and pricing for (CNBR) losses. Given the challenges faced by insurers in providing coverage for and pricing (CNBR) risks, any purely market-driven expansion of coverage is highly unlikely in the foreseeable future," said the report.

Report welcomed

The GAO report drew plaudits from risk managers, underwriters and producers alike for having acknowledged what they had said all along—that the CNBR risk cannot be tackled by the private market.

The Risk & Insurance Management Society Inc. "is pleased to finally see an admission from the federal government that there is an exposure related to a terrorist attack that the private sector cannot address by itself," said Terry Fleming, a member of New York-based RIMS' board of directors with responsibility for external affairs.

But "we are disappointed that the GAO report did not take the next step and recommend possible solutions, as most buyers, brokers and insureds have been asking for years," added Mr. Fleming, who is also director-division of risk management for Montgomery County, Md., in Rockville.

"The CNBR exposure represents a huge gap in protection, especially for employers and insurers who must provide workers compensation benefits, group health benefits and life insurance benefits without adequate premium or excess insurance coverage. We are hopeful that the report from the president's working group will ratify these findings and include recommendations for the mitigation of the exposure to include all types of terrorist attacks," he said.

"The GAO report is the first realistic study that we've seen to date," said Brad Wood, senior vp-risk management for Bethesda, Md.-based Marriott International Inc. "It confirms what risk managers have known for some time—that there is no CNBR insurance in the marketplace except where mandated by worker compensation."

He noted the report listed four principles that underlie an insurer's willingness to underwrite a particular risk. These include: The law of large numbers must apply, the loss must be definite and measurable, the loss must be fortuitous or accidental, and the loss must not be catastrophic.

"These same four criteria can easily be applied to conventional terrorism risk and underscore the need for a long-term public/private partnership," Marriott's Mr. Wood said.

Looking ahead

"I think it will help frame the debate on how Congress will look at terrorism next year," said Joel Wood, senior vp-government affairs for the Council of Insurance Agents & Brokers in Washington. "Whatever emerges, if anything, it will look and be different than the existing program. My guess is that there will be more focus on CNBR risk."

"That GAO report was very strong. Notwithstanding anything the working group might say, it's been a good week," he said.

"It really just reflects reality, which is that there really is no appetite in the private sector capital markets, and I include the private reinsurance markets, for CNBR risks."

Julie Rochman
American Insurance Assn.

Underwriters stress that the GAO report confirms their belief that the private market cannot deal with the CNBR exposure.

"It would seem that it's a very positive contribution to the question of whether or not a federal role is necessary," said Frank Nutter, president of the Reinsurance Assn. of America in Washington. "The market has made efforts to provide capacity and the GAO has found, as we knew, that it's so limited that government participation with CNBR remains critical."

"It confirms the reality—it really just reflects reality, which is that there really is no appetite in the private-sector capital markets, and I include the private reinsurance markets, for CNBR risks," said Julie Rochman, senior vp at the Washington-based American Insurance Assn. "There is no appetite now and there would be no increased appetite if the government backstop goes away."

"It was a good study, it was complete and it was fact-based. It clearly laid out why the government has to assume financial responsibility for war-like attacks," she said.

The full report is available at www.gao.gov.

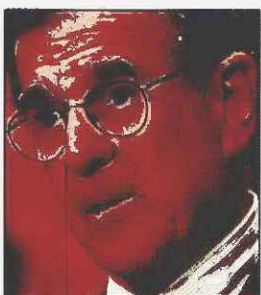


PHOTO: CONGRESSIONAL QUARTERLY

"Why are we dedicating the few remaining hours of this Congress on a bill that does little more than provide a new billion-dollar tax shelter for the healthy."

Rep. Pete Stark, D-Calif.

Ren Re: SEC accuses three former executives of fraud

Continued from page 1

sanceRe's auditors surrounding the Inter-Ocean deal, including its lack of risk transfer and income smoothing purpose.

The phony nature of the Inter-Ocean transaction also had a "distorting" effect on RenaissanceRe's financial reports to regulators and investors, the suit alleges.

Furthermore, the company's March 2005 three-year restatement of earnings itself was problematic, as the "description of the reasons for the restatement and the nature of the Inter-Ocean transaction was misleading," the SEC said in the complaint. The company, in disclosing its restatement, was not "candid about the reasons for the restatement" and failed to disclose that "the entire transaction was a sham," the SEC says in its complaint.

Restated results

In 2004, RenaissanceRe acknowledged that the two contracts had been improperly booked as insurance and failed to transfer enough risk to meet general accounting standards; in February 2005 the company announced it would restate three years of earnings due to those transactions.

The effect of that restatement, contained in a 10-K report filed with the SEC one month later, caused the reinsurer's 2001 net income to increase by \$26.4 million, and 2002 and 2003 net income to decrease by \$25.0 million and \$1.4 million, respectively.

A spokesman for RenaissanceRe said last week that "at this time we are not aware of any matter that would give rise to a further restatement."

The SEC's suit against RenaissanceRe's former officers seeks permanent injunctive relief, disgorge-

ment of ill-gotten gains, if any, plus prejudgment interest, civil monetary penalties and orders barring each defendant from acting as an officer or director of any public company.

The civil enforcement action last week follows so-called "Wells notices" issued by the agency last year to Messrs. Stanard and Cash and to RenaissanceRe itself. Wells notices are a warning that SEC officials plan to recommend that the agency levy charges of violating federal securities laws.

Of the three individuals charged in the complaint, only Mr. Merritt did not receive a Wells notice, said his attorney, Robert Plotkin of the Washington-based law firm McGuire Woods L.L.P.

Mr. Merritt was also the only one of the trio who agreed to simultaneously enter a partial settlement of the commission's claims against him, the SEC said.

As part of his settlement agreement, Mr. Merritt neither admitted nor denied any wrongdoing, and he consented to the entry of an antifraud injunction and other relief, deferring the settlement of any monetary charges.

In a statement, Mr. Stanard's attorney, James D. Mathias of DLA Piper U.S. L.L.P., denied any wrongdoing by his client, noting that Mr. Stanard engaged in due diligence with regulators following the discovery of RenaissanceRe's accounting errors.

"Mr. Stanard did not commit fraud or engage in any misconduct. While we are disappointed that the SEC has made these allegations, Mr. Stanard looks forward to the opportunity to vindicate himself," Mr. Mathias said.

"The single, two-part 2001 transaction that is the subject of the SEC complaint was restated in February

Former executives charged

Three former RenaissanceRe Holdings Ltd. executives face civil fraud charges levied last week by the Securities and Exchange Commission. They are:

JAMES N. STANARD

Mr. Stanard, age 57 and a resident of Maryland and Bermuda, served as RenaissanceRe's chairman and chief executive officer from June 1993—when the company was founded to provide catastrophe reinsurance—until November 2005, when the company announced Mr. Stanard was resigning as a result of probes into the reinsurer's restatement of earnings. Mr. Stanard received a so-called "Wells notice" from the SEC in July 2005, indicating that SEC officials planned to recommend the agency bring civil fraud charges.

MARTIN J. MERRITT

Mr. Merritt, age 43 and a resident of Bermuda, held various positions at RenaissanceRe's holding company and its Renaissance Reinsurance Ltd. subsidiary. In November 2005, the company announced that Mr. Merritt had left his post as controller, a position he had held from at least 2000 through March 2005. Mr. Merritt did not receive a Wells notice prior to the charges brought last week in the complaint, according to his attorney.

MICHAEL W. CASH

Mr. Cash, age 38 and a resident of Bermuda, formerly was senior vice-specialty reinsurance at the Renaissance Reinsurance unit from 2002 until July 2005. Mr. Cash resigned in July 2005 after refusing to comply with an SEC subpoena requesting his testimony in an investigation into the three-year restatement of earnings announced by RenaissanceRe in February 2005. A Wells notice was issued to Mr. Cash in July 2005.

2005 at Mr. Stanard's direction after an internal investigation, voluntarily initiated by Mr. Stanard, of RenaissanceRe's reinsurance contracts and business practices found only one transaction that was incorrectly accounted for, out of thousands that were subject to the review. Mr. Stanard and RenaissanceRe brought this transaction to the SEC's attention, and Mr. Stanard has co-operated fully throughout the resulting government investigation," Mr. Mathias said.

"The independent directors of RenRe's board, advised by the law firm that conducted the internal investigation, concluded that the single accounting error was the result of mistakes, not misconduct," he said.

Representatives for Mr. Cash issued a statement denying the allegations in the SEC's complaint.

"Indeed, Mr. Cash was never responsible for RenRe's publicly filed financial statements. He should not have been named as a defendant in this case," the statement said.

According to Julius A. Rousseau, a reinsurance attorney with Herrick, Feinstein L.L.P. in New York, regulators are concerned about certain finite reinsurance transactions because they can mask the true performance of a company. "They want to see the fluctuations (in income) for solvency purposes."

What is notable in the charges against RenaissanceRe, Mr. Rousseau said, is they allege the company "was moving money around so they don't recognize income," which "doesn't give a true picture to stockholders."

Company sees no impact

RenaissanceRe—which in July announced a settlement offer related to the SEC's investigation of the company's March 2005 restatement of earnings—last week reported that it does not expect the charges leveled against its former officers to impact the company.

Under the proposed settlement, RenaissanceRe would not admit or

deny any wrongdoing, and would pay the SEC \$15 million in civil penalties (*BI*, Aug. 7).

The SEC staff has recommended the proposed settlement to SEC commissioners, and RenaissanceRe believes that the civil enforcement action against its former CEO and other top executives "will have no impact on the company's business going forward," the reinsurer said in a statement.

Robert J. Keyes, assistant regional director in the SEC's Northeast regional office in New York, declined to comment on the status of RenaissanceRe's proposed settlement.

In addition, RenaissanceRe continues to face shareholder class action lawsuits, which were consolidated in February in a U.S. District Court in Manhattan.

"The litigation remains at a very early stage," said a RenaissanceRe spokesman in a statement. "As we have disclosed in our SEC filings, we believe the private actions are without merit and we will defend ourselves vigorously."

Reinsurance deal was 'a round trip of cash': SEC

In its suit against three former RenaissanceRe Holdings Ltd. executives, the Securities and Exchange Commission alleges that the individuals played various roles in carrying out a two-part sham reinsurance transaction struck in 2001 between RenaissanceRe and Inter-Ocean Reinsurance Co. Ltd.

According to the complaint, RenaissanceRe was "flush with earnings" in late 2000, so the company's top officials began developing strategies to protect future earnings in the event it was forced to pay claims for major losses that it could not adequately reinsure.

In January 2001, company Chairman and Chief Executive James N. Stanard sent an e-mail to company Controller Martin J. Merritt, Senior Vp Michael W. Cash and others, asking them to try to "structure a ceded contract that allows us to 'put away' \$25 million," the suit says.

As a result, Messrs. Cash and Merritt ne-

gotiated a deal with Inter-Ocean and American Re-Insurance Co., "which managed Inter-Ocean through a subsidiary," the suit said.

American Re and RenaissanceRe both are shareholders in Inter-Ocean, a finite risk reinsurer that entered runoff last year (*BI*, April 11, 2005).

The suit also notes that an internal American Re e-mail showed that RenaissanceRe asked American Re "not to 'widely broadcast' its proposal 'given the nature of the transaction.'"

A spokeswoman for Princeton, N.J.-based American Re, which last month changed its name to Munich Reinsurance America Inc., declined to comment on the suit.

The eventual transaction—which regulators said was "a round trip of cash" and "had no economic substance and no purpose other than to smooth and defer \$26.2 million of RenRe's earnings from 2001 to

2002 and 2003"—involved two principal parts, according to the suit.

The first contract, entered into in April 2001, purported to assign \$50 million of recoverables due to RenaissanceRe under certain industry loss warranty contracts to Inter-Ocean in exchange for \$30 million in cash. The eventual result was a net transfer to Inter-Ocean of \$20 million, the SEC said.

RenaissanceRe recorded income of \$30 million upon executing the assignment agreement, and the remaining \$20 million was considered a "bank" that the company could tap later if it needed to boost income, the suit alleges.

RenaissanceRe entered into the second contract with Inter-Ocean in July 2001, which served solely as a vehicle to refund the \$20 million transferred under the assignment agreement—plus a purported premium of \$7.3 million paid under the reinsurance deal—to RenaissanceRe, the SEC said.

Both contracts worked in tandem to create a "cookie jar" of earnings into which the company could place excess revenue from "one good year to be drawn upon in a future period," according to the complaint.

The suit notes that recovery under the reinsurance agreement was limited to funds—including the \$20 million transferred under the assignment agreement and the premium RenaissanceRe paid Inter-Ocean—that Inter-Ocean held in a trust. In addition, the suit charges that the triggers under the reinsurance agreement were "illusory" as they were structured in a way that guaranteed they would be met.

"The assignment agreement was not a true assignment but at best a temporary deposit, and the reinsurance agreement transferred no risk to Inter-Ocean because RenRe paid Inter-Ocean the entire amount it would recover under the reinsurance agreement," the suit said.

—By Rupal Parekh

Bermuda regulator sets year-end date to leave position

Decision reflects change in rules on dual leadership positions

By RUPAL PAREKH

HAMILTON, Bermuda—Cheryl-Ann Lister, chairman and chief executive officer of the Bermuda Monetary Authority, said she will step down from both posts at the end of 2006.

"After careful consideration, I decided that the end of this current contract would be the opportune moment for me to step down from having both these responsibilities," Ms. Lister said in a statement last week.



PHOTO: DAVID SKINNER

Ms. Lister—who has served as chairman of the regulatory body since 1999 and was appointed chairman and CEO in 2002—during her tenure led the BMA through a period of changes that expanded the organization's original role as mainly the supervisor of Bermuda's banking sectors to the regulator of Bermuda's entire financial services industry, including insurance, investment and other businesses.

In the statement, Ms. Lister noted that her move stems partly from recent legislative changes at the BMA; under an amendment to the organization's bylaws earlier this year, the chairman and CEO position will be split into two separate roles.

"The authority has experienced rapid growth, particularly in the last five years," she said. "The separation of the chairman and CEO positions is in my view a positive development, given the greater size and scope of responsibilities of the authority, both of which continue to grow."

In the statement, Ms. Lister also cited a desire to spend more time with family as a contributing factor for her decision.

Terry E. Lister, her husband, earlier this month stepped down from his role as Bermuda's minister of education and development.

According to the BMA, the organization's board of directors has already begun the process of locating successors for Ms. Lister, who will officially relinquish her responsibilities when her current contract with the BMA expires on Dec. 31.

"The Government of Bermuda values the dedicated public service that Mrs. Lister has given to the development and careful oversight of the Bermuda Monetary Authority at such an important time for Bermuda," Paula A. Cox, Bermuda's finance minister, said in a statement.

"After careful consideration, I decided that the end of this current contract would be the opportune moment for me to step down from having both these responsibilities."

Cheryl-Ann Lister
Bermuda Monetary Authority

Ten state AGs fight agent group over Zurich pact

Compensation settlement 'fair'

By SALLY ROBERTS

Ten state attorneys general have filed a motion in New Jersey federal court opposing the National Assn. of Professional Insurance Agents' stance concerning Zurich American Insurance Co.'s proposed class action settlement over its broker compensation practices.

In the PIA's amicus brief, filed Sept. 15 in U.S. District Court for the District of New Jersey in Newark, the association opposed Schaumburg, Ill.-based Zurich's proposed settlement, objecting to the selective ban on payment of contingent commissions and mandated use of what the PIA said was a "flawed" disclosure statement that creates legal conflicts.

In their Sept. 26 responding brief, state attorneys general from California, Florida, Hawaii, Maryland, Massachusetts, Oregon, Pennsylvania, Texas, Virginia and West Virginia contended that the PIA's concerns are limited and that they also are premature and should be reserved for the final fairness hearings on the Zurich settlement.

In their brief, the attorneys general said the PIA's concerns about the disclosure statement are not "warranted" and do not assist the court in determining the fairness of the settlement.

"There can be little doubt that the settlement as a whole is fair and adequate and easily satisfies the minimal standard for preliminary approval," they attorneys general said in their brief.

The state officials also said that, if approved, Zurich's settle-

ment would provide at least \$121.8 million to class members.

Meanwhile, prior to the attorneys general's motion, the Independent Insurance Agents & Brokers of America also filed an amicus brief requesting that the proposed settlement be changed.

In its brief, the Alexandria, Va.-based IIBA holds that Zurich—and not agents and brokers—should have the responsibility for providing policyholders with any disclosure form required by the proposed settlement about how it compensates producers.

In addition, the IIBA argues that the mandatory disclosure form called for in the proposed settlement would not promote transparency, and the group reiterates its opposition to a provision that would ban Zurich from paying producers incentive compensation in the future if 65% of the insurers in the marketplace do not pay such compensation for a particular insurance product or line of business.

A spokeswoman for the Texas attorney general's office, which is leading the effort for the 10 attorneys general, said the office is reviewing the IIBA filing.

Zurich reached two regulatory settlements in connection with the proposed class action lawsuit pending in the New Jersey court against several commercial insurers and brokerages alleged to have been involved in improper broker compensation and business practices.

Mark A. Hofmann contributed to this report.

Enroll: 401(k) rules shield employers

Continued from page 3

Just offering these investment options by themselves would not be a shield against liability. Employers still would have to be prudent in their selection of investment funds and would continue to monitor the funds.

Employers also would have to allow employees targeted with automatic enrollment programs to opt out of the program.

Additionally, employees in automatic enrollment programs must be given the opportunity to direct investments out of a default investment alternative with the same frequency as for other plan investments, but no less than quarterly, without financial penalty.

Some benefit experts say the proposed rules, by providing new guidance, will further accelerate the adoption of automatic enrollment programs.

"The rules will certainly help," said Watson Wyatt's Mr. Weddell.

Some experts, though, are surprised that fixed income funds were not included as a default investment option. "Strategically, the proposal goes in the right direction. But tactically, I have problems," said Rich Koski, a managing director with Buck Consultants L.L.C. in Secaucus, N.J.

"A stable value fund would be a good default investment option," Mr. Koski said.

Nothing, though, would prevent an employer from offering a stable value fund as a default investment in an automatic enrollment program. The employer, though, would not receive the fiduciary liability shield.

While automatic enrollment programs—even in the absence of regulatory guidance—have been growing, not all employers have embraced them. For example, Hartmarx Corp. has been able to get 90% of eligible employees—about 20 percentage points more than the average employer—to enroll in its 401(k) plan through an aggressive communication and employee contact program, said Michael Pikelnny, employee benefits manager and corporate actuary for the Chicago-based clothing manufacturer.

Cost: Employers' health care outlays nearly double inflation rate

Continued from page 3

The Towers Perrin survey found per-employee annual costs vary as much as \$3,000 among similar-size companies. Total health care premiums at low-cost companies are expected to grow just 4% next year to an average of \$7,224; high-cost companies are projected to pay 8% more in 2007, with premiums averaging \$10,428.

Eighty-four percent of low-cost companies focus on disease management compared with 61% of high-cost companies, the Towers

Perrin survey found. Low-cost companies also were found to invest in the health of their employees by providing programs and resources that encourage them to better understand and manage their health risks, the Towers Perrin survey found.

High-cost vs. low-cost

For example, 83% of low-cost companies focus on health improvement vs. 58% of high-cost companies. In addition, 76% of low-cost companies do at least

some measurement of health status or risks vs. 47% of high-cost employers.

"Nearly half of low-cost companies (46%) identified themselves as either 'early adopters' or 'fast followers' in describing their organizations' approach to health benefits, while over two-thirds (69%) of high-cost companies identified themselves as 'middle of the pack' or 'wait and see,'" the Towers Perrin survey states.

The Kaiser Family Foundation/Health Research and Educational Trust 2006 Employer Health Bene-

fits Survey is derived from a telephone survey conducted between January and May. It includes responses from 3,159 randomly selected fully insured and self-insured public and private employers of all sizes. The full survey is available online at www.kff.org/insurance/7527.

The Towers Perrin survey, which began in August and is still under way, includes responses from 170 of the nation's largest employers. The complete survey, expected to include responses from 350 employers, will be published later this year.

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NCR to phase out defined benefit pension

By JERRY GEISEL

DAYTON, Ohio—Information technology giant NCR Corp. is phasing out its defined benefit pension plan, completing a process it started two years ago when it closed the \$3 billion plan to new and younger employees.

After Dec. 31, plan participants no longer will earn benefits in the plan, but instead will be eligible for an enhanced 401(k) plan match.

NCR, a 122-year-old company with 2005 revenues of \$6 billion, said in a Securities and Exchange Commission filing last week that the phase-out will reduce its previously

expected net retirement expense by about \$40 million next year.

NCR's action is the second step it has taken since 2004 to wind down the plan. In September 2004, NCR, a company whose name once was synonymous with cash registers, closed off its pension plan to new and younger employees and offered those individuals a beefed-up 401(k) plan.

Employees age 40 and older were given a choice of continuing to earn benefits in the pension plan or ceasing benefit accruals and instead becoming eligible for the enhanced 401(k) plan match. Under the latest change, after Dec. 31, those older employees who remained in the

pension plan will be shifted to the enriched 401(k) plan already offered to other employees.

Under the enriched 401(k) plan, NCR matches 100% of employees' contributions on the first 4% of pay and 50% of contributions on the next 2%. Currently, for employees still earning benefits in the pension plan, NCR matches, in the 401(k) plan, 75% of contributions on the first 3% of pay and 50% of employees' contributions on the next 3%.

Other large employers, including Sears Holdings Corp. and IBM Corp., in recent years have taken a two-step approach in phasing out pension plans.

AIG: Comp policyholders in Florida get refund

Continued from page 4

ment. And it will refund about \$100,000 plus interest to policyholders that purchased lines of coverage other than workers compensation, for which AIG also sought terrorism rates deemed "unjustified" by the commissioner.

Regulators in other states either adopted AIG's methodology or they settled the terrorism rates after AIG stated its case, observers said.

In Tennessee, for example, AIG in January 2003 sought 1% to 4% of total manual premium for terrorism risk under workers comp policies, documents show. But it later agreed to drop those rates and adopt the NCCI's TRIA methodology while also increasing its loss cost multiplier.

That way, AIG insurers "are able to charge enough on business written in this state to recoup their ac-

tual and potential costs as well as receive a reasonable profit," according to an agreed order reached with the Tennessee Insurance Division.

The Texas Department of Insurance also compromised with AIG. It allowed the insurer to charge terrorism coverage rates that split the difference between those that resulted under its methodology and those that resulted from NCCI's method, a spokesman for the department said.

In Arkansas, meanwhile, regulators are still awaiting a report that AIG was to submit by July 15, showing the amount of refunds made to policyholders in the state under an April 12 consent order issued by Arkansas Insurance Commissioner Julie Benafield to which AIG agreed.

The refund amount in Arkansas, though, is not likely to match that in Florida as Arkansas regulators

first approved AIG's rates then later rejected them, the Arkansas regulator said. Any refunds in Arkansas would apply only to policies incepting on or after Jan. 1, the consent order shows.

In Arkansas, the commissioner's agreement allows AIG, as of Jan. 1, to charge a rate of 2 cents per \$100 of payroll multiplied by a loss cost multiplier that was 1.8% greater than the loss cost multipliers that various AIG companies had on file. For example, AIG unit Commerce and Industry Insurance Co. initially applied a loss cost multiplier of 1.875, which rose to 1.9082 following negotiations.

Florida's agreement allows AIG to collect 4.5 cents per \$100 of payroll for terrorism risk covered by workers comp policies that incepted after Jan. 23, 2003.

Late News

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allow property/casualty and life insurers to be chartered by the federal government rather than by the states. The National Insurance Act of 2006-H.R. 6225-is nearly identical to a measure of the same name introduced in the Senate earlier this year. Under both bills, property/casualty and life insurers would have the option of being regulated by federal authorities. Under current law, insurance regulation is reserved to the states under most circumstances.

Labor Department official to depart

The U.S. Labor Department's top employee benefits official will leave next month to return to the private sector, the agency announced last week. No successor has been announced. Assistant Secretary of Labor Ann Combs joined the Labor Department as head of the Employee Benefits Security Administration in May 2001, making her the longest-serving head of EBSA, which regulates more than 6 million employee benefit plans covered by the Employee Retirement Income Security Act. Ms. Combs was involved on behalf of the Bush administration in the negotiations that led to last month's passage of comprehensive pension funding reform legislation, as well as the recovery of more than \$220 million for Enron Corp. pension plan participants. Prior to joining the Labor Department, Ms. Combs was a vp and chief counsel for pensions and retirement at the American Council of Life Insurers and a principal at William M. Mercer Inc.

Oregon comp rates to decline 2.1%

Workers compensation pure premium rates in Oregon will decrease by 2.1% in 2007, the state's Department of Consumer & Business Services announced. Since 1990, rates in Oregon decreased for 12 consecutive years then flattened for four more years, Oregon Gov. Ted Kulongoski said in a statement. In California, meanwhile, Insurance Commissioner John Garamendi said he will likely recommend a reduction in workers compensation pure premium rate decrease of at least 6.3%, as recommended earlier this month by the state's Workers' Compensation Insurance Rating Bureau.

Willis launches unit for global benefits

Willis Group Holdings Ltd. has launched a multinational benefits unit to provide a single point of contact to its clients with international operations. The new unit, which will be a specialized subdivision within Willis' global employee benefits practice, will operate out of three multinational benefits centers in New York; Copenhagen, Denmark; and Paris via Willis partner Gras Savoye. Chris Burns will head the unit as multinational benefits global practice leader based in New York. Mr. Burns was formerly responsible for new business development in the Northeast region of the United States at Mercer Human Resource Consulting.

Catlin U.S. opens Atlanta operation

Catlin U.S., a unit of Bermuda-based international specialty property/casualty insurer Catlin Group Ltd., has established an Atlanta-based primary and excess underwriting unit. The five-person unit, headed by Vp Steve Singer, will underwrite specialty classes of primary and excess casualty risks for U.S. policyholders on a nationwide basis, according to the company. In July, Catlin Group announced it had opened a New York office to underwrite various classes of professional liability and directors and officers liability insurance for financial institutions, accountants, real estate agents and lawyers, among others.

United Airlines faces EEOC bias suit

The U.S. Equal Employment Opportunity Commission has filed a class action lawsuit in federal court in Seattle charging that United Airlines' policy on minimum working hours violates the Americans with Disabilities Act. H. Joan Ehrlich, director of the EEOC's San Francisco district, said the suit is on behalf of three women who were terminated from their positions in United's Honolulu and Seattle offices after the airline introduced a minimum 30-hour work week in 2003. All three had medical conditions that prevented them from working that many hours, said Ms. Ehrlich. She said other plaintiffs may join the suit. A spokesman for the Elk Grove Village, Ill.-based airline said in a statement: "We made all reasonable attempts to accommodate employees affected by this policy, and we believe we acted in full compliance with all laws."

BI Stock Index [9/25 - 9/29]

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

Percentage change of BI Stock Index vs. key indicators

BI Stock Index	
3090.02	1.30
Dow Jones	
11679.07	1.49
S&P 500	
1335.85	1.60

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

Largest gains

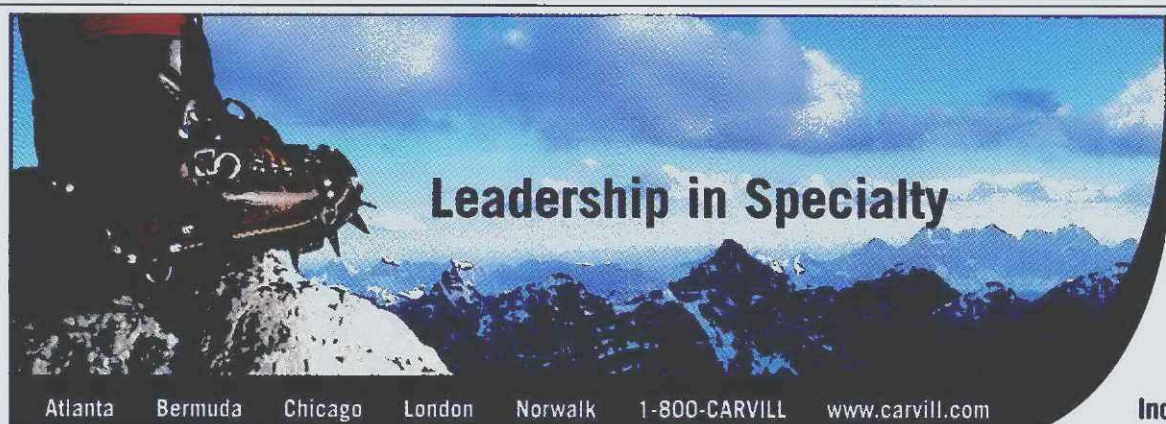
Meadowbrook Insurance	8.28%
Philadelphia Consolidated	4.33%
American Safety Insurance	4.21%
NYMAGIC Inc.	4.07%
AEGON N.V.	3.99%

Largest losses

Sierra Health Services	-5.33%
PMA Capital Corp.	-4.75%
EMC Insurance Group	-3.06%
Gainsco Inc.	-2.56%
Hub International Ltd.	-2.53%

Weekly change by market segment

Brokers	0.37%
Insurers/Reinsurers	1.10%
Managed Care Organizations	0.03%



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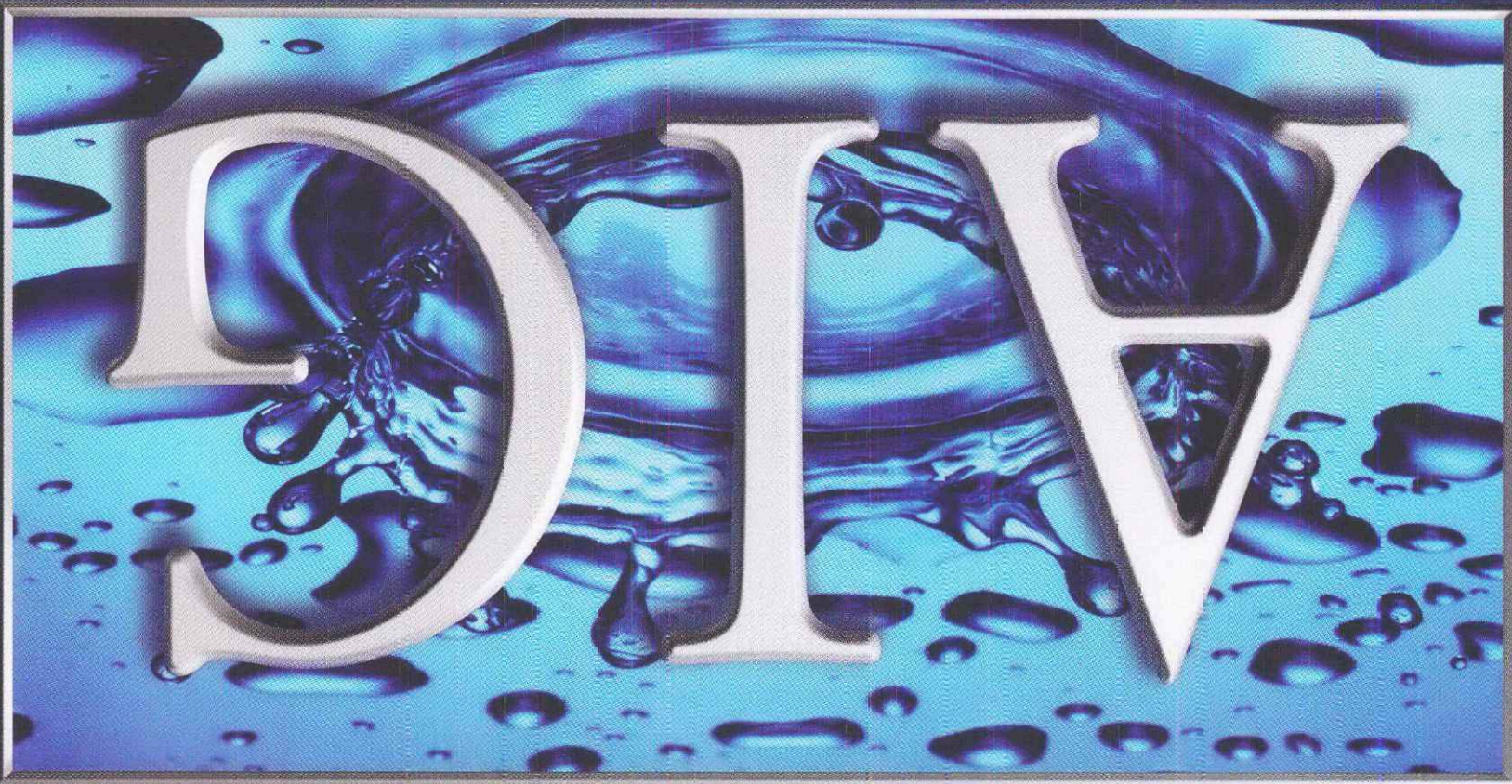
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