

Business Insurance

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MENTAL HEALTH PARITY BILL WINS SENATE APPROVAL, BUT OBSTACLES REMAIN / PAGE 3

LEAD PAINT MAKERS COULD FACE \$2.4 BILLION CLEANUP CHARGE IN RHODE ISLAND / PAGE 3

CLASS ACTION ATTORNEY MELVYN WEISS CHARGED IN KICKBACK CASE / PAGE 4

In Brief

Bermuda insurer Ariel buys Zurich unit

Ariel Holdings Ltd. plans to acquire Valiant Insurance Co. from Zurich North America Commercial Group for an undisclosed amount. Hamilton, Bermuda-based Ariel said that it expects to close the acquisition early next month and has established a U.S.-based insurance holding company, Valiant Insurance Group Inc., in anticipation of the transaction. Ariel will use the unit as the operating platform for a new specialty property and casualty insurance initiative, the company said.

Insurer asks to limit scope of Fla. subpoenas

Cincinnati Financial Corp. is asking a Florida court to restrict Florida regulators' demands for

See **IN BRIEF** page 30

House votes to extend terror backstop

Administration threatens veto of expanded program, but compromise expected

By **MARK A. HOFMANN**

WASHINGTON—Supporters of the federal backstop for terrorism coverage are optimistic the program will be extended despite Bush administration opposition to lawmakers' current expansion plan.

That's because the version of the Terrorism Risk Insurance Revision and Extension Act that passed the House of Representatives last week by a vote of 312 to 110 is seen as highly unlikely to be the final version of the measure.

One key variable is that the Senate Banking, Housing and Urban Affairs Committee has yet to unveil its own backstop legislation. When the program was last extended in late 2005, the basis

for the extension was a Senate measure that ignored a more extensive House extension bill and scaled the existing program back in a way that won administration support.

Observers expect a similar outcome this year, given the significant expansion of the program called for in the House measure.

In addition to calling for a 15-year extension of the program—currently slated to expire on Dec. 31—the House bill would add group life to the list of insurance lines covered by the backstop. The measure would also expand the program by allowing the backstop to respond to acts of both domestic and foreign-initiated ter-

See **TRIREA** page 30

TRIREA HIGHLIGHTS

The Terrorism Risk Insurance Revision and Extension Act, which passed the House last week, would:

- Extend the federal terrorism insurance backstop for 15 years.
- Cover acts of domestic terrorism.
- Require insurers to 'make available' coverage for nuclear, chemical, biological and radiological terrorism risks.
- Cover group life insurance in the backstop.

Source: *The Terrorism Risk Insurance Revision and Extension Act of 2007*

CEO change at Marsh adds to uncertainty

Questions raised over future direction of MMC

By **SALLY ROBERTS**

NEW YORK—Marsh & McLennan Cos. Inc.'s decision to oust Marsh Inc. Chairman and Chief Executive Officer Brian Storms drew mixed responses from analysts, many of whom note that Marsh still faces operational challenges and questions about its long-term future.

MMC attributed the leadership change to poor execution of Marsh's long-term strategy. The move is the latest in a string of management changes at New York-based MMC following then-New York Attorney General Eliot Spitzer's 2004 fraud and bid-rigging lawsuit against the company and

the resulting \$850 million settlement. Under that pact, Marsh, like many of its competitors, had to cease collecting contingent commissions, which had been a source of hundreds of millions in revenues.

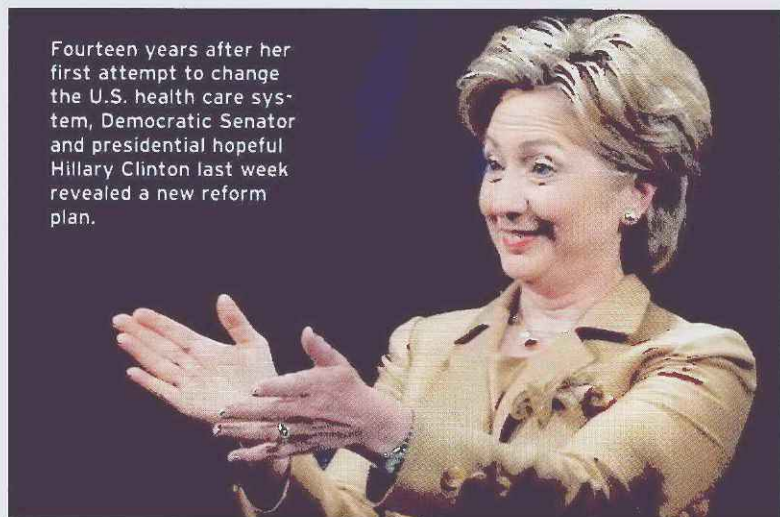


Brian Storms

Although MMC has instituted various business reforms and restructuring efforts to aid in its recovery efforts, it continues to report mixed financial results and to lose staff and market share, analysts say.

These events, coupled with Mr. Storms' departure, caused some analysts last week to describe MMC as an attractive takeover candidate,

See **MARSH** page 28



REUTERS

Fourteen years after her first attempt to change the U.S. health care system, Democratic Senator and presidential hopeful Hillary Clinton last week revealed a new reform plan.

Benefits experts leery of Clinton health plan

But reforms seen as improvement on last effort

By **JOANNE WOJCIK**

Though employer and industry reception is still far from warm, Democratic presidential hopeful Hillary Clinton's latest health care reform proposal is being met with much less skepticism than the plan she presented 14 years ago as head of a national health reform task force.

Most of the employee benefits community noted that the former first lady, now a Democratic senator from New York, seems to have softened her stance somewhat by recommending that reforms be built

on existing components of the nation's employer-based health care system, rather than calling for dismantling it entirely as she did in 1993 during her husband's administration.

But some industry observers are concerned that the plan places too great an emphasis on achieving universal coverage rather than on controlling costs and improving quality. They also question Sen. Clinton's plan to offset costs resulting from the changes; Sen. Clinton that estimates that system improve-

See **CLINTON** page 38

SPOTLIGHT

REINSURANCE: RENDEZ-VOUS REPORT

Property catastrophe rates expected to fall at year-end as reinsurers post gains; capital markets secure solid share of reinsurance market; Industry Loss Warranties fall from favor as rating levels for traditional cover drop from post-Katrina peaks. Page 11



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Quality still falling short at many hospitals: Survey

By JOANNE WOJCIK

Although the Leapfrog Group has placed 41 hospitals on its "Top Hospitals" list for 2007, the Washington-based organization points out that significant gaps in safety and quality practices are still prevalent in U.S. medical centers.

The survey, which included responses from 44% of the urban, general acute-care hospitals in the 33 regions Leapfrog targets for participation, found that 74% of those hospitals have fully implemented at least one of the four safety and quality practices that Leapfrog has identified as essential.

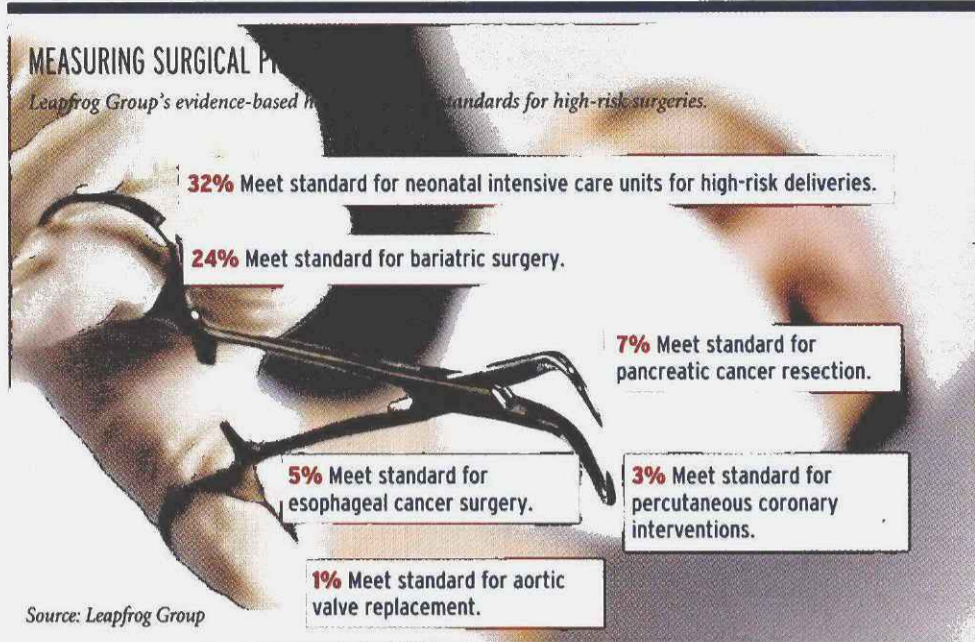
Those practices are: computerized physician order entry or prescriptions; staffing of intensive care units by ICU specialists; using evidence-based hospital referrals for certain procedures; and the Leapfrog Safe Practices Score, which means that hospitals have implemented the vast majority of each of the 27 National Quality Forum Safe Practices that make up

the Safe Practices Score.

But this year's survey also found that only 10% of the hospitals have fully implemented computerized physician order entry; 29% enlist specialists to manage patients in the ICU; 32% have neonatal intensive care units that meet Leapfrog's specifications for certain high-risk deliveries; and 25% fully meet the standard for the Leapfrog Safe Practices Score.

"It's a tragedy for patients that so many hospitals have not yet implemented the practices for safer health care endorsed by the multi-stakeholder members of the National Quality Forum," said Suzanne Delbanco, chief executive officer of Leapfrog. "But it takes stellar leadership, an engaged board, and a belief in the importance of improving the systems and processes of care to perform well on Leapfrog's Survey."

The complete 2007 list and a detailed explanation of the Top Hospitals methodology can be found at www.leapfroggroup.org/news/leapfrog_news/Top_Hospitals.



Top class action lawyer faces kickback charges

By DOUGLAS McLEOD

LOS ANGELES—Prominent class action lawyer Melvyn Weiss was indicted on fraud and racketeering charges last week after a string of guilty pleas by former partners of his law firm, now known as Milberg Weiss L.L.C.

In an indictment of the Milberg Weiss firm, federal prosecutors in Los Angeles charge that Mr. Weiss conspired with several of his partners to pay millions of dollars in kickbacks to individuals who agreed to serve as named plaintiffs in more than 225 class action and shareholder derivative lawsuits.

The availability of the paid plaintiffs allowed Milberg Weiss to beat other law firms to court in shareholder cases, securing higher fees for itself, prosecutors charge in the indictment, which supersedes an earlier indictment that did not name Mr. Weiss. Milberg Weiss and its predecessor firms collected about \$250 million in fees over a 25-year period in cases where it had paid kickbacks to named plaintiffs, according to the indictment. The kickbacks—generally 10% of the firm's fees in a case—were disguised, with payments made in cash or through intermediary lawyers chosen by the plaintiffs, prosecutors allege.

Mr. Weiss stepped down from management of the firm last week, shortly before the indictment was announced. In a statement, his lawyer, Benjamin Brafman, said that Mr. Weiss "intends to fight these charges with all of the energy

and talent that has made him one of the most outstanding members of the bar for more than 40 years."

Few of those charged since a grand jury first indicted Milberg Weiss in 2006 have opted to fight. Those pleading guilty include:

- Former Milberg name partners Steven G. Shulman, William S. Ler-

ach and David J. Bershad, who have pleaded guilty to various charges including racketeering conspiracy and obstruction of justice. All three face short prison terms.

- Steven G. Cooperman, a Connecticut ophthalmologist who allegedly collected more than \$6.4 million in kickbacks as a Milberg Weiss plaintiff. It was Dr. Cooperman who first alerted federal agents to the Milberg payments

after he was convicted in 1999 of staging the theft of two valuable impressionist paintings he owned in an unrelated insurance fraud scheme.

In addition to Mr. Weiss and the Milberg Weiss firm, the remaining defendants in last week's superseding indictment are Seymour M. Lazar, an alleged paid plaintiff; and Paul T. Selzer, a lawyer who was allegedly an intermediary for payments to Mr. Lazar.

A trial in the case was scheduled to start in January, but the addition of charges against Mr. Weiss could delay it.

Charges against Mr. Weiss include conspiracy to obstruct justice and commit racketeering acts; mail and wire fraud; and making illegal payments to a witness. He faces a maximum of 40 years in prison if convicted on all counts.



Melvyn Weiss

Canadian provinces not expected to fully adopt model pension law

Local jurisdictions want to keep control of own regulations

By GLORIA GONZALEZ

CHARLOTTETOWN, Prince Edward Island—Canada is moving toward adoption of a model pension law, although some of its most controversial principles are not likely to be implemented, Nova Scotia's pension regulator says.

The Canadian Assn. of Pension Supervisory Authorities' model law provides the basis for all jurisdictions to revise their pension

legislation and simplify regulation of plans in multiple jurisdictions, said Nancy MacNeill Smith, superintendent of pensions for Nova Scotia and a member of Toronto-based CAPSA, the coalition of federal and provincial pension regulators.

"It's not a promise of complete harmonization, but given the nature of the Constitution of Canada and the powers of the governments, it is what we've found to be the most workable solution," she said during a session at the Assn. of Canadian Pension Management's annual conference held Sept. 10-13 in Charlottetown, Prince Edward

Island.

CAPSA likely will finalize the model pension law next year and then present the principles to provincial legislatures in the hope of incorporating the principles into each pension statute, Ms. Smith said.

Manitoba has already adopted some of the CAPSA model law principles. Ontario is reviewing its pension law; Alberta, British Columbia and possibly Nova Scotia will begin similar reviews with the goal of adopting, to the greatest extent possible, common pension standards she said.

See **REGULATION** page 27

For more coverage from the Assn. of Canadian Pension Management annual conference visit www.BusinessInsurance.com/extra

Pension plan sponsors in Canada need fiduciary protection: Expert

U.S.-style shield would help efforts to educate workers

By GLORIA GONZALEZ

CHARLOTTETOWN, Prince Edward Island—Canadian pension plan sponsors want to aid members' retirement preparation, but they also want a legal shield similar to a relatively new law that protects U.S. sponsors, a consultant says.

Such a law could spur automatic enrollment in defined contribution plans and result in more advice to Canadian plan members on investment strategies, experts told the Assn. of Canadian Pension Management at its annual conference held Sept. 10-13 in Charlottetown, Prince Edward Island.

The Pension Protection Act of 2006 gave plan sponsors in the United States fiduciary relief in implementing automatic enrollment or automatic escalation

provisions in their defined contribution plans, said Matthew Smith, managing director of Russell Retirement Services for Tacoma, Wash.-based Russell Investment Group.

A Hewitt Associates Inc. study shows more than two-thirds of 401(k) plans in the United States likely will have automatic enrollment by the end of this year, but the trend is unlikely to gain similar traction in Canada because

See **PROTECTION** page 27

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Parity: Senate passes mental health bill

CONTINUED FROM PAGE 3

basis as other medical conditions.

Another significant difference is that the House measure has a Jan. 1, 2008, effective date, "which is truly way too short," said Frank McArdle, a consultant in the Washington office of Hewitt Associates Inc. The Senate bill would be effective on Jan. 1, 2009.

Both bills would exempt group health plans for companies with fewer than 50 employees.

Neil Trautwein, vp and employee benefits counsel with the National Retail Federation in Washington, said the Senate bill "is the product of negotiations not only with the sponsors but with patient advo-

cates, and we really feel that it's a very well-balanced and appropriate outcome for what has been a very contentious debate."

While "there is always the danger that the House will try to over-reach," there is a "better chance of successfully closing the book on this legislation than at any point in the last 10 years," Mr. Trautwein said.

Paul Dennett, vp-health policy at the American Benefits Council in Washington, said he hopes the Senate passage "sends a strong signal now to the House that the Senate measure is the one that can actually make it to the president's desk, and not the more onerous House bill."

Reps. Patrick Kennedy, D-R.I.,

and Jim Ramstad, R-Minn., are co-sponsors of the House bill.

Mr. McArdle pointed to the Senate bill's unanimous approval. "The bill has tremendous momentum," he said, adding that he believes the House/Senate differences will be resolved. "I think this is an issue that has such strong support that they'll get it over the goal line, that the bill will be passed by Congress and President Bush, as best we can tell, will sign it."

"The chances of some mental health parity legislation passing" before Congress adjourns "are pretty good," said Ann Marie Breheny, a legislative specialist with benefit consultant Watson Wyatt Worldwide in Arlington, Va.

Paint: Makers in litigation over coverage

CONTINUED FROM PAGE 3

Blood-lead levels in the state's children are declining, and the lead paint problem is confined to relatively small areas of poorly maintained housing, the companies argued.

In addition, no abatement plan can go forward until the appeals process is completed, and the companies expect the state Supreme Court to "recognize the errors at trial and dismiss the case," a spokeswoman for the defendants said in a statement.

Both Cleveland-based Sherwin-Williams and Dallas-based NL are in litigation with liability insurers over

defense and indemnity coverage for lead paint litigation in multiple states, according to their Securities and Exchange Commission filings.

Lloyd's of London underwriters last year sued Sherwin-Williams and other companies affected by the Rhode Island verdict, seeking a ruling that Lloyd's has no duty to cover abatement-related costs, or that any duty must be allocated among the defendants and their other insurers. Sherwin-Williams responded by filing a bad-faith suit against Lloyd's, SEC filings say. The coverage litigation is still pending.

The Rhode Island action is the first lead paint liability case to go to trial against Sherwin-Williams, and

the only such case NL has ever lost, the companies reported in SEC filings.

Other lead paint cases have been decided in defendants' favor. In June, for example, the state supreme courts of Missouri and New Jersey threw out "public nuisance" suits filed against former lead paint makers by various governmental bodies.

The New Jersey court found that the claims should be considered product liability rather than "public nuisance" claims, requiring plaintiffs to show direct injury and causation, according to Alliance for Healthy Homes, a Washington-based nonprofit group focusing on home hazards.

Questions Answers

Deirdre H. Littlefield is president of the Zurich, Switzerland-based International Union of Marine Insurance and director of business development for Starr Marine, a unit of C.V. Starr & Co. Inc. in New York. In e-mailed responses to questions from Business Insurance, Ms. Littlefield discussed key concerns for the marine insurance market.



Marine market concerns

Q: What opportunities and obstacles are emerging markets—especially the BRIC countries (Brazil, Russia, India, China)—presenting to marine insurers?

These are growing and important markets for marine underwriters, offering unique challenges but also opportunities. IUMI is actively working to expand our membership in these areas to add the expertise and local knowledge we believe is critical for future profitable growth in these emerging markets.

Q: Aging hulls and a soft rate environment have been twin problems for marine underwriters over the years. What other significant challenges do marine underwriters face now?

The number of maritime incidents (i.e., the frequency of total and serious partial loss claims) has increased dramatically from 2000 to 2006, based on statistics released by IUMI earlier in the year. From 2005 to 2006, the number of hull and machinery claims reported rose by approximately 50%, and at the same time the cost associated with these claims increased by almost 60%.

This increase in frequency and severity has a direct impact on the bottom-line results of marine underwriters. The situation is further exacerbated by the current shortage of officers and qualified crew at a time when ocean freight markets are booming.

Marine underwriters will need to factor this increased operational risk into the underwriting process, as a significant rise in the number of marine incidents attributable to human error is inevitable.

Q: There has been talk of a looming talent shortage in the marine sector. To what degree are insurers developing strategies to attract and train underwriters to the field?

One of the challenges facing the worldwide insurance industry is to attract the best and the brightest to our business. Insurance is an aging industry based on figures released by the U.S. Bureau of Labor Statistics, which indicate that 80% of insurance underwriters are over 40 years of age and more than half are older than 50.

Today, marine insurers must compete with other businesses

that are perceived to offer higher wages and greater opportunities. In addition, insurance—in many nations—is not viewed as highly as other financial services and professions. To counter this perception, marine insurers need to do a much better job of letting college students and career advisors know of its critical place in the global trading community and the fascinating challenges that result from that.

FIND MORE BI interviews and podcasts at www.BusinessInsurance.com/Qanda

IUMI is working hard in this area. We have an obligation to identify the marine leaders of tomorrow and introduce them to IUMI. By inviting marine professionals to attend our annual conference at an earlier stage in their careers and having them as regular attendees, we have the opportunity to train and retain more of these underwriters. At the same time this enhances the marine insurance industries image, enabling us to attract additional new entrants.

The IUMI Web site has been revamped to encourage its use by marine insurers regardless of their tenure and we have a number of educational initiatives underway that we believe will assist our members attract and retain the marine leaders of tomorrow.

Q: What are the biggest risks facing cargo underwriters today?

Vessels have doubled in size and value, cargo accumulations soar, and dangerous goods continue to be improperly classified and transported—especially in containers—threatening the safety of the vessel and her crew. In addition, climate change may pose significant consequences for coastal cargo exposures around the globe.

Q: To what degree are underwriters concerned about changing climate patterns and global warming, and taking these risks into account in policies?

The issue of global warming and its influence on changing climate and weather patterns is an important consideration for marine underwriters and will be prominently featured at this year's IUMI Conference (see stories, page 25).

Risk Manager OF THE YEAR 2008 Risk Management HONOR ROLL.

Honorees are announced and profiled in the annual Risk Manager of the Year, feature published by *Business Insurance* which is distributed at the RIMS annual Conference and Exhibition each spring. Awards will be presented at a special luncheon honoring these risk managers.

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Call for Nominations

Nominations for the Risk Manager of the Year, and Risk Management Honor Roll, are now being accepted by *Business Insurance*.

The Risk Manager of the Year Award was created in 1977 by *Business Insurance* to increase recognition of the risk management profession and to recognize outstanding performance in the practice of risk management. The Risk Management Honor Roll was added in 1980 as a way to recognize worthy risk managers and risk management programs in industries not represented by the annual Risk Manager of the Year award winner.

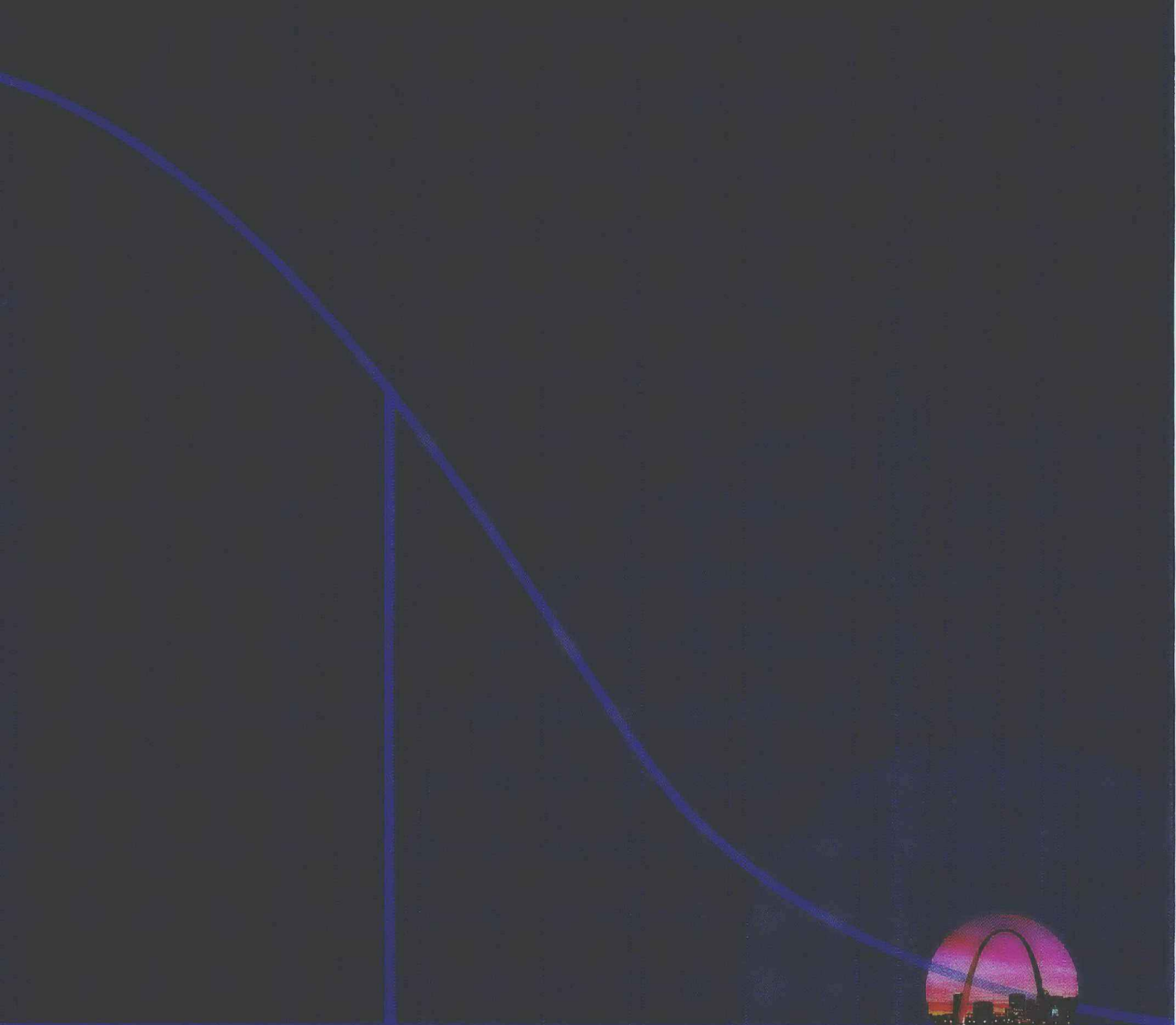
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Business Insurance OPINIONS

Long-term solution needed for terror cover

WHAT YOU SEE isn't necessarily what you'll get.

And nowhere is this more likely than in the case of the Terrorism Risk Insurance Revision and Extension Act passed by the House last week. As we report on page 1, the act would expand the scope of the federal government's terrorism insurance backstop while extending it for 15 years. Even before the House voted, some senior officials in another house—a white one at the other end of Pennsylvania Avenue—indicated they would urge the president to veto the extension if the bill reaches his desk in its current form.

The chances of the House bill reaching the White House in its current form are between none and none. The Senate has yet to have its say. If the past is any indication of what the Senate will do, odds favor a more modest bill in both scope and duration.

While we would prefer the longest extension possible, we're realistic enough to recognize that a 15-year extension might be politically unpalatable to the administration. But a two-year extension, such as the one approved at the last minute in 2005, is unpalatable as well. There's no justification for having to renew the program, which is slated to sunset on Dec. 31, every other year when the administration has repeatedly stressed that the war against terrorism will be a long one indeed, perhaps longer than the Cold War.

A long-term problem demands a long-term solution. The House bill's 15-year extension of the backstop may not be possible to achieve this year. But we remain committed to the idea that the longer the duration of the program, the better. Given that the existing program has just a little more than three months left to run, we believe that the sooner we get that longer duration, the better for risk managers, insurers and the nation as a whole.

*There's no justification
for having to renew the
program every other year.*

Employer compromise on parity a good move

WILL CONGRESS PASS mental health care benefits parity legislation this session?

The answer to that question won't be known for some time, but the drive to enact such a measure took a big step forward when the Senate last week unanimously passed a parity bill.

What has been remarkable about this effort, at least in the Senate, is that it has been one where interest groups representing business, insurers and providers have tried to work together to produce a measure that can be enacted into law.

We know how difficult it has been for employer groups—who have a deep philosophical aversion to the idea of Congress imposing any kind of benefit mandate—to negotiate on legislation that would require equity in group health care plan coverage of mental disorders.

To the business groups' credit, they didn't let that opposition to benefit mandates interfere with reality. And that reality is that sooner or later Congress is going to pass parity legislation and by negotiating with lawmakers and provider groups, employers will have a far better chance of shaping the legislation more to their liking than if they stayed out of the legislative arena and tried to kill the bill.

In fact, the employer influence has been felt in the development of the Senate bill. Provisions, such as one that stipulates that employers can decide which mental health care services they will cover and which they will not, is the direct result of employer input.

Employers have had to make concessions, including one under which states would be allowed to impose tougher parity requirements on insured plans.

But politics is the art of compromise. And it's better to compromise to get an acceptable bill than to end up with unacceptable legislation.



BI beats list

In an effort to ensure continuing timely coverage of risk management, insurance and benefit-related news, Business Insurance has formalized a list of its reporters' assigned beats. This list is not intended to be exclusive but rather to represent core subject areas of importance to BI readers. BI welcomes ideas and tips from readers on these and other areas. Following is a list of the beats and the principal reporters for each:

Agents/brokers:
Sally Roberts.

Benefits—health care and ancillary benefits:
Joanne Wojcik.

Benefits—retirement savings/pensions:
Jerry Geisel.

Canada—risk management and benefits:
Gloria Gonzalez.

Employment practices:
Judy Greenwald.

Environmental risk management: Sally Roberts.

Federal regulation/legislation—benefits:
Jerry Geisel.

Federal regulation/legislation—risk management:

Mark A. Hofmann.

Health care industry operations: Gloria Gonzalez.

Industry Focus: Rodd Zolkos, Meg Fletcher.

Insurance coverage litigation: Douglas McLeod.

Insurance fraud:
Douglas McLeod.

Latin American markets:
Roberto Cenicerros.

Property/casualty industry operations: Judy Greenwald.

Professional liability:
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Property loss control/cat risks: Mark A. Hofmann.

Regulation of insurance:
Meg Fletcher.

Reinsurance:

Judy Greenwald.

Risk management profession: Dave Lenckus.

Runoffs/receiverships:
Douglas McLeod.

Safety/ergonomics: Meg Fletcher.

Surplus lines/wholesalers:
Roberto Cenicerros.

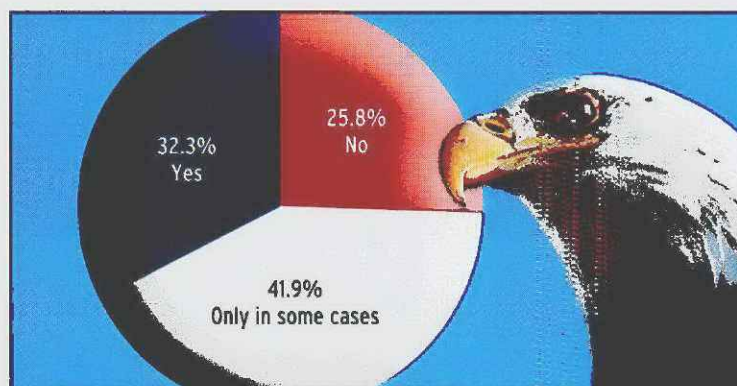
Tort reform: Mark A. Hofmann.

Work/life benefits and EAPs: Sally Roberts.

Workers compensation:
Roberto Cenicerros.

Online Poll at www.businessinsurance.com

Should standards set by federal regulatory agencies pre-empt state tort laws?



NEXT WEEK'S POLL: What do you think will be the impact on your group health care plan costs if Congress passes legislation mandating that employers cover mental health care expenses the same as other medical expenses?

BI Online Poll tool sponsored by Wausau Insurance Cos.

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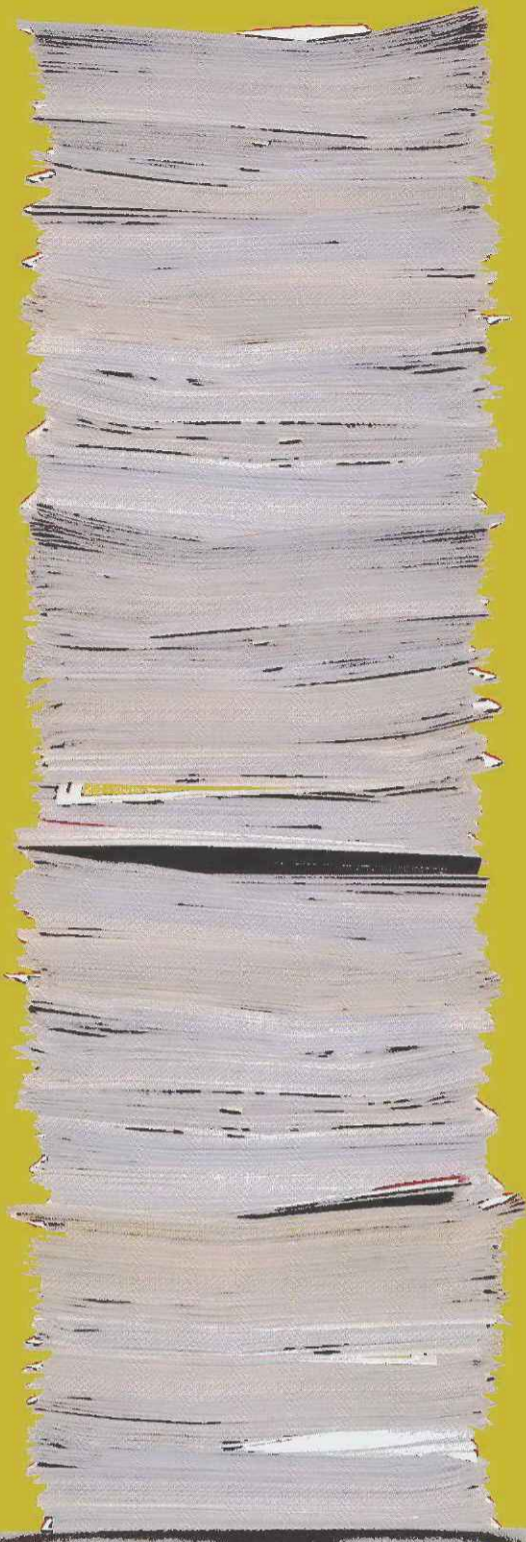
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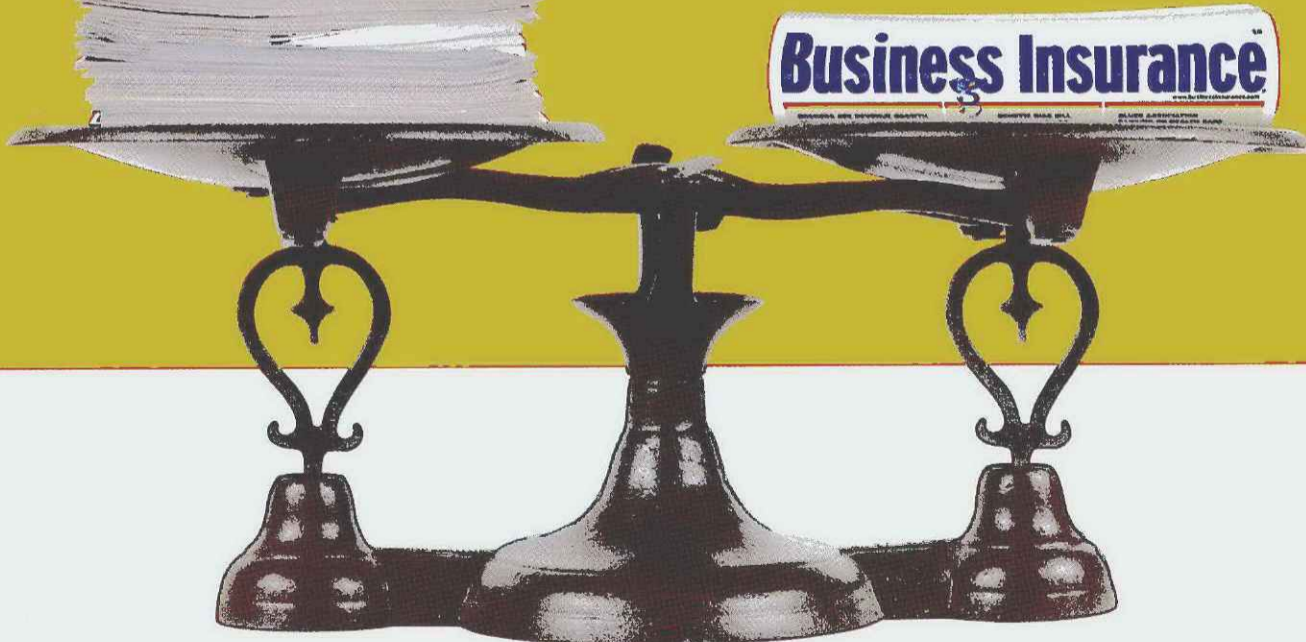
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Reinsurance: Rendez-Vous

2007

SPOTLIGHT



A banner on Monte Carlo's Sporting d'Hiver building welcomes global reinsurance industry executives to Monaco for the annual gathering that kicks off discussions of market conditions.

BIE/RICHARD COOKE

Property cat rates set to ease at renewals

Barring major catastrophes, reinsurance buyers can expect to see pricing continue slide

By SARAH VEYSEY

MONTE CARLO, Monaco—In the absence of large catastrophes by the end of the year, rates for property catastrophe business worldwide will continue to soften at the Jan. 1, 2008, renewals, predicted market experts gathered at the 51st Rendez-Vous de Septembre.

One veteran of the annual reinsurance meeting in Monte Carlo, Monaco, characterized the gathering as "calm" this year.

Experts say a benign year for losses in 2006, the lack of large catastrophic events so far this year, and strong financial results posted by both insurers and reinsurers means that cedents can expect further rate reductions at Jan. 1.

Windstorm Kyrill in northern Europe in January, the U.K. floods of June and July and the floods on Australia's east coast in June did not cause large enough reinsurance losses to stem the slide in rates, experts said.

But those rates are falling from

the high base established after the calamitous U.S. hurricane losses of 2005, they noted.

And buyers may be able to obtain wider terms and conditions at the upcoming renewals, some noted.

Assuming no significant catastrophe losses this year, rates for U.S. cedents should continue to soften, according to Ted Devine, recently appointed chief executive officer of Aon Re Global in Chicago.

While it is increasingly difficult these days to talk about a "single market for rates," rates are softening, said Mark Nicolson, director at Fitch Ratings Ltd. in London.

2007 story not yet complete

While much depends on the outcome of the 2007 hurricane season, Mr. Nicolson said rates for property business—which did not fall as much as some had expected at last year's renewals—are likely to soften further for 2008.

For businesses that are unlikely to be affected by North Atlantic hurricanes, rates could slide by 10% to

15% in some cases, he added.

While there is pressure on pricing, the reinsurance market is remaining disciplined, said James Veghte, Stamford, Conn.-based, CEO of reinsurance general operations for XL Re, a unit of XL Capital Ltd. in Hamilton, Bermuda.

Events such as Hurricane Dean in August—the first category five-strength hurricane to make landfall since Hurricane Andrew, coupled with losses from the U.K. and Australia floods, serve as a "reminder" to the market, he noted.

There is more pressure on non-U.S. catastrophe business than on rates for U.S. property catastrophe business—a large proportion of which renews in July, Mr. Veghte noted.

The catastrophe market is still disciplined despite the softening, said Edward Noonan, chairman and CEO of Validus Reinsurance Ltd. in Hamilton, Bermuda.

"Rates came down a bit on July 1, but they were coming down off record highs," he said.

Among other pressures, rating agencies' capital requirements are helping to keep the market disciplined, he noted.

"There is competition, but I do not see the market falling off a cliff," Mr. Noonan added.

While there is abundant capacity for catastrophe business, prices are remaining fairly stable, said Dwight Evans, president and CEO of White Mountains Re Group Inc. in Bermuda—a fact he attributes to the models that reinsurers now use.

"There seems to be a price point where business gets done and if you go below that, you may not be able to complete your cover," he noted.

While there will be pressure from buyers for more relief on U.S. property catastrophe cover, "that may be offset by increased demand as construction continues in hurricane areas," said William Adamson, CEO of Carvill America Inc. in Chicago.

Hans-Dieter Rohlf, managing director of nonlife reinsurance for

See **CATASTROPHES** next page

FLORIDA CAT FUND NOT AS DAMAGING AS MANY FEARED

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CAPITAL MARKETS GRAB A BIGGER BUSINESS SHARE

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DEMAND EBBS FOR INDUSTRY LOSS WARRANTIES

PAGE 23

NEXT SPOTLIGHT Oct. 1: Surplus Lines

Catastrophes: Europe seeing an increase in midsize weather events

CONTINUED FROM PREVIOUS PAGE

the North American division of Hannover Re Group, said buyers in the United States are tapping the market for property coverage they could not find in previous years.

"In 2005 particularly, but also in 2006, not all cedents could buy as much catastrophe (cover) as they wanted, so they are buying more at higher levels," Mr. Rohlf said.

Outside the United States, experts predict a fragmented cycle.

In Europe, "a competitive environment is developing now," said Mark Hewett, deputy chairman of Guy Carpenter & Co. Ltd. in Lon-

don, a unit of New York-based Guy Carpenter & Co. L.L.C.

"Assuming there is no major loss, we should expect to see competition in the market across major lines," he added.

The non-U.S. market tends to be less "peaked," noted Warren Neale, managing director of Willis Re in London, a unit of Willis Group Holdings Ltd.

The vast majority of losses from the June and July floods in the United Kingdom, for example, were retained by the insurance market, and will not likely impact buyers' appetite for buying reinsurance or the price of reinsurance, he said.



BIE/RICHARD COOKE

'Higher loss potentials again emphasize the significance of risk-adequate prices, terms and conditions.'

Torsten Jeworrek,
Munich Reinsurance Co.

But two summer floods in the United Kingdom and a large wind-storm in Germany earlier in the year are not, perhaps, losses that the

industry would have expected, he noted.

In Europe there seems to be a growing trend for midsize events such as Windstorm Kyrill and floods in the United Kingdom and other parts of Europe, said Patrick Thiele, president and CEO of Pembroke, Bermuda-based PartnerRe Ltd.

"There seems to be an increasing frequency of midsize events and

once that goes through the models, that could put pressure on prices," he said.

Torsten Jeworrek, member of the board of management and chairman of the reinsurance committee at Munich Reinsurance Co., said in a statement: "The claims experience in 2007 so far: There has been a large number of regional loss-producing events like Winter Storm Kyrill, the storm in New South Wales (Australia), the floods in the United Kingdom and Switzerland, Hurricanes Dean and Felix, and the earthquake in Peru. All these add up to a very large claims burden for the insurance industry. Following the increase in retentions and growing trend towards non-proportional reinsurance in recent years, the primary insurers had to bear a larger share of the strain than was the case when similar developments took place in the past. All in all, higher loss potentials again emphasize the significance of risk-adequate prices, terms and conditions."

Of European catastrophe business in particular, Mr. Jeworrek said during a Munich Re press conference at the Rendez-Vous: "It remains to be seen whether the pressure on reinsurance rates will continue."

"In European countries where Kyrill caused significant losses, I would expect that not only is demand going up, but also prices," said Konrad Rentrup, president and CEO of Hannover Re (Bermuda) Ltd.

"In the United Kingdom we have seen flood losses going into the cat programs' first and second layers. That will definitely stabilize the market and may lead to some increases," Mr. Rentrup said.

The European losses may lead to higher demand for reinsurance and "some tightening" of prices in the countries affected, noted Thomas Hess, chief economist for Swiss Reinsurance Co. in Zurich.

But outside of high-claims areas, "I think rates are flat or slightly softening," Mr. Hess said. "Few expect really strong softening."

The market is "logically" softening, said Seymour Matthews, managing director of reinsurance at London-based broker Heath Lambert Group.

Retrocessional capacity is available, he noted.

There is likely to be a "weakening" of terms and conditions at the upcoming renewals, noted Grahame Chilton, chief executive of London-based Benfield Group Ltd.

"A lot of the warranties are being eased," he said.

Buyers are looking to buy more catastrophe cover and higher limits, he explained.

There is an expectation among buyers of an improvement in terms and conditions for 2008, noted Simon Gander, chairman and CEO of Gallagher Re, a unit of Arthur J. Gallagher & Co., in London.

Some buyers, for example, may seek terrorism cover that may have been excluded from their programs previously, he explained.

Michael Bradford, Regis Coccia, Adrian Ladbury and Gavin Souter contributed to this report.

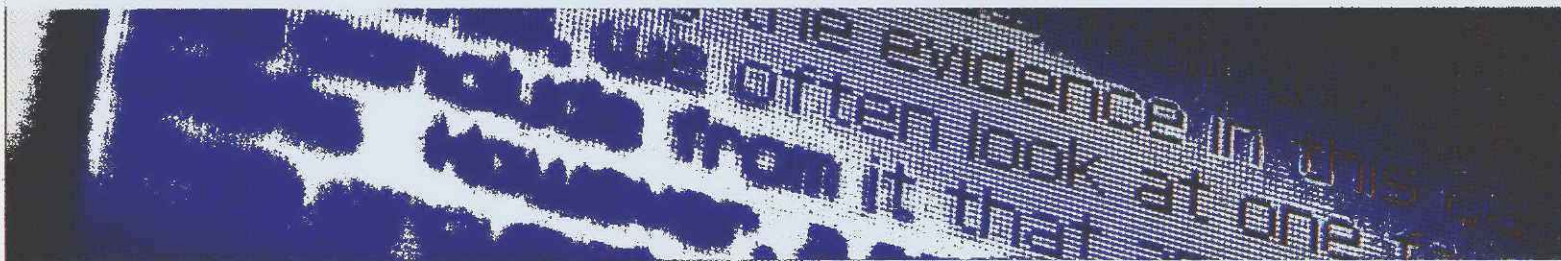


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Reinsurance market OK despite Florida's cat fund expansion

By GAVIN SOUTER

MONTE CARLO, Monaco—The expansion of the Florida Hurricane Catastrophe Fund earlier this year had little effect on the demand for or the cost of reinsurance in the state, according to reinsurers and reinsurance brokers.

While the cost of coverage did fall, rates remained at a level that was attractive for reinsurers, and cedents in Florida often used the premiums they saved as a result of the influx of state-backed capacity to purchase additional capacity at other layers in their reinsurance programs, they say.

As a result, despite the fears of reinsurers when the fund was roughly doubled to more \$30 billion earlier this year, there remains strong demand for private market reinsurance in the windstorm-exposed state.

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

In January, following concerns about the cost of the property catastrophe reinsurance, which soared after hurricanes Katrina, Rita and

The scope of coverage provided by the cat fund does leave gaps in both primary and reinsurance coverage that commercial companies are filling.

Grahame Chilton, Benfield Group Ltd.

Wilma in 2005, the Florida legislature voted to expand the fund.

The expansion of the Florida Hur-



STEVE RADDOCK

ricane Catastrophe Fund has had less effect on the reinsurance market than was initially expected, said

Matthew Mosher, group vp at A.M. Best Co. Inc. in Oldwick, N.J.

Cedents are using some of their premium savings to increase their reinsurance programs, such as buying coverage for additional events, he said.

Although the expansion of the fund did take another layer of coverage out of the private market, companies have bought additional coverage, said Patrick Denzer, president and chief executive officer at John B. Collins Associates Inc. in Minneapolis.

"They had additional funds so some companies have bought higher layers or looked at third-event cover, or cover that replaces the FHC if it is exhausted," he said.

Smaller companies in Florida, especially, are limited in their ability to buy reinsurance so they have used the savings from the fund coverage to buy additional coverage, said William Adamson, chief executive officer of Carvill America Inc. in Chicago.

Edward Noonan, chairman and chief executive officer of Validus Reinsurance Ltd. in Hamilton, Bermuda, agreed that much of the savings are being spent on additional coverage.

"The government took a big block of risk, but people still need to buy above, below and along side that because of their co-participation," Mr. Noonan said. "So there was still a strong demand for additional reinsurance and we doubled our portfolio in Florida this year at pricing that was outstanding," he added.

The additional purchases by cedents in Florida has meant that almost the same amount of reinsurance was sold, but at different layers than before, said Patrick Thiele, president and chief executive officer of PartnerRe Ltd. in Pembroke, Bermuda.

Although the expansion has had little effect on the demand for reinsurance, it has put downward pressure on the price of coverage in Florida, said Dwight Evans, president and chief executive officer of White Mountains Re Group Inc. in Hamilton, Bermuda.

"Our Florida cedents have bought more (coverage) outside the cat fund than we expected," said John Spencer, group chief executive of BMS Associates Ltd. in London.

There are some concerns as to how the fund might respond to an event, he said. For example, in the aftermath of a catastrophic event, there may be a "cash crunch," with the state needing to raise money via a bond issue, for example, which could delay payments, he said.

"Only time will tell" if the system in place in Florida is sustainable, said Grahame Chilton, chief executive of London-based brokerage Benfield Group Ltd.

The scope of the coverage provided by the cat fund, however, does leave gaps in both primary and reinsurance coverage that commercial companies are filling, he said. "The private reinsurance market has responded extremely well," Mr. Chilton said.

Sarah Veysey contributed to this report.

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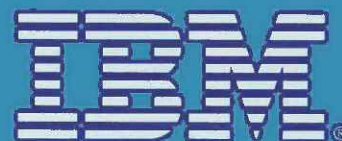
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STOP TALKING
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Reinsurers cautious as casualty rates continue to decline

Claims uncertainty, subprime crisis may slow price drop

By MICHAEL BRADFORD

MONTE CARLO, Monaco—Casualty reinsurance is teetering around a tipping point, still balanced, but shaky enough to cause reinsurers to approach it cautiously for fear of nudging prices into a steeper decline.

In some lines, casualty rates have dipped as more insurers and reinsurers write for market share.

The decreases are not significant, but enough to ring alarms at reinsurance companies that are leaving business on the table, rather than chasing it with low rates.

Uncertainty over claims could help keep prices up, though, said industry experts at the Rendez-Vous de Septembre earlier this month. There is speculation that professional liability losses arising from the fallout in the subprime credit crisis in the United States could keep casualty underwriters from letting prices fall too far.

As for now, casualty coverage is becoming more affordable.

"There is a clear trend of soften-

ing in the market," said Michel Liès, Zurich-based head of client markets at Swiss Reinsurance Co., in a press briefing at the Monte Carlo meeting. "There is a risk of seeing insurers fighting for market share and fighting with price," he said.

Capacity is available for casualty risks and that means there is no rush to maintain high prices, sources note.

'Rate reductions on casualty reinsurance started to become reality' after July 1 renewals.

Hans-Dieter Rohlf, Hannover Re Group



BIE/RICHARD COOKE

"I am not hearing anything about an overall capacity shortage, which implies that rates are likely to be coming down across the board,"

said Bryan Joseph, London-based partner at PricewaterhouseCoopers L.L.C. "It is a watch-this-space year, rather than a steep decline," he said.

Hans-Dieter Rohlf, managing director for nonlife reinsurance in North America at Hannover Re Group, said during a briefing at the conference that, in the United States, "rate reductions on casualty reinsurance started to become reality" after July 1 renewals.

While the decreases were not massive, Mr. Rohlf said they did show up in directors and officers contracts, workers compensation and umbrella accounts, leading the reinsurer to begin to cut back on its North American casualty writings.

Hannover Re plans to look for U.S. casualty business in lines where competition is not intense, said Mr. Rohlf. "Whether we will always be able to make up for the volume, which we are losing and which we are kicking out, I doubt," he said.

"Volume will come down" at Hannover Re, Mr. Rohlf said. "But rates? Not necessarily. Particularly if we let the business that is most competitive go away."

Mr. Liès said Swiss Re also backed away from business where it was unable to get the price it wanted. "Capacity will be withdrawn where prices are not adequate, most notably in U.S. casualty," he said. "We've already done that in the renewal for July 2007. We do not plan to stop that if the trend in the U.S. market continues to go in the direction it is going. We do not want to be a victim of this trend, and if there is dislocation, well, there will be dislocation."

European casualty rates are following the same general trends as the U.S. casualty market, said Patrick Thiele, president and chief executive officer of PartnerRe Ltd. "Losses have been under quite good control for the past four or five years. Frequency has gone down, but severity has gone up."

Four years of good results have led to increased competition, Mr. Thiele said. "But the competition is still understandable and it is not at an unacceptable level."

Reinsurers, brokers and other sources at the conference said the industry is closely watching developments in the U.S. credit crisis and is particularly concerned about D&O or errors and omissions claims that could surface.

Mark Rouck of Fitch Ratings Ltd. in Chicago said rates for D&O insurance are falling "quite quickly" in the United States and Europe. But the threat of potential claims from the subprime crisis may serve to halt the rate slide, he added.

The subprime problems could generate claims if shareholders in the companies involved in the crisis are unhappy with falling stock prices, sources said.

"If your share price drops, you have a D&O exposure," said David Watson, president and chief executive officer of XL Re Europe Ltd. in Dublin, Ireland. Reinsurers are watching the situation, but it is too early to tell if there will be sizable or

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BIE/RICHARD COOKE

Reinsurers gathered in Monte Carlo say there is a risk of companies beginning to fight for market share, which could bring casualty rates lower.

Casualty: Reinsurers remain cautious

CONTINUED FROM PAGE 18

numerous claims, he said.

XL Re has no "material" exposure to the subprime crisis on the investment side, said Mr. Watson. And XL Re does not expect a large impact from D&O or professional indemnity-type claims, he added.

The subprime crisis also has turned casualty reinsurers' attention to their terms and conditions, Mr. Liès said. There is confusion over the D&O exposure related to the crisis, he noted, which means policy terms are not clear. Swiss Re views itself as "safe because of the work we have done in terms and condi-

tions" in D&O coverage, he said. "That is why we strongly believe that terms and conditions discipline in casualty lines is at least as important as pricing."

The impact of the subprime crisis on D&O is unknown at the moment, "but the potential is there" for significant claims, said John Berger, CEO of Hamilton, Bermuda-based Harbor Point Ltd.

As some reinsurers practice



BIE/RICHARD COOKE

'Capacity will be withdrawn where prices are not adequate, most notably in U.S. casualty.'

Michel Liès, Swiss Reinsurance Co.

underwriting discipline, others are not, according to Mr. Liès.

"I think the perceived good results of the past brought many people to the conviction that they can begin to compete in market share," he said during an interview at the conference. "It is always the same story; you have good results in the past so you have to increase market share. And there is no way to increase market share without decreasing the price. And we are seeing that happen."

Despite the uncertainty around casualty business, there are some signs that it can remain a safe line of business for underwriters.

So far, competition has been mostly driven by price cuts and casualty underwriters do not seem to be bending much on terms and conditions as a way to win new accounts, Mr. Liès said.

In Germany, there is a "flight to quality" in casualty reinsurance, said Michael Pickel, a member of the executive board at Hannover Re, in a press briefing in Monte Carlo. "The bigger players are dominating the market and, so far, it is a firm market. I do not see any pressure at all on the pricing levels or conditions."

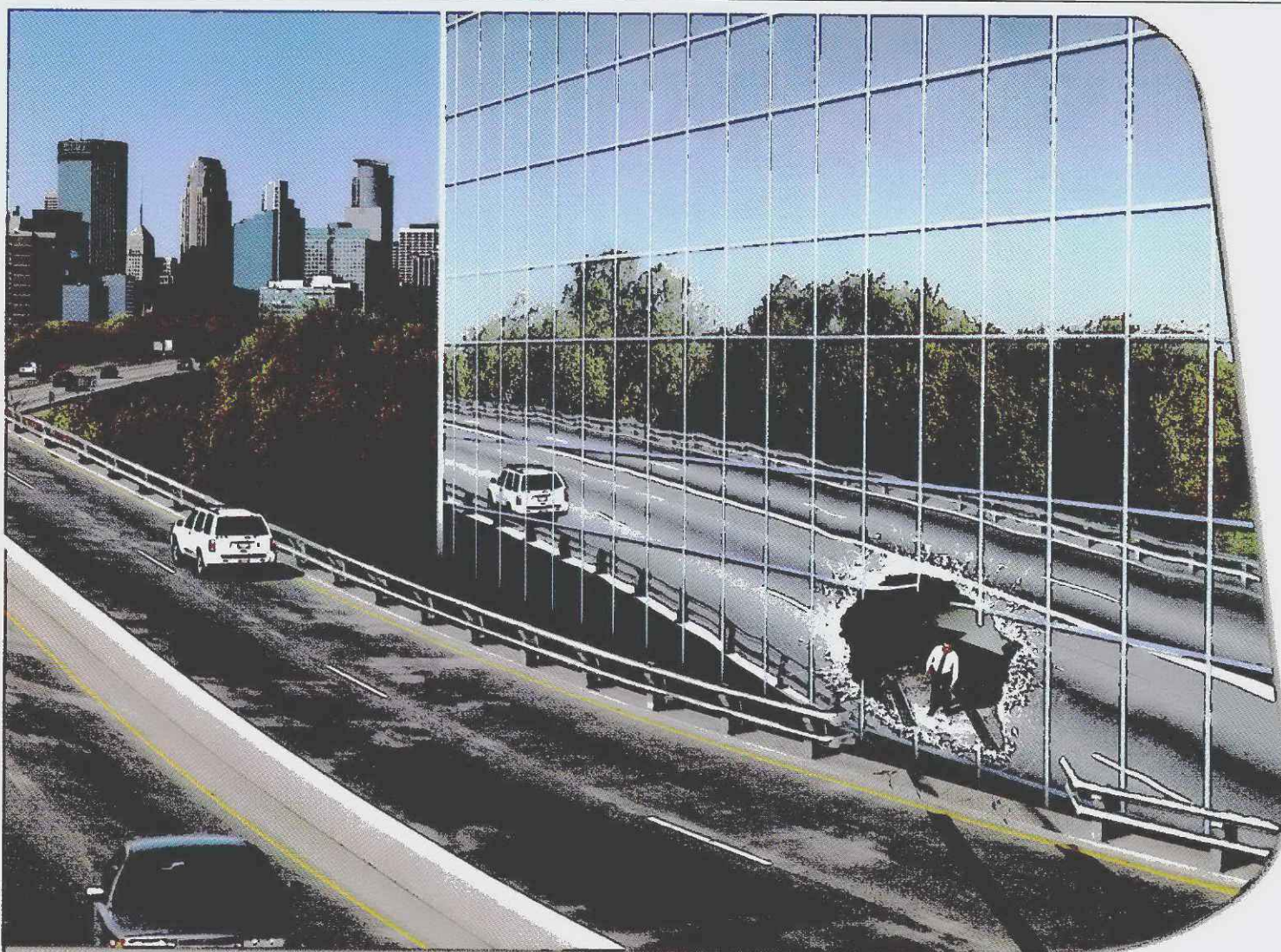
And underwriting discipline seems to be more in vogue these days, said Thomas Hess, chief economist and head of economic research and consulting at Swiss Re in Zurich.

"It is very much a question of discipline on the primary side in the commercial lines business," said Mr. Hess. "When you look at the past, one of the weak spots of insurance and reinsurance was the casualty business, particularly in the United States and United Kingdom." In those locations, market softening took hold in past cycles and the depth of the price declines was unanticipated. "Suddenly, the industry realized that it had accumulated losses of underreserved business," Mr. Hess said.

"With improved processes and better underwriting data, there is a chance that this will be prevented from happening again. But that is not clear," he warned. "We have a means to get a handle on that and I think the big insurers and reinsurers should be able to do that."

Discipline also comes from external sources, Mr. Hess said. "Rating agencies and financial analysts closely monitor these developments and put pressure on the industry to stay prudent. This imposes discipline."

Gavin Souter and Sarah Veysey contributed to this report.



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SETTING RECORDS

Catastrophe bond market sees significant growth over the past 10 years. Principal in billions of dollars.



* \$2.54 billion through July of 2006. ** Through July 2007. Full-year estimate is \$6 billion. Source: Guy Carpenter/MMC Securities Corp., Goldman Sachs and A.M. Best Co. Inc.

Capital markets spring to life

Cat bond popularity rises among buyers, activity sets records

By GAVIN SOUTER

MONTE CARLO, Monaco—After more than 15 years of trying, the capital markets have grabbed a significant portion of the reinsurance market and are likely to take an even larger piece as more and more cedents become comfortable with the securitization process, experts say.

Although traditional reinsurance

coverage still accounts for most of the capacity in the market, insurance-linked securities have reached a level of volume that now is influencing the rest of the market, they say.

The market for catastrophe bonds has grown significantly during the past 10 years, with last year seeing the most significant growth (see chart), said



BIE/RICHARD COOKE

'They're still strong because of uncorrelated risk. We've had many conversations in Monte Carlo on capital markets.'

Ted Devine, Aon Re Global

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

This year, more so than recent years, more of the cat bond issuers entered the market for the first time, and more direct insurers are issuing cat bonds than in the past, Mr. Modu said at the Rendez-Vous de Septembre held Sept. 8-13 in Monte Carlo, Monaco.

"The transactions are here to stay," he said.

Cat bonds and other insurance-linked securities virtually eliminate credit risks for cedents, provide access to capital outside the traditional reinsurance market and may reduce some of the volatility in the reinsurance market because of their multiyear structures, among other things, Mr. Modu said.

On the other hand, the cost and time to structure the deals can be significant, traditional reinsurance usually provides more comprehensive coverage and the securities usually cover only short-tail risks, he said.

Capital markets-backed reinsurance products are attracting more interest, and issuers and buyers of cat bonds are becoming more comfortable with the products, said Patrick Thiele, president and chief executive officer of PartnerRe Ltd. in Pembroke, Bermuda.

"If a client wants to pass risk on in the form of a cat bond, I can do that as long as I can model it," Mr. Thiele said.

"Many of our clients will be looking at a full range of solutions, not only reinsurance solutions, but also capital markets solutions. We're constantly looking at different structures," said David Priebe, CEO of the Global Specialty Group at Guy Carpenter & Co.

Cat bonds continue to complement traditional reinsurance rather than replace it, as they do not indemnify against specific losses, said Dwight Evans, president and CEO of White Mountains Re Underwriting Services Ltd. in Hamilton, Bermuda.

However, this year has seen an increase in the number of large insurers sponsoring multiyear cat bonds, replacing some of their traditional reinsurance coverage, he said.

According to Best, cat bond sponsors this year include: State Farm Group, Allstate Insurance Co., USAA Group, Liberty Mutual Group Inc., Travelers Cos. Inc. and Chubb Corp.

The number of cat bonds issued has increased every year for the past

See **CAPITAL** next page

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Demand for industry loss warranties slowed but may grow

By **GAVIN SOUTER**
and **SARAH VEYSEY**

MONTE CARLO, Monaco—Demand for industry loss warranties is variable, said experts at the Rendez-Vous de Septembre in Monte Carlo, Monaco, earlier this month.

After seeing ILW contracts bought in sizable numbers following the string of storms in 2005, the lack of catastrophes in 2006, in some cases, has dampened demand for the coverage, they say.

The biggest change in the past year is the lack of take-up of high rate-on-line covers, said Edward Stanco, president and chief executive officer of Folksamerica Reinsurance Co., a New York-based unit of White Mountains Re Inc.

Buyers of such covers have largely recovered from the losses of 2005, caused by hurricanes Katrina, Rita and Wilma, and no longer need to buy higher-priced ILWs, he said.

"Companies that bought ILWs in 2006 for the most part have corrected their exposures, so there is not a need to purchase them in 2007," Mr. Stanco said.

The ILW market may pick up in 2008, as buyers seek to lock in low rates with multiyear deals, he said.

Demand for ILWs remains strong, said William Adamson, CEO of Carvill America Inc. in Chicago.

"We have placed more ILWs this year than we did last year...they provide additional capacity and we have a tool that helps people work out the basis risk," he said.

Last year, the number of ILW contracts sold was significant, but the market has slowed since the beginning of 2007, said Stefano Nicolini, vp at John B. Collins Associates Inc. in New York and leader of the broker's ILW practice.

While many markets are offering ILWs, "I don't think anybody's giving it away," said John Berger, CEO of Harbor Point Ltd. in Hamilton, Bermuda. One reason for lower demand is the relative strength of balance sheets, he said. ILWs tend to pick up "when there's fear—

that's just not there" in this market.

Interest could rise in the fourth quarter, though, Mr. Nicolini said, as companies seek to protect their 2007 profits from a catastrophe.

About 40 companies now offer ILW coverages, Mr. Nicolini said—60% traditional reinsurers and the rest are capital market vehicles.

Rates have been softening for

ILWs, noted Simon Gander, chairman and CEO of Gallagher Re, a unit of Arthur J. Gallagher & Co., in London. Buyers are, in some cases, seeking triggers of about \$40 billion or \$50 billion, because the perception of the size of the catastrophe that could occur has changed since the hurricanes of 2005, said Mr. Gander.

Capital: Peak zones lack capacity

CONTINUED FROM PREVIOUS PAGE

several years, said William J. Adamson, CEO of Carvill America Inc. in Chicago. But the capital markets remain a relatively small part of the total reinsurance market, he said.

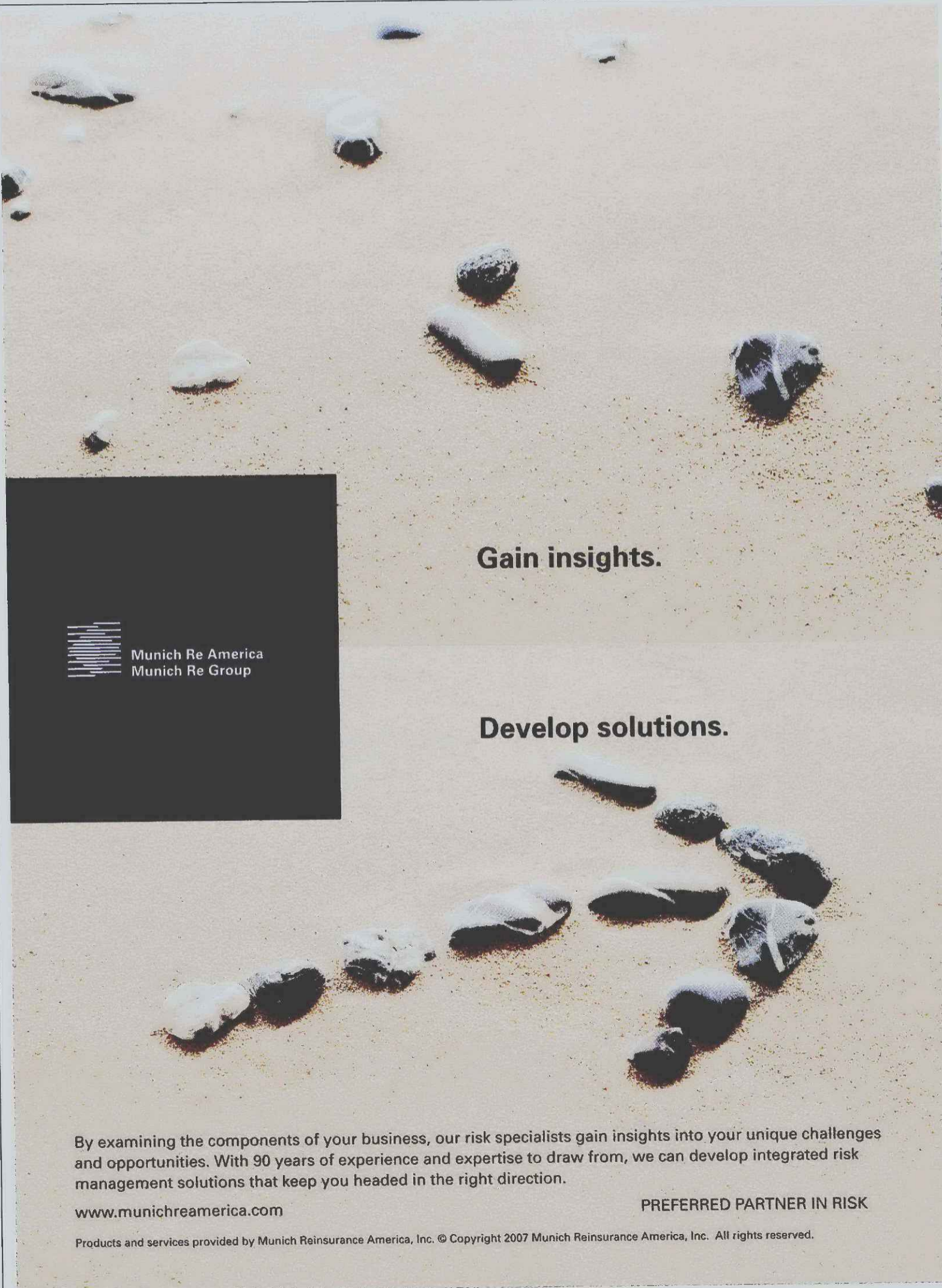
Insurance-linked securities still cover mainly catastrophe risks. "There is still not enough capacity in peak zones at a price people can afford to pay," Mr. Adamson said.

In addition to catastrophe risks, portfolios of automobile and life insurance business have been securitized, said Jean-Philippe Thierry, president of Assurances Générales de France and chairman of the Rendez-Vous de Septembre.

It remains to be seen, however, whether the subprime mortgage crisis in the United States gives issuers and investors pause, he added.

"Despite falling treaty prices, capital markets continue to grow," said Ted Devine, Chicago-based CEO of Aon Re Global. "They're still strong because of uncorrelated risk. We've had many conversations in Monte Carlo on capital markets." Aon Re wants to "leverage our capabilities in treaty, facultative and capital markets in an integrated way," he said. "Our largest and most sophisticated clients are demanding it."

Regis Coccia and Sarah Veysey contributed to this report.



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Comings & Goings

BROKERS:

Willis Group Holdings Ltd. has promoted **Theresa Clune** to president and chief executive officer of Willis' operations in Seattle. Previously, she was senior vp of the Seattle office.

Also at Willis, **Alan Thomas** has been named regional partner and president and chief executive of the Minneapolis office. He joins Willis from Wells Fargo Insurance Services, where he served as a regional business development officer.

Chicago-based **Aon Corp.** has named **Michael S. Flanagan** managing director of the Aon Technology Group. Previously, he was a managing director of Gallagher CyberRisk Services for Arthur J. Gallagher & Co.

Also at Aon, **Michael C. Lamprecht** has been named senior vp in the Aon Financial Services Group in Chicago. Previously, he was national practice leader for insurance and Gallagher CyberRisk Services.

ECBM Insurance Brokers & Consultants of West Conshohocken, Pa., named **Philip K. Glick** senior vp and practice leader. He also will head the firm's risk management consulting group. He was formerly an executive vp of Hub International.

Lockton Cos. L.L.C. has named **Anthony Scott Convery** and **Kenneth Gould** as executive vps in its Dallas office. Previously, Mr. Convery was a sales leader for Marsh & McLennan Cos. Inc., and Mr. Gould was a producer for Wachovia Insurance Services.

Torrance, Calif.-based **Keenan & Associ-**

ates has appointed **James J. Czesak** senior vp, employee benefits. Previously, he was chief operating officer for ABD Insurance & Financial Services Inc., employee benefits division.

INSURERS:

Worcester, Mass.-based **Hanover Insurance Group** has appointed **Kristen Albright** chief actuary. She joins Hanover from Liberty Mutual Group Inc., where she was personal lines chief actuary for Liberty Agency Markets.

George Town, Cayman Islands-based **United America Indemnity Ltd.** has named **Raymond H. McDowell** president of its Hatboro, Pa.-based Penn-America Group Inc. Previously, he was regional vp for the Northeast for Admiral Insurance Co.

The **California State Compensation Insurance Fund** in San Francisco has named **Janet Frank**, currently executive vp of North American field operations for CNA Financial Corp., as president. She is expected to take office in October.

MANAGED CARE:



Ms. Udow

The board of directors of the **Center for Healthcare Quality & Transformation** in Ann Arbor, Mich., a joint venture between the University of Michigan Health System and Blue Cross Blue Shield of Michigan,

has named **Marianne Udow** as the organization's first director. The joint venture is dedicated to improving the quality of Michigan's health care, and transforming the way patient care is delivered in the state. Previously, she was director of the

Michigan Department of Human Services.

REINSURANCE:

Pembroke, Bermuda-based **Endurance Specialty Holdings Ltd.** has named **Hans-Joachim Guenther** chief underwriting officer, reinsurance, and head of reinsurance for Europe for Endurance Worldwide Insurance Ltd. in London. Previously, he was chief underwriting officer for Europe for Converium A.G.

Guy Carpenter & Co. L.L.C. has appointed **Rupert Bedford** head of broking for the U.K. operations of GCFacT, the firm's facultative reinsurance unit in London. Before joining Guy Carpenter, he was an executive director of Aon Ltd.'s global property and casualty division.

White Mountains Re Ltd., the Bermuda-based reinsurance unit of White Mountains Insurance Group Ltd., has named **Dwight Evans** executive vp-global reinsurance. Subject to the approval of Bermuda's immigration authorities, Mr. Evans will also become president and CEO of White Mountains Re Underwriting Services Ltd. Most recently, he headed LightKeeper Specialty Inc., a monoline startup company.

OTHER PROVIDERS:

Michael Young has joined **Buck Consultants L.L.C.** as principal in its Secaucus, N.J., office. He joins Buck from Commerce Banc Insurance Services, where he served as senior vp.

Also at Buck, **Robert Alps** has been named director in the Chicago office. Previously, he was a consultant with Towers Perrin.

And **Richard Parrish** has joined Buck as a director in its Fort Wayne, Ind., office. He formerly was a member of the outsourcing group of Fidelity Employee Services Co.

UP CLOSE Fernando Ortega



NEW JOB TITLE: Chief executive officer, Lockton Mexico, in Mexico City.

START DATE: Aug. 20.

OLD JOB TITLE AND COMPANY: Chairman of Promeritum Risk Consulting.

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GOALS FOR NEW POSITION: I want to make Lockton in Mexico what it is in the rest of the world: a successful, dynamic and very ethical company centering all of our activities for the benefit of our clients.

VITAL STATISTICS: I have a bachelor's degree in business administration from Jesuit University in Mexico City. I started my working life at Brockman & Schuh, where I climbed the ladder to become

one of the senior partners of that firm before it was bought by Marsh & McLennan Cos. Inc. I then joined the parent company to head business development in Latin America.

FIRST TIME IN THE JOB MARKET: I joined Brockman & Schuh when I was 19 and before that I worked during the summer in a shipping company.

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Notice is hereby given that in accordance with Section 230 of the Companies Act, 1981, it is the intention of the Liquidators to permanently stay the winding-up of The Kodiak Company Limited in members' voluntary liquidation, with effect from Friday 26th October, 2007, as it has been established that it is in the best interests of the members to do so.

Any Creditors or Contributors who object to the above must make application to the Supreme Court of Bermuda under the provisions of section 231 of the Companies Act 1981 prior to the above date, with a copy to:

The Joint Liquidators, The Kodiak Company Limited, C/o PricewaterhouseCoopers Advisory Limited, PO Box HM 1171, Hamilton HMEX, Bermuda (Fax 441-295-1242)

PETER C.B. MITCHELL and NIGEL CHATTERJEE

Joint Liquidators

Dated this 24th day of September, 2007.

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International NEWS



REUTERS

At least 43 people survived the crash of a One-Two-Go Airlines jet in Phuket, Thailand, on Sept. 16. The hull was insured for \$4 million, and liability coverage was placed by Grimme Butcher Jones Ltd. in London.

Thai crash ups industry losses to over \$1 billion

By STACY SHAPIRO

PHUKET, Thailand—Hull and liability insurance for the McDonnell Douglas MD-82 jetliner that crashed in Phuket, Thailand, on Sept. 16 is led by Global Aerospace Underwriting Managers Ltd. in London, sources say.

The jetliner, owned by domestic budget carrier One-Two-Go Airlines, burst into flames after it skidded off the runway on its flight from Don Muang Airport in Bangkok and crashed into trees on its second attempt to land at Phuket Airport during a thunderstorm.

About 90 people are reported to have died in the accident. According to the airline, there were at least 43 survivors, including 14 Thais and individuals from Austria, England, Germany, Iran, Ireland, Italy, the Netherlands and Sweden.

The airline's hull was insured for \$4 million, sources said.

Liability coverage was placed by

London broker Grimme Butcher Jones Ltd., a subsidiary of Bertel Grimme A.G. in Hamburg, London market sources noted. The airline's insurance program renews Nov. 16.

The crash will raise this year's total airline hull and liability insurance losses to more than \$1 billion, according to data analysts Ascend, part of the Airclaims Group of Cos. in London.

Worldwide, Western-built airline losses so far this year, excluding attritional losses, totaled \$997 million before the disaster, according to Ascend. The Thai hull loss, even before the liability estimate, will bring the total to \$1 billion, the analyst said.

Domestic Thai law on damages normally would apply to the One-Two-Go passengers' compensation, as Thailand is not party to most international aviation conventions. However, the level of damages also will depend on each passenger's nationality and ticket, legal sources say.

Premiums lag shipping growth

Insurers see volume increases, but rates in market remain flat

By STUART COLLINS

COPENHAGEN, Denmark—Global gross premiums have failed to keep pace with the boom in seaborne trade, experts told marine hull and cargo underwriters attending the 133rd meeting of the International Union of Marine Insurance earlier this month.

The world shipping fleet has grown by about 18% since 2001, to 42,872 vessels above 300 gross tons, and is expected to grow another 40% within five years, according to figures presented at IUMI. But while ship numbers have increased dramatically, tonnage has grown at an even faster rate—by 48.1% to 685,738 million gross tons—between 2001 and 2007, reflecting the increased size of new vessels.

This means there is greater risk aggregation per vessel, said Tore Forsmo, chairman of IUMI's Facts & Figures Committee.

"Larger ships means more steel,



equipment, cargo and passengers per risk insured," Mr. Forsmo said.

World seaborne trade has increased an "astonishing" 45%, to more than 2.6 billion gross tons between 1996 and 2006, said Mr. Forsmo, who also is managing director at Oslo, Norway-based Central Union of Marine Underwriters, a marine insurance association.

Cargo trade has increased by a similar factor, led by container and multipurpose vessels, where TEUs—"twenty-foot equivalent

units," a measurement of cargo capacity on a container ship—have more than doubled since 1998, to 8 billion in 2006. Cargo capacity is expected to increase 35% over the next five years, said Mike Davies, chairman of IUMI's cargo committee.

However, hull and cargo premiums have not risen at the same rate as the size of the fleet and the average ship value, sources said.

IUMI members reported a 14% increase in global insurance premiums, excluding protection and indemnity clubs and reinsurance, at \$20.3 billion in 2006, Mr. Forsmo said. Global hull premiums were up 10% to \$5.10 billion in 2006, cargo premiums increased 9% to \$9.96 billion and offshore energy premiums jumped 68% to \$2.77 billion.

"This is just a volume increase. This does not mean that there has been a premium per risk increase,"

See **SHIPPING** next page

Continued coverage of the IUMI 2007 conference online at www.businessinsurance.com/extra

Crew shortages blamed for losses

Industry could see 200,000 shortfall in number of qualified seamen

By STUART COLLINS

COPENHAGEN, Denmark—Substandard ships and a shortage of experienced and qualified crew—factors that may have contributed to recent large losses for marine hull and cargo insurers—have rattled the market, underwriters said at the International Union of Marine Insurance conference.

An explosion of seaborne trade and cost-saving measures by shipowners means there is a growing shortage of qualified and experienced crew.

There is an estimated 10% shortfall in qualified seamen currently—about 50,000 seamen—and that number could grow to 200,000 in five years, said Fred Robertie, chairman of IUMI's Ocean Hull Committee.

The shipping boom has downsides for insurers, underwriters say: increased values of vessels; higher

repair costs; high steel prices; and congested yards, shipping lanes and ports—all of which add to underwriters' loss ratios.

"The average age of the world fleet is getting younger, driven by

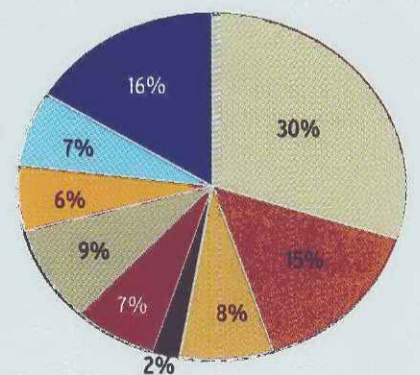
the profitability of the shipowners who are building new vessels at an unprecedented rate, but are not getting rid of older vessels," said Mr.

See **HULL** next page

CLAIM TRENDS

62% of all loss activity comes from human error.

- Deck officer error
- Crew error
- Pilot error
- Engineering officer error
- Shore person error
- Equipment failure
- Mechanical failure
- Structural failure
- Other



Source: IUMI 2007

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Corruption sting opens eyes at the Bada Bing

BACKSTORY: Earlier this month, federal agents arrested 12 people—11 of them public officials—in New Jersey on charges they took bribes to steer an insurance broker contracts to an insurance broker. Those arrested included two New Jersey state assemblymen, the mayor of Passaic, current and former councilmen in Passaic, a top aide to the Newark city council president, and five current or former members of the Pleasantville school board. The “broker” paying the bribes turned out to be a front in an FBI anti-corruption sting operation.



DOUGLAS McLEOD

Senior Editor Douglas McLeod can be reached at: dmcLeod@businessinsurance.com

Location: Tony Soprano’s office at the Bada Bing Club. Characters: Tony, Silvio Dante, Paulie Walnuts, Bobby Bacalieri.

PAULIE: Hey, what about these (expletive) what about Pleasantville? You hear about this?

BOBBY: Yeah, not very pleasant for them, huh?

PAULIE: And Passaic, Newark? (Expletive) FBI’s going after everybody but the dogcatcher.

SILVIO: (with newspaper) It’s nobody we know.

TONY: Not yet. (Watching Bobby eat.) Hey, go easy on the salad bar, will ya? We just put that in.

BOBBY: You said I should eat more salad, T, cut back on the pasta.

TONY: I didn’t say clean out the kitchen. Go knock over a grocery truck.

SILVIO: Hey, listen to this. It says this guy in Passaic, the councilman, he sets up the payoff with the feds, then he sends them a text message—“Will need that green broccoli for the first entrée.” *

(Laughter.)

TONY: (pointing at Bobby): Send the green broccoli to this guy, save me some money.

SILVIO: And the consigliere for the council president in Newark? He’s sitting in a car with one of the feds’ guys, takes an envelope and then tells him it’s not only illegal to accept a cash payment, it’s illegal to offer one. And the feds’ guy says, “Which would put us both in trouble.” *

(More laughter.)

PAULIE: (Expletive) feds.

TONY: Sil, how much were they getting for this insurance business, the politicians?

SILVIO: Twenty-five, 30 grand, depending. Couple of them were gonna get a point or two on the business, once it got going.

TONY: So the broker woulda been looking at a pretty good payday.

SILVIO: Coupla mil on some of the business, maybe more.

TONY: Maybe we should be in this ourselves.

BOBBY: Whadya mean, Tone?

TONY: Why don’t you stop grazing for a minute and think. The broker gets commissions from the insurance company, right? Legit, that’s pretty good business, but there must be a half a dozen ways you can boost it. Like for starters you make sure that all the business is going to the insurance company that’s paying you the highest commission. Some other company comes in with a better price, you throw them some other business just to keep them out of the picture. Play ‘em off against each other, see?

BOBBY: Yeah.

TONY: You could talk a town or school board or whatever into paying you a flat fee, then you take your commission through the back door on top of that, and nobody would know any better.

SILVIO: You could tack on a bunch of fees for marketing or some (expletive) like that.

TONY: There you go. (To the others.) I think this guy could be president of our broker.

PAULIE: You need golf clubs, Sil, I got a truckload the other day.

BOBBY: What are we going to call it, T?

TONY: How about J. Edgar Hoover Insurance Partners? (Laughter.)

TONY: OK, we got people we can reach out to, city councilmen and whatnot. Let’s see what they have to say. Our money’s as good as anybody’s.

SILVIO: They’re going to be pretty nervous, with everything that’s going on now.

TONY: Whatta they got to be nervous about? We ain’t wired. C’mon, if the feds can do this thing, so can we.

**As alleged in federal criminal complaints.*

Shipping: Premiums don’t keep pace

CONTINUED FROM PREVIOUS PAGE

Mr. Davies said. “While fleets are growing, we as an industry are still struggling and prices are flat,” said Fred Robertie, chairman of IUMI’s Ocean Hull Committee and president and chief executive officer of the American Hull Insurance Syndicate. Marine hull “capacity is stable, but business can be placed several times over—even for distressed vessels,” he said. “Capacity is a fact of life, but underwriters’ appetites for top-line growth have now increased after being stable for sev-

eral years. We now see outright reductions as underwriters under-price business and chase revenue.” A similar story has played out in the cargo insurance sector, said Mr. Davies, who is Singapore-based managing director of AXA Corporate Solutions’ marine division in Asia Pacific. “There has been a 30% increase in the value of world trade, but cargo underwriters’ premium has been static...” he said. “There has been widespread rate cutting in cargo due to overcapacity and underwriters growing the top line,” Mr. Davies added. A price war has broken out between Euro-

pean and Asian cargo insurance markets, he said. “At the start of this year, Lloyd’s of London in Asia had three syndicates in Singapore and this will be 12 by the end of the year. This will significantly increase competition of this market,” Mr. Davies said. In terms of premium volume, London is the world’s largest market for global hull, with \$990 million, followed by Norway, with \$715 million. As for the global cargo market, Japan led with \$1.6 billion followed by Germany with \$1.4 billion.

Hull: Crew shortage blamed for losses

CONTINUED FROM PREVIOUS PAGE

Robertie, who is also president and chief executive officer of the American Hull Insurance Syndicate. “We now see more older vessels around and we see the problems associated with older vessels, such as metal fatigue.” At a time when marine premiums have not kept pace with exposures (see related story), the issues were among major concerns aired by underwriters at the 133rd IUMI meeting in Copenhagen, Denmark, earlier this month. Total losses for hull insurers have fallen steadily since the 1990s, although there have been a number of large claims this year, said Mr. Robertie. These losses are likely to make the 2006 year of account—into which the losses will fall—the worst year for hull underwriters since 1999/2000. Major claims include: the M/V Republica di Genoa, which capsized March 8 during loading in Antwerp, Belgium; the April 6 grounding and sinking of passenger vessel M/V Sea Diamond off Santorini, Greece; and the January grounding and sinking in the English Channel of MSC Napoli. “Overall, claims frequency is steady, but the frequency and severity of large losses is on the increase. Weather is still the greatest cause of total loss, but collisions and groundings are on the increase,”

Mr. Robertie said. This increase in large losses was thought to reflect the crew shortages. “A review of this year’s losses is likely to show that human error is at work,” said Mr. Robertie, echoing concerns of other underwriters. “Most losses—some 60% to 70%—are the direct result of human error.” Human error may be linked to what marine insurers perceive as a lack of investment in manpower by shipowners and operators in terms of crew numbers, workload for officers and investment in training. John Poulson, president in the New York office of consulting firm Noble Denton Group Ltd., said the maritime industry has failed to attract young people to a career at sea. He also noted that shipowners’ cost-cutting and use of third-party manning agencies added to shortages of experienced crew. “Underwriters and owners should be worried about this,” said Massimo Canepa, president of the Federation of European Maritime Assns. of Surveyors & Consultants and a member of IUMI’s Loss Prevention Committee. Keith Auld, a member of IUMI’s Cargo Committee, also expressed concern. “People shipping goods are doing it on cost, using the cheapest people to handle the cargo and using the cheapest ships to carry the cargo,” he said. “If we keep

allowing cargoes to be handled this way, we will not continue making money.” In a presentation, Ivar Brynildsen, Oslo, Norway-based senior claims executive at Gard A.S., said red tape, overwork and fatigue may cause crew errors. “Senior officers are tangled up with paperwork and have little time for practical matters onboard,” he said. While underwriters attending IUMI expressed concern over crew standards, they differed in how insurers should respond. Tokio Marine & Nichido Fire Insurance Co. Ltd. in Tokyo has sought a closer relationship with underwriters to tackle the “worrying rise in serious partial losses,” said Najo Sinichiro, who works in the company’s underwriting department. “We look at the competency of risk management, appraise the master and crew and conduct periodic checks of ship condition including the ability and skill of the crew,” he said. “The ship management review report includes our suggestions, and the response to our suggestions are taken into account by our underwriters. Risk evaluation is not just an audit. We do not just evaluate our clients; we go for a common goal, step by step.” But underwriters from other markets were more cautious over the role insurers can play in improving the standard of shipping and crews.

Record number attends IUMI

COPENHAGEN, Denmark—A record number of marine underwriters attended the 133rd conference of the International Union of Marine Insurance. More than 500 underwriters from 41 of IUMI’s 52 national member associations attended the three-day event in Copenhagen, Denmark. IUMI 2008 will be held Sept. 14-17 in Vancouver, British Columbia. Before this year’s event, IUMI had considered opening the conference to brokers. But after consultation with IUMI

members, its executive committee rejected the proposal, said Deirdre Littlefield, IUMI president and director of business development at Starr Marine Agency Inc., part of C.V. Starr & Co., Inc. in New York. “While it was agreed there could be significant advantages to including members of the organization, the overwhelming response was that it would fundamentally change the very fabric of IUMI,” Ms. Littlefield said. —By Stuart Collins

“Are we as underwriters in a position to know what the correct level of crew competency is?” asked Peter McIntosh, member of IUMI’s Ocean Hull Committee and underwriter at London-based Ark Syndicate Management Ltd. “Hull underwriters look at all these issues, but do we base underwriting decisions on these, or just pay lip service?” Norwegian insurers have tried to get closer to clients, but with little success, they say. “In the past, the Norwegian market has conducted surveys—not just of vessels, but also the organizations that operate them—but it backfired,” said Ole Wikborg, vp of IUMI’s Executive Committee and a director at Oslo, Norway-based Norwegian Hull Club. “You cannot tell them how to do all aspects of ship management.”

Regulation: Pension issues lack clarity

CONTINUED FROM PAGE 4

A consensus, though, on some of the most contentious issues in the pension industry—namely surplus ownership—has failed to emerge, Ms. Smith said.

Indeed, provincial governments have divergent views on a number of issues, including unlocking pension benefits, or allowing the employee to withdraw funds from the pension. Saskatchewan passed legislation a few years ago to allow residents to unlock part of their pension benefits. Nova Scotia, though, would resist allowing residents to unlock their pension benefits, out of concern that its relatively older population would not be able to replenish their retirement savings, she said.

"I don't believe it will ever be possible to have a single uniform law in Canada because...it's very important to the jurisdictions to be able to maintain control of the laws they

set for the people in their province," Ms. Smith said.

Ideally, Canada also would have a national pension regulator to oversee pension plans that have members in more than one province, she said. There are currently 2,700 multi-jurisdictional pension plans providing benefits to 1.5 million Canadian residents.

The regulators developed a memorandum of reciprocal agreement in 1968 to reduce administrative and regulatory costs associated with plans in multiple jurisdictions. Under the memorandum, the plans were subject to the rules of each jurisdiction in which they have plan members, but the regulator of the jurisdiction where the plan was registered would apply all applicable regulations, including those of other provinces. For example, if a pension plan were registered in Nova Scotia but also had members in Ontario, Nova Scotia's regulator would apply the pension rules of

both provinces in overseeing the plan.

The problem, though, is that legislation across Canada is no longer similar, making it impossible for a regulator to enforce both its and other jurisdictions' rules, she said.

In response, CAPSA is nearing completion of a revised memorandum with clear and explicit rules regarding applicable laws. For example, if a member works in Ontario, then Ontario's rules would govern the member's benefits even if the plan was registered in Alberta. The Alberta pension statute, though, would govern the operation of the plan itself because that is where the plan is registered.

This practice has been accepted by regulators as it results in a minimal loss of authority. In contrast, the creation of a national pension regulator would result in a substantial loss of control for the provinces.

"It's really not acceptable," to the governments, Ms. Smith said.

Protection: Plan sponsors need reassurance

CONTINUED FROM PAGE 4

there is no equivalent legislation to the PPA, said Zaheed Jiwani, head of DC investment consulting for Hewitt in Toronto.

Although Canadian sponsors want to help members better prepare for retirement, they "want some of the legal protections" available to their U.S. counterparts, he said.

The PPA also encourages U.S. plan sponsors to implement automatic escalation provisions—or those that automatically increase the percentage of employee pay placed into a 401(k) as years of service increase. However, there is no legislation that would allow Canadian plan sponsors to utilize such a feature, Mr. Jiwani said.

In addition, maximum contribution levels are "significantly lower" in Canada than they are in the United States, which make automatic escalation provisions less beneficial to Canadian plan members, he said.

Canadian plan sponsors are adopting target-date funds, a rapidly escalating trend in the United States, he said. Currently, 57% of U.S. plan sponsors offer target-date funds—mutual funds that automatically shift toward a more conservative mix of investments as they approach a particular date—and that number will likely reach about 80% in 2008, according to the Hewitt study.

About 19% of Canadian sponsors of defined contribution plans now offer target-date funds, according to Hewitt. "We are seeing it trend upward and I suspect we'll see the number shoot through the roof over the next few years," Mr. Jiwani said.

Plan members want investment advice, something that Canadian plan sponsors have been reluctant to provide with less than one-third offering investment advice in any form, according to the Hewitt study.

"Members need guidance," Mr. Jiwani said. "They need some advice. Some members don't even know the difference between an equity and a bond."

The PPA allows U.S. plan sponsors to provide a fiduciary adviser, but Canadian plan sponsors lack the same legal protection, he said. "A lot of plan sponsors want to offer advice, but they also want that reassurance."

Canada's capital accumulation plan guidelines, which govern the rights and responsibilities of plan sponsors, merely say that a plan sponsor may choose to offer advice or provide the name of an adviser. If a sponsor does offer an adviser, it is the sponsor's responsibility to select and monitor the adviser, a "confusing" prospect for plan sponsors, Mr. Jiwani said.

The cost associated with offering advice to plan members is another uncertain issue. "The reality is

members want plan sponsors to pay and plan sponsors usually want the members to pay," Mr. Jiwani said. "Until we figure out how that's going to work...we don't see this trend taking off."

340 attend Canadian conference

CHARLOTTETOWN, Prince Edward Island—About 340 plan sponsors, administrators and service providers attended the Assn. of Canadian Pension Management's 31st annual conference Sept. 10-13 in Charlottetown, Prince Edward Island.

The conference featured sessions on the sustainability of defined benefit plans, the risks associated with defined contribution plans and the need for reform of Canada's pension regulation system.

Next year's conference will be held Sept. 16-19 in Lake Louise, Alberta.

—By Gloria Gonzalez

Commissions: Brokers weigh transparency, terrorism risk

CONTINUED FROM PAGE 3

compensation will be for brokers."

While contingent and supplemental commissions may be legal and acceptable from a regulatory standpoint, receiving them is not appropriate from a business perspective, Willis' Mr. Bailey said. "I support our position, which is principle based," he said. "The way we run this business is not about what's legal, it's about what's right to do."

While Joe Plumeri, chairman and CEO of Willis, has tried to shift the industry's focus in this direction, "I don't think it's happened and I think (contingent commissions) will come back and I expect that if they do come back, and are fairly universal, Willis will take them as every other broker does right now, small ones anyway," Mr. Egan said.

Willis will not take the fees, Mr. Bailey said in response. "Delivering value has replaced contingents," he said. "We don't need contingents to run our business.

It's as simple as that."

Contingency fees will not disappear, particularly in the agency-based system in the United States, said Philip Moyles, executive vp of Marsh Inc. in New York. A broker representing a client is a very different relationship than an agent acting on behalf of insurance companies, he said.

"It's all about the disclosure," said Mr. Moyles, who replaced former Marsh CEO Brian Storms on the panel. "It's all about the conversation. It's all about the value proposition based on who you are."

The focus for Chicago-based Aon Corp. is on "making sure there is transparency in the industry and a level playing field and making sure that we price for our services in an appropriate way that is transparent," said Stephen McGill, chief executive officer for Aon Risk Services Americas in Chicago.

In addition to broker compensation, the panelists discussed other major issues in the insurance industry such as terrorism.

Congress is considering the Terrorism Risk Insurance Revision and Extension Act, which would extend the government backstop for terror-

ism coverage for 15 years and expand its scope to cover group life risks and domestic terrorism acts. Last week, the Office of Management and Budget, though, said senior Bush administration officials will recommend that the president veto the current TRIREA bill because the backstop "should be phased out in favor of a private market for terrorism insurance."

Government participation is essential to manage the terrorism risk because a biological or chemical attack would cause losses that would exceed the industry's surplus, Mr. McGill said.

Losses from such an attack are estimated to be between \$500 billion and \$700 billion while available capacity in the standalone terrorism market amounts to about



'If TRIA doesn't extend, then capacity for terrorism in the U.S. is going to evaporate and evaporate overnight.'

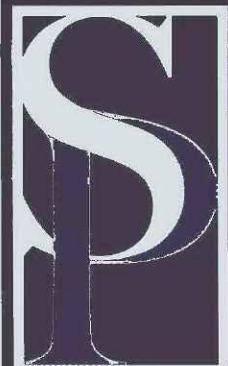
Stephen McGill,
Aon Risk Services Americas

\$1.5 billion and reinsurance capacity ranges between \$8 billion and \$10 billion, said Mr. McGill. "If TRIA doesn't extend, then capacity for terrorism in the U.S. is going to evaporate and evaporate overnight," he said. "That's going to be a significant challenge for (risk managers) and I think it's going to be a significant challenge for the U.S. economy."

The House bill faces a "tough" test in the Senate, particularly with the administration's opposition, Mr. Bailey said. "I worry a little bit about the politics that play out," he said. "It's a very partisan issue right now."

The bill likely will be amended to feature at most a 7- or 8-year extension without nuclear, biological, chemical and radiological coverage and passage will take a few more months, Mr. Bailey said.

A potential solution to terrorism risk in the United States could be modeled on the United Kingdom's Pool Re system, a reinsurance vehicle in which participating insurers are responsible for losses up to a certain level with the government covering losses beyond that level, Mr. Egan said.



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Clinton: Presidential hopeful reveals health plan reform proposal

CONTINUED FROM PAGE 1

ments and tax changes, among other measures, will generate at least \$110 billion a year.

Sen. Clinton, whose attempts to overhaul the nation's health care system were derailed in the early 1990s when Congress refused to act on her reform package, unveiled her

"American Health Choices Plan" last week during a campaign stop at a hospital in Des Moines, Iowa.

Similar to play-or-pay legislation that has been considered by many states—including a program that is being implemented in Massachusetts—Sen. Clinton's plan includes both individual and employer mandates but also pro-

vides subsidies for low-income workers and tax credits for small businesses to help make the required coverage more affordable.

Though employees already offered health insurance by their employers would have the option of keeping their current plans, the American Health Choices Plan would open the Federal Employees

Health Benefits Program to everyone in the United States, which provides a menu of 240 plan options to federal employees and members of Congress.

All of the plans that would be offered under the American Health Choice Plan would cover preventive care services and chronic care management that experts deem to be

effective.

Though large employers would be expected to provide health insurance to their employees or to make a contribution to the cost of coverage that workers purchase on their own, the amount of such contributions would be based on a firm's size

See **CLINTON** next page

Marsh: Future of brokerage uncertain

CONTINUED FROM PAGE 1

while others say MMC's management should consider breaking the firm apart, unlocking additional value at such consulting units as Kroll Inc., Mercer L.L.C. and Oliver Wyman Group.

"I remain confident about the future of Marsh and MMC," Michael G. Cherkasky, MMC's president and CEO, said in a statement. "Insurance broking is at the heart of Marsh and always will be. Our people, services and clients have made us the leading insurance broker in the world," he said.

But just how long Mr. Cherkasky—who is taking over Mr. Storms' responsibilities until a successor is named—will be at the helm of MMC was one of several questions raised by analysts last week following Mr. Storms' departure.

"I think Brian Storms' departure was absolutely necessary; he made strategic mistakes that hurt Marsh's franchise from the first day he joined the firm," said Mark Lane, a principal and research analyst with William Blair & Co. in Chicago.

"He had no experience within the insurance brokerage industry, and it showed from the very start." In particular, Mr. Lane noted Marsh's "failed" attempt to increase commissions and fees to clients to make up for the lost contingents and its reorganization of U.S. business based on segmentation and geography.

"There is tremendous pressure on Mike Cherkasky, and if dramatic improvement is not seen in the near term, then I wouldn't be surprised to see a change at that level," Mr. Lane said.

"While we agree that Marsh management was not delivering, we believe any changes within the management structure must have accountability for MMC CEO Mike Cherkasky's performance," analysts in the equity research division of Citigroup Global Markets wrote in a report last week. "We believe Mr. Cherkasky did an outstanding job brokering an agreement with (Mr.) Spitzer regarding Marsh's bid-rigging allegations. Since then, by our measures, his record has underperformed his competitors."

Not every analyst was critical of Mr. Storms work at Marsh, though.

Bill Bergman, an analyst with Morningstar in Chicago, said he was a "bit surprised" by Mr. Storms' departure and that he "had a positive impression of his leadership ability."

In addition, New York-based Goldman, Sachs & Co. said in a note that it views the change "as a negative for the company. Over the past two years, Mr. Storms oversaw the rebuilding of the Marsh franchise following the Spitzer investigations.... Although the company has yet to fully recover from the fallout following these investigations, Mr. Storms appeared to have provided much needed direction for this unit."

In a statement announcing Mr.

Storms' immediate departure, Mr. Cherkasky said that although Mr. Storms had made "important contributions" to Marsh's recovery over the last two years, "we now need different leadership and operational skills to complete the successful transformation of Marsh."

Mr. Storms, who joined MMC in 2004 from UBS Global Asset Management, became CEO of the brokerage unit in September 2005 after serving as president and CEO of Mercer.

An MMC spokeswoman said that while Messrs. Cherkasky and Storms agreed that the long-term strategy of Marsh called for the insurance brokerage to be the unit's core business—with risk advisory services a secondary enhancement to such services—the execution of that strategy had not gone as expected. "And that was evident in the financial results of Marsh in the past couple of quarters," she said.

Some observers, though, say that Mr. Storms' departure also was at least tangentially connected to the brokerage's recent near loss of Timothy J. Mahoney, Marsh's CEO of the Americas. Mr. Mahoney, who last month resigned to join Integro Ltd. as an executive vp, shortly after decided to remain with Marsh (*BI*, Sept. 17).

Although Marsh was successful in luring Mr. Mahoney back with a multimillion, three-year counteroffer, sources say the issue was ultimately the last straw for Mr. Storms.

Neither a spokeswoman for MMC nor Mr. Mahoney would comment about the matter. A source close to the situation, however, said there "is absolutely no connection" between the timing of Mr. Mahoney's decision to return to Marsh and Mr. Storms' departure.

While the reasons behind Mr. Mahoney's resignation have not been divulged, his responsibilities appear to have been reassigned in late July with the appointment of Mark Feuer to the additional post of CEO of its U.S. business, with responsibility for day-to-day operations. Mr. Feuer joined Marsh from Merrill Lynch in late 2006 to grow its middle-market business.

Mr. Feuer in his role reports to Mr. Mahoney, who oversees Marsh's business in the United States, Latin America and Canada.

"When firms bring noninsurance people in to run insurance operations, there is often this underlying tension that the noninsurance people think they're smarter than insurance people, and what ends up happening is...they start bringing in more noninsurance people," said a former Marsh executive who asked not to be identified. "I think what happened was Storms was alienating" some of

the remaining senior executives who understand the insurance industry at Marsh, Mr. Mahoney being one of them. And "certainly, if you're going to recover from the problems Marsh went through, you need people who can connect with clients and markets, because that's what being a broker is."

Future unclear

Given Marsh's continued struggles and the management changes, analysts last week were once again speculating about the future of the firm.

"We no longer have confidence that MMC will be resurgent anytime soon," analysts at Morgan Stanley & Co. Inc. wrote in a report. "In a relationship business, we are concerned the breadth and depth of personnel changes at MMC will intensify and perhaps even become self-perpetuating, at least for a time."

The Morgan Stanley analysts note that a leveraged buyout of MMC is possible if capital markets conditions are conducive. But while such a transaction "could help the stock find a floor in the near to medium term," there are risks associated with it, namely further disruption of personnel.

"The continued problems and uncertainty at the brokerage division, coupled with the recent credit crunch, which makes an LBO unlikely, leads us to believe that management should reconsider breaking up the company, particularly given the recent strong results at the consulting division," David Small, a Bear Stearns analyst said in a research note.

"In our view, this organization is an attractive takeover candidate with its underperforming, but still formidable brokerage unit and best-in-class consulting arm of Mercer," Citigroup's analysts wrote in their report.

"Marsh's franchise is still very strong and it still has very valuable assets," Mr. Lane said. "Selling off the pieces does not make very much sense because the issue is execution and not strategic position, in our opinion. A large LBO is unlikely in the current credit environment, but everything has a price."

Rumors of MMC being a target of a leveraged buyout began to swirl last year after news that Willis Group Holdings Ltd., together with Kohlberg Kravis Roberts & Co., proposed to buy the much larger MMC (*BI*, Oct. 23, 2006).

A spokeswoman for Willis declined to comment as to whether the brokerage was interested in making another acquisition attempt.

Marsh shares closed Friday at \$24.83, down from last Friday's closing price—the last day of trading before the change was announced—of \$26.18.

CHANGES AT THE TOP

Management changes at Marsh & McLennan Cos. Inc. since the Oct. 14, 2004, fraud and bid-rigging suit filed by then-New York Attorney General Eliot Spitzer:

- **OCT. 15, 2004:** Michael G. Cherkasky named chairman and CEO of Marsh Inc., replacing Ray J. Groves, who became a senior advisor.
- **OCT. 25, 2004:** Mr. Cherkasky named president and CEO of MMC, replacing Jeffrey W. Greenberg, who resigned.
- **NOV. 8, 2004:** Peter F. Garvey and William A. Malloy named co-presidents of Marsh, replacing Roger E. Egan, who was asked to resign.
- **MARCH 22, 2005:** Mr. Malloy named sole president of Marsh upon the departure of Mr. Garvey, who left to help form Integro Ltd. with Mr. Egan.
- **SEPT. 9, 2005:** Brian M. Storms named CEO of Marsh, succeeding Mr. Cherkasky, who remains chairman and president of MMC.
- **DEC. 20, 2005:** M. Michele Burns named executive vp and chief financial officer of MMC, replacing Sandra S. Wijnberg, who resigned.
- **SEPT. 26, 2006:** Ms. Burns named chairman and CEO of Mercer, replacing Michael Caulfield, who retired. Matthew B. Bartley named CFO, replacing Ms. Burns.
- **NOV. 2, 2006:** The position of president is eliminated and Mr. Malloy leaves Marsh at the end of 2006.
- **SEPT. 14, 2007:** Mr. Storms departs effective immediately, and Mr. Cherkasky is named interim CEO.

Source: Marsh Inc.

Executive's severance may cost brokerage nearly \$20M

Brian M. Storms' departure as Marsh Inc.'s chairman and chief executive officer could cost the brokerage nearly \$20 million in severance costs, according to a U.S. Securities and Exchange Commission filing.

Mr. Storms is entitled to a cash severance equal to two times the sum of his base salary plus his average or target bonus, which totaled \$10.25 million in 2006, as a result of an "involuntary termination without cause or termination for good reason," according to Marsh & McLennan Cos. Inc.'s 2007 proxy statement.

Mr. Storms, who earned \$1 million in base salary and a little more than \$6 million in annual short-term and long-term incen-

tive awards in 2006, also is entitled to various outstanding MMC common stock awards, which were worth a little more than \$9.4 million at the end of 2006, the proxy said.

In addition, upon any termination of employment, Mr. Storms is entitled to his salary through the date of termination and accrued but unused vacation time; regular pension benefits; post-employment group medical benefit continuation at Mr. Storms' expense; retiree medical and dental insurance; distribution of tax-qualified defined contribution and nonqualified deferred compensation plans and vested benefits, according to the proxy statement.

—By Sally Roberts

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Clinton: Presidential hopeful unveils health care plan

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and average wages. The sum individuals would have to pay would likewise be limited to a yet-to-be-determined percentage of income. Small businesses would be eligible to receive tax credits for up to 50% of the cost of coverage.

To ensure that everyone has access to coverage, the American Health Choices Plan would mandate guaranteed issue and automatic renewal by insurers and would institute a form of modified community rating that would prohibit insurers from charging higher premiums based on age, gender, occupation or health status. The plan also would limit insurer and drug company profits, though Sen. Clinton has not provided any details on that aspect.

Though much of the program is expected to be financed through savings created by the reforms it would implement, other funding would come from such initiatives as reducing what Sen. Clinton says are overpayments to Medicare Advantage plans; raising taxes on those in the top two tax brackets; and including as taxable income at least a portion of employer-paid health insurance premiums for employees earning more than \$250,000 annually.

Lessons learned

Sen. Clinton "learned a big lesson

from before, and that is, you cannot put together a huge health care plan with granular level detail. I think this time around...she is framing the issue and she is outlining a proposal," said Andrew Webber, president and chief executive officer of the National Business Coalition on Health, a consortium of employer coalitions based in Washington.

"One of the things that she learned from 1993-94 is it's often not wise to develop too detailed a plan before it goes to Congress, let alone before you've been elected," said Paul Ginsberg, director of the Washington-based Center for Studying Health System Change.

"She's moderated her approach from 15 years ago," said Chris Wadley, a vp at Aon Consulting in Los Angeles. "I think she's going to manage to avoid getting the insurance industry lined up against her this time, because they see it as a potential bonanza, provided everybody has to buy insurance. That could be a political advantage...."

However, America's Health Insurance Plans, whose predecessor organizations led the opposition to Sen. Clinton's previous reform efforts, issued a statement that said while "the new Clinton plan includes important ideas to make coverage more affordable," that, "unfortunately, some of the divisive rhetoric seems reminiscent of 1993."

"The reforms here, including the individual mandate, really do build on reform of existing health insurance products, carriers, relationships, etc.," said Jon Kingsdale, executive director of the Commonwealth Health Insurance Connector Authority in Boston, the state agency in charge of implementing Massachusetts' 2006 health reform law.

Some critics of the plan are skeptical about projected cost savings in the proposal, saying that the plan doesn't emphasize cost control and improving quality as much as they would have liked.

"What I don't hear is an approach to addressing some of the other issues that are seriously problematic: inconsistent quality of care across the country and our difficulties controlling rising costs," said Ted Nussbaum, Stamford, Conn.-based director of health care consulting for Watson Wyatt Worldwide.

Ray Brusca, vp of benefits at Black & Decker Corp. in Towson, Md., said that while he himself is a Democrat and he supports Sen. Clinton's candidacy, he feels her reform proposal is "ill-conceived."

"I do not agree with the savings that the proposal predicts," he said. "As far as allowing the uninsured and many others to enroll through the FEHBP, I see this resulting in significant adverse selection and will cost the federal government untold

billions. It will be the proverbial dumping ground for bad risks.

"Simply providing coverage to those that have none will actually drive total spending up even further. Until we control consumption, we will not begin to fix the health care system in this country," Mr. Brusca said in an e-mail.

But Brian Klepper, executive director of the Atlantic Beach, Fla.-based Center for Practical Health Reform, sees the proposal in a more positive light.

"While proposals tend to be pretty vanilla, hers at least spends a lot of energy on practical solutions that will result in meaningful cost reductions," Mr. Klepper said.

For example, the proposal emphasizes greater use of technology, chronic disease management and identifying best practices, he said.

"So she's focused on the things that are really going to be necessary to make the system work as well as on universal coverage," Mr. Klepper said.

The Washington-based Business Roundtable, a large employer organization, issued a statement saying: "We believe that there must be a shared responsibility among payers and providers to reduce health care costs and expand access—there is a role for the government, for employers and for consumers of health care services."

CLINTON'S HEALTH PLAN

Similar to pay-or-play legislation that has been considered by many states, including a plan that is being implemented in Massachusetts, Sen. Hillary Clinton's plan would:



REUTERS

- Mandate that large employers provide coverage to workers and that individuals purchase coverage.
- Provide federal subsidies for low-income workers and

tax credits for small businesses up to 50% of the cost of coverage.

■ Tax highly paid employees on a portion of employer-paid health insurance premiums.

■ Give employees a choice between health insurance offered by their employers or via the Federal Employees Health Plan.

■ Require all plans to cover preventive care services and emphasize chronic care management.

■ Create a "Best Practices Institute" that would work with the Agency for Healthcare Research and Quality and the private sector to research which the best treatments and to disseminate this to patients and doctors.

■ Mandate guaranteed issue and automatic renewal by insurers and institute a form of modified community rating that would prohibit insurers from charging higher premiums based on age, gender, occupation or health status.

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News In Brief

Benefit award amounts in South Carolina have "varied wildly" and average 81% higher than awards in other states, the governor said. That has led to increases in comp costs, he added.

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reinsurance details and other documents of Cincinnati subsidiaries. The insurer disclosed last week that the Florida Office of Insurance Regulation issued subpoenas in August for documents related to its subsidiaries' reinsurance programs and communications with insurance trade groups, rating agencies and risk modeling firms.

Typhoon's insured losses estimated under \$250M

Insured losses from Typhoon Wipha should not exceed \$250 million, according to modeling firm AIR Worldwide Corp. The typhoon made landfall in China's Zhejiang province last week. AIR noted that early reports from local authorities "suggested that close to 10,000 homes were destroyed in Fujian and Zhejiang provinces, with another 42,000 damaged." AIR said that most of those structures "are unlikely to have been insured."

New York officials sue Merck over Vioxx

New York State Attorney General Andrew M. Cuomo and New York City Mayor Michael Bloomberg filed a joint lawsuit last week against Vioxx maker Merck & Co. The lawsuit filed in New York State Supreme Court accuses the pharmaceutical firm of deliberately concealing information about the seriousness of the cardiovascular risks associated with the arthritis medication. According to the officials, the state Medicaid program and the Elderly Pharmaceutical Insurance Coverage program, a New York state-sponsored prescription plan for senior citizens, spent more than \$100 million on Vioxx prescriptions in the state between 1999, when the drug was introduced, and 2004, when it was pulled from the market.

Objective standards for S.C. comp awards

South Carolina Gov. Mark Sanford signed an executive order last week that requires the South Carolina Workers' Compensation Commission to use objective standards, such as American Medical Assn. guidelines, when determining benefit awards.

PBGC takes over Union Stamping plan

The Pension Benefit Guaranty Corp. has assumed responsibility for the underfunded pension plan covering about 760 workers of the Union Stamping & Assembly Inc. plant in South Charleston, W.Va. The PBGC estimated that the plant's South Charleston pension plan for hourly employees is 47% funded, with a little more than \$1.5 million in assets to cover more than \$3.2 million in benefit liabilities. The agency expects to be responsible for the \$1.7 million shortfall. Cleveland-based Union Stamping entered into Chapter 11 bankruptcy protection last year. In November, the company's assets were sold to Cleveland-based Park Corp. for \$18 million. The transaction did not include the pension plan.

Judge throws out car pollution suit

A federal judge last week tossed a lawsuit filed by California's Office of the Attorney General seeking to hold major automakers liable for contributing to climate change. The lawsuit sought millions of dollars for alleged damage to California's environment from carbon dioxide emissions emitted by cars built by the automakers. The suit had been watched closely by pollution liability experts because of its potential to hold companies liable for greenhouse gas emissions. However, U.S. District Court Judge Martin J. Jenkins in San Francisco ruled that it is impossible to determine what percentage of blame for climate change should be pinned on individual companies.

Michigan comp rates to fall 4.2%

Michigan's Department of Labor and Economic Growth announced last week that workers compensation pure premium rates will drop 4.2% on average in 2008. The decrease continues a downward rate trend averaging 35.9% over the past 10 years, the DLEG said. The decline in rates stems from a reduction in the number of injuries and savings from implementing a statewide medical fee schedule. Meanwhile, Oregon's Department of Consumer and Business Services, announced that the state's pure premium rates will decrease 2.3% for 2008 policies.

TRIREA: House measure faces presidential veto

CONTINUED FROM PAGE 1

rorism and by requiring insurers to offer coverage for acts of nuclear, chemical, biological and radiological terrorism.

Veto threat

The Office of Management and Budget issued a policy statement last week saying that senior administration officials would recommend that the president veto the bill if it remains in its current form. The administration believes that the backstop should be steadily scaled back and that the private insurance market should handle terrorism risk.

What may ultimately be more important than the threat of a veto will be what emerges from the Senate, say extension backers.

"I don't have any expectation that the final bill will look like the current House bill," said Bradley R. Wood, senior vp-risk management for Marriott International Inc. in Bethesda, Md. Mr. Wood said "it's likely we're going to see an 'as is' bill for a shorter duration of time" than the House's 15-year extension. Mr. Wood is a prominent proponent of extending the program.

"A significant amount of positioning has occurred this week," said Joel Wood, senior vp at the Council of Insurance Agents & Brokers in Washington. "There is neither any surprise to the administration's veto threat, nor surprise that the House passed what is largely an expansive program. Somewhere between those two poles there's a resolution that will work for clients," he said.

"We had a strong bipartisan vote and a lot of support," both in Congress and within the business community, said Leigh Ann Pusey, chief operating officer of the American Insurance Assn. in Washington.

Regarding the veto threat, she noted that the administration has "historically had concerns about expansion of this program and the long duration of this program, so it's not a surprise" administration officials would raise objections, Ms. Pusey said.

"We have a good bill in the House, but we have a long way to go. We believe that Congress will produce a bill with strong bipartisan support and it will be signed by the White House by Dec. 31."

"We're pleased with the passage

of the bill," said Janice Ochenkowski, president of the Risk & Insurance Management Society Inc. in New York. She said that the margin of passage—including 88 Republicans voting for the bill—"means that both parties worked very hard to resolve some issues."

"We're hopeful we can move forward onto the next step, which is the Senate," said Ms. Ochenkowski, who is also managing director at Jones Lang LaSalle Inc. in Chicago.

Cost debated

The CIAB's Mr. Wood noted that the House bill "hit a speed bump" after a Congressional Budget Office report held that extending the backstop would cost the government \$8.4 billion over 10 years, based on its estimates of terrorist activity.

As a result, the bill ran into the so-called pay-go rule adopted by Congress. That rule requires that any funding authorization bill with a price tag be offset by either new revenues or spending cuts, said Mr. Wood. To get around that requirement, lawmakers added a provision that would require a second vote by Congress to release federal terrorism insurance funds. That could raise uncertainty over whether the backstop could be tapped as intended after a major terrorist attack.

"It is a concern, but I am not lying awake in the bed staring at the ceiling, worrying about it," he said. He said Democratic leaders have made clear that the provision would not be part of a final bill.

Lloyd Dixon, a senior economist with RAND Corp. in Santa Monica, Calif., took issue with the CBO estimate. The analysis did not take into account how the backstop would reduce other government expenses in the aftermath of an attack, he said during a discussion of the backstop program at the U.S. Chamber of Commerce in Washington the day after the House vote. He added that the analysis also used the lowest possible recoupment rate the federal government could ask from insurers that received funds from the backstop.

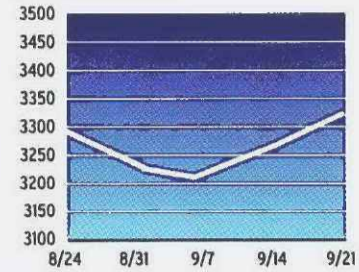
Time is of the essence for supporters of the backstop, said CIAB's Mr. Wood. "The industry and policyholders have a sense of urgency, but I think skeptics may have little incentive for an early resolution."

Stock Index

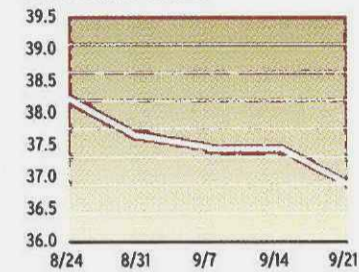
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Up-to-the-minute data for all 82 companies that comprise the BI Stock Index can be found at www.BusinessInsurance.com.

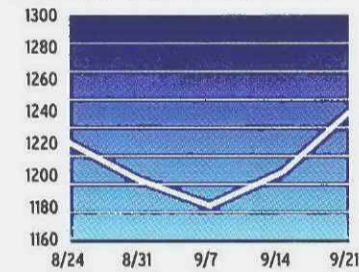
BI STOCK INDEX



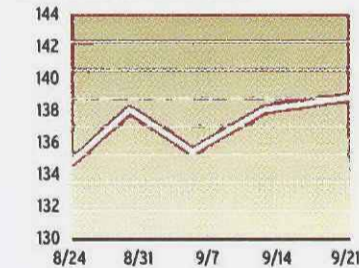
BI BROKERS INDEX



BI INSURER/REINSURERS INDEX



BI MANAGED CARE ORGANIZATIONS INDEX



Percentage change of BI Stock Index vs. key indicators

BI STOCK INDEX	▲
3326.54	2.27%
DOW JONES	▲
13820.19	2.81%
S&P 500	▲
1525.75	2.80%

LARGEST GAINS

Gainsco Inc.	14.94%
Unitrin Inc.	9.70%
Meadowbrook Insurance	7.57%
AXA	7.36%
IPC Holdings Ltd.	7.07%

LARGEST LOSSES

Marsh & McLennan	-5.16%
CIGNA Corp.	-2.71%
Berkshire Hathaway	-2.42%
Brown & Brown	-2.13%
Arthur J. Gallagher	-1.94%

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

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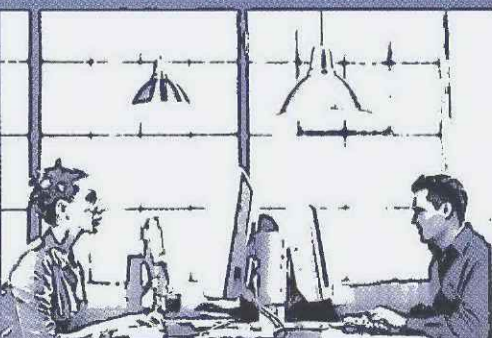
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Contributing: Louise Esola, Jerry Geisel
Mark A. Hofmann, Douglas McLeod

A textbook definition of a really bad day at work

Instead of working to get paid, one man has to pay because he went to work.

Health inspectors in Edmonton, Alberta, ordered 20-year-old bakery worker Adam Duerr to stay out of the kitchen at Italian Bakery until he took tests to prove he was free of salmonella.

According to Canadian news reports, Mr. Duerr returned to work without

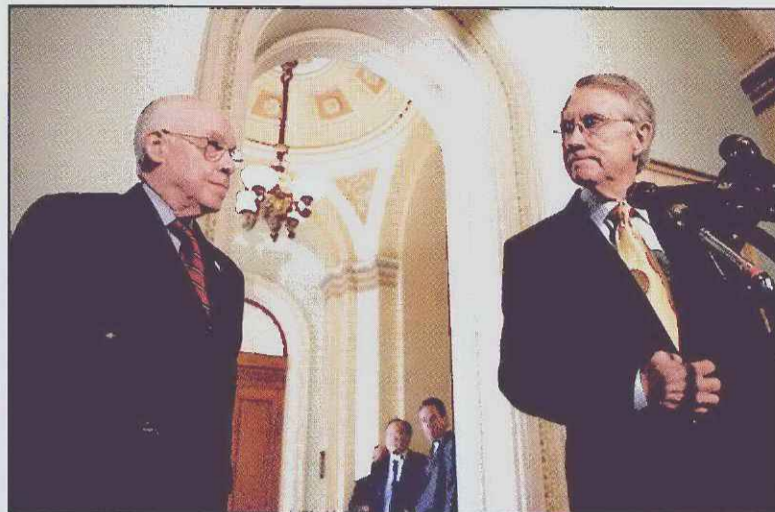
undergoing the required testing, which health officials discovered in a subsequent inspection.

Although no customers of the bakery reported falling ill, a judge recently ordered Mr. Duerr to pay \$1,000 Canadian (\$970) for ignoring health officials' order.

The bakery and the owner also were fined, \$1,500 Canadian (\$1,450) and \$1,000 Canadian, respectively.

One Canadian health official called the case highly unusual.

"We almost never have people who disobey the order to stay off work," Gerry Predy, the medical officer at the health inspector's office, told Reuters.



Attorney General nominee Michael Mukasey, left, with Senate Majority Leader Harry Reid, D-Nev.

Nominee knows his cash balance

It almost certainly would be a first: the nation's top legal officer knowing a lot about pension plans—cash balance plans, no less.

That would be the case if Michael Mukasey—President Bush's nominee to be the next U.S. attorney general—is confirmed by the Senate, which is considered likely.

Mr. Mukasey, then a judge of the U.S. District Court of the Southern District of New York, ruled last year that cash balance plans are not age discriminatory.

His ruling came in a case involving a cash balance plan offered by PricewaterhouseCoopers L.L.P. of New York. Mr. Mukasey said that the plan was age neutral "because each participant receives the same pay credit and interest credit each year." That design is characteristic of cash balance plans.

The ruling by Mr. Mukasey came in the wake of a unanimous decision—the first by a court of that level—by the 7th U.S. Circuit Court of Appeals, which found that IBM Corp.'s cash balance plan was not age discriminatory. Indeed, Mr. Mukasey, who retired from the federal judiciary shortly after the ruling to become a partner with the law firm Patterson, Belknap, Webb & Tyler L.L.P. in New York, borrowed heavily from the appeals court decision in ruling that the plans do not discriminate against older employees.

President Bush named Mr. Mukasey to succeed Alberto Gonzalez, who resigned last week after he came under fire for his role last year in the dismissals of several U.S. attorneys.

But who will be the final judge if defendant loses in court?

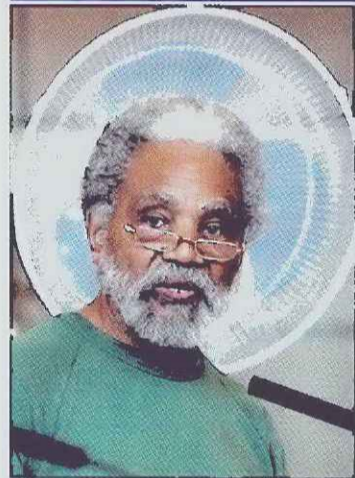
Nebraska state Sen. Ernie Chambers is looking for Judgment Day.

The Omaha lawmaker recently filed a lawsuit against God in Douglas County, Neb., court, seeking a permanent injunction against the deity. In his suit, Sen. Chambers cites various natural catastrophes as reasons for seeking the injunction.

But Sen. Chambers' suit isn't meant to be an assault on the Almighty. Instead, it's a response to another lawsuit not involving the lawmaker that Sen. Chambers regards as frivolous, according to the Associated Press.

In an interview with an Omaha television station, he said the suit came in response to efforts by some of his fellow lawmakers to restrict the filing of frivolous lawsuits.

In that television interview, Sen. Chambers said he could sue God in county court because, "that defendant, being omnipresent, is personally present in Douglas



Ernie Chambers, a Nebraska state senator, filed suit against God to highlight frivolous lawsuits.

County."

Thus far, the Almighty has yet to respond personally, although someone allegedly filed a response on behalf of the deity last week. No doubt a Good Samaritan just seeking to do the Lord's work. Legal work, that is.

Former anchor would rather not be a scapegoat

As an employment practices liability case, it may not be all that unusual—except for the person, the money and, oh yes, the publicity involved.

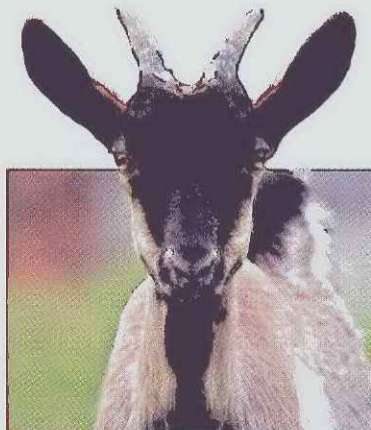
In what instantly became a major news story last week, former CBS Evening News anchor Dan Rather sued his former network for \$70 million for allegedly breaching his employment contract and damaging his reputation.

The former star anchor charges that CBS made him a "scapegoat" for a controversial 2004 "60 Minutes II" segment that questioned President Bush's Vietnam War-era service in the Texas Air National Guard. After doubts arose about the authenticity of documents used in



Mr. Redstone

the segment, Mr. Rather apologized on-air, which he now says CBS officials pressured him to do against his better judgment.



After forcing Mr. Rather to step down as Evening News anchor in 2005, CBS then violated his contract by failing to give him adequate



Mr. Rather

airtime as a "60 Minutes" correspondent and relegated his reports to times when the network knew the audience would be relatively

small, the suit charges.

The lawsuit, filed in New York State Supreme Court in Manhattan, also names CBS Chief Executive Officer Leslie Moonves, former CBS News President Andrew Heyward, former CBS parent Viacom Inc. and its chairman, Chairman Sumner Redstone. The lawsuit seeks \$20 million in compensatory and \$50 million in punitive damages.

With all the attention, CBS officials may wish they could be dealing with a run-of-the-mill discrimination suit or at least a contract dispute with a lower-profile employee.

To the network and its defense team, we can only quote Mr. Rather himself: Courage.



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