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Late News

Vitale leaves Willis for Zurich post

Don Bailey has been named chief executive officer of Willis North America, succeeding Mario P. Vitale, who is leaving the brokerage to become CEO of Zurich Financial Services Group's Global Corporate North American operations. Mr. Bailey, who joined Willis in New York from Allianz Insurance Co. in March 2003, most recently served as chief operating officer of Willis North America.

Clements forming property cat insurer

New York-based brokerage Integro Ltd. and its chairman, Robert Clements, are in the process of seeking $1 billion to capitalize Ironshore Ltd., a Bermuda-based property catastrophe insurer that will focus on major companies, according to market sources. An Integro spokeswoman said the principals involved are unable to comment because Integro is a sponsor of the new facility. Mr. Clements has a long, successful track record in the industry,

See **LATE NEWS** / page 27

Inside

ADDING CHARGES
Prosecutors revise filing in Gen Re fraud case.
PAGE 3

PUTNAM SPINOFF?
MMC considers options for investment unit.
PAGE 3

Employer savings seen in Wal-Mart drug move

Retail giant slashes prices on hundreds of generics

By JOANNE WOJCIK

TAMPA, Fla.—Wal-Mart Stores Inc.'s high-profile decision to cut prices on nearly 300 prescription generic drugs should save money for employers with prescription drug plans and could stimulate greater use of generics, which are seen as vital in efforts to reduce employers' drug costs, experts say.

In addition, the move could put pressure on pharmacy benefit managers to cut the wholesale prices they charge employers for many drugs, some experts note.

Wal-Mart last week began offering nearly 300 generic drugs for $4 for a 30-day supply to customers—including its own employees—in the Tampa Bay, Fla., area. In a statement, the Bentonville, Ark.-based retail giant said that the program would be expanded to the entire state of Florida in January and then "to as many states as possible" later next year. Among the drugs included in the program are those used to treat high blood pressure and diabetes, as well as certain antibiotics and antidepressants, Wal-Mart said in its statement.

Wal-Mart rival Target Corp. responded almost immediately to the Wal-Mart announcement, saying that it would match the lower prices on generic drugs in the Tampa Bay area. Minneapolis-based Target did not say whether it would expand the program, though it noted in a statement that the move in Florida was "consistent with its long-standing practice to be price

See **WAL-MART** / page 26

Supreme Court to rule on key damages issue

Gender bias case also on the docket

By MARK A. HOFMANN

WASHINGTON—The U.S. Supreme Court's new term may feature very few risk management-related cases, but that lack of quantity doesn't mean the court's actions lack the potential to have a profound impact on risk management.

In fact, *Philip Morris USA vs. Mayola Williams* may prove to be a landmark punitive damages decision. The justices will hear arguments Oct. 31 concerning whether an appellate court can conclude while reviewing a jury's punitive damage award that the defendant's conduct was so reprehensible as to override the constitutional requirement that punitive damages be reasonably related to the harm suffered by a plaintiff (*BI*, June 5). The justices will also decide whether due process permits a jury to punish a defendant for the effects of its conduct on parties that weren't part of the suit.

Phillip Morris vs. Williams is one of only two risk-management cases the high court agreed to review before its final pre-term issue of orders this week.

The other case—*Lily Ledbetter vs. Goodyear Tire & Rubber Co.*—deals with an illegal pay discrimination action brought under Title VII of the Civil Rights Act of 1964. The question posed is whether, and if so under what cir-

See **SUPREME** / page 26

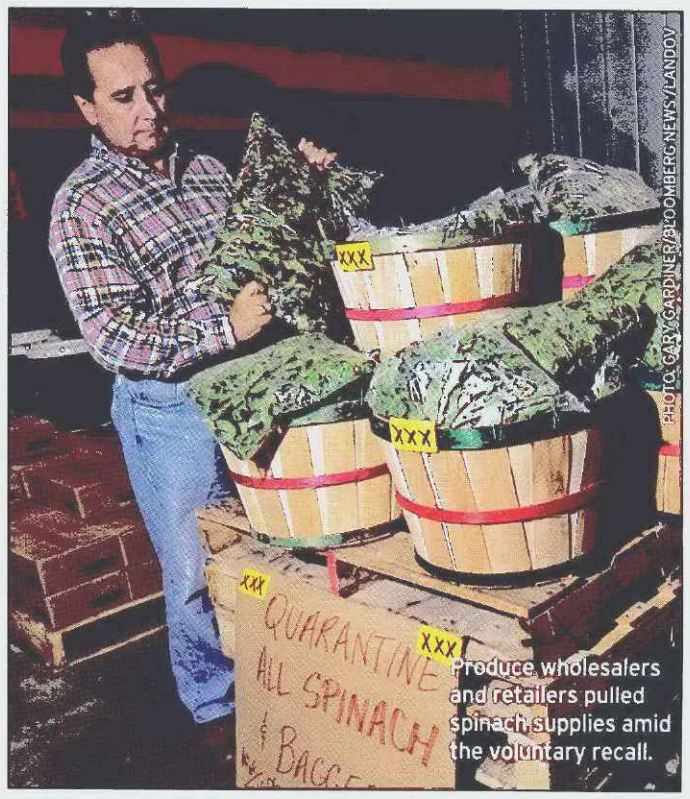

PHOTO: GARY GARDINER/BLOOMBERG NEWS/LANDOV

Produce wholesalers and retailers pulled spinach supplies amid the voluntary recall.

Huge spinach recall puts spotlight on contamination cover

By SALLY ROBERTS

While insurance is available in the market to cover most of the costs associated with the recall and subsequent nationwide near halt in spinach consumption, few fresh produce farmers, packagers and processors purchase comprehensive coverage, experts say.

Trust in existing quality control systems, the misconception that other insurance coverage will kick-in to cover the losses, or aversion to the high costs of the programs all have helped limit the growth of the line of coverage, experts say.

And, according to insurers and brokers, many produce companies think that incidents like the spinach-linked E. coli bacteria outbreak that has killed at least one and sickened more than 150 people in 23 states in recent weeks will never happen to them.

But those spinach producers whose product was contaminated and have purchased the appropriate coverage should be able to turn to their insurers to bear the costs associated with the E. coli outbreak, including the costs of the recall, business interruption and crisis management.

Health authorities late last week were still trying to determine the exact source of the E. coli outbreak, but had linked the outbreak strain to a leftover bag of spinach found in the home of a sickened person in New Mexico. The bag was packed by San Juan Bautista, Calif.-based Natural Selection Foods, the nation's largest supplier of specialty salads, which voluntarily recalled all of its spinach products Sept. 15.

Two fresh produce proces-

See **SPINACH** / page 25

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NEWSPAPER

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SPOTLIGHT

REINSURANCE: RENDEZ-VOUS REPORT
U.S. property catastrophe rates expected to rise further; retrocessional market shrinks; Monte Carlo marks 50 years of reinsurance gatherings.

PAGE 11

How can you protect your assets in unpredictable global markets?

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Inside

Pension payment case puts focus on plan rules
An appeals court says that a plan member can sue for interest on delayed payment. **Page 4**

ADA does not protect obese employee
Court rules that a physiological cause must be established for protection under bias law. **Page 4**

Cat cover "turmoil" discussed at NAPSLO
Surplus lines insurers and brokers discuss issue of cover for storm risks. **Page 4**

Coverage innovations help solve problems
Buyers should be encouraged by developments in the reinsurance market, an editorial says. **Page 8**

Online poll [09/18 - 09/22]

Do you think the property market will become more competitive next year?

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

Departments

Advertiser Index....26
Business Resources....20
Regis Coccia....6
Commentary....20
International....21
Opinions....8
Perspectives....25
Products & Services....22
Professional MarketPlace....22
Ticker....27

Reporting on corporate risk and employee benefit management news

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Gen Re charges expanded

Prosecutors indict another former executive

By RUPAL PAREKH and MARK A. HOFMANN

NEW HAVEN, Conn.—Another former General Re Corp. executive has been indicted on criminal fraud charges as part of U.S. officials' probe into sham reinsurance deals allegedly struck between American International Group Inc. and Berkshire Hathaway Inc.'s Gen Re unit to help boost AIG's loss reserves in 2000 and 2001.

A federal grand jury handed down the superseding indictment Wednesday in a New Haven, Conn., U.S. district court, charging Christopher P. Garand—who served as senior vp and chief underwriter for Gen Re's finite reinsurance operations from 1994 to 2005—with a total of 10 counts of conspiracy, securities fraud, mail fraud, and making false statements to the Securities and Exchange Commission for his alleged role in the scheme.

Superseding indictments are issued when new charges or defendants are added to an indictment, or in the event certain charges or defendants are removed.

In addition to introducing Mr. Garand as a defendant, the new filing also brings added securities fraud and false statement charges against the four original defendants in the case, a spokesman for the U.S. Attorney's Office for the District of Connecticut said. It also removes certain mail and wire fraud charges, he said.

The original defendants—former Gen Re Chief Executive Officer Ronald E. Ferguson, former Gen Re Chief Financial Officer Elizabeth Monrad, Gen Re's former senior vp and assistant general counsel, Robert Graham, and Christian Milton, AIG's former vp of reinsurance—now face a total of 16 counts of conspiracy, securities fraud, mail fraud and making false statements to the SEC for their alleged participation in the scheme.

In a statement, Kevin J. O'Connor, U.S. attorney for the District of Connecticut, noted that "the Department of Justice and our federal law enforcement partners are committed to investigating and prosecuting corporate executives who intend to mislead investors, employees and customers by manipulating company financial information."

PHOTO: AP/ WIDE WORLD

Prosecutors in Connecticut last week added to the list of fraud charges facing former Gen Re executives, including Ronald E. Ferguson and Elizabeth Monrad.

Messrs. Ferguson, Graham and Milton, as well as Ms. Monrad, in February pleaded not guilty to charges stemming from their alleged involvement in the reinsurance transactions. In April, they successfully sought to have their trials moved to Connecticut from Alexandria, Va.

Messrs. Ferguson and Graham and Ms. Monrad reside in Connecticut, while Messrs. Milton and Garand live in Pennsylvania and New Jersey, respectively.

Jury selection for the trial—which has been assigned to U.S. District Judge Peter C. Dorsey—is slated for March 1, 2007, a spokesman for the U.S. attorney's office said.

Messrs. Ferguson, Graham and Milton and Ms.

See GEN RE / page 27

MMC considering spinoff of asset management unit

By JUDY GREENWALD

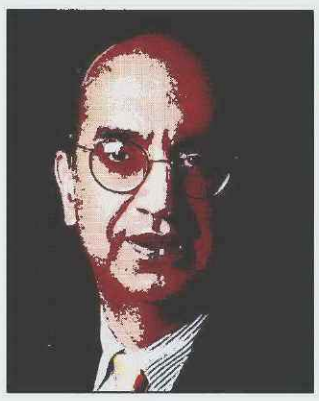
NEW YORK—Marsh & McLennan Cos. Inc.'s possible sale or spin off of its Putnam Investments subsidiary would enable the company to focus more clearly on its insurance brokerage and consulting business, but will likely have little direct impact on the remaining operating units, observers say.

The Boston-based investment management company does not complement the brokerage and consulting units, and Putnam's regulatory and legal problems over the past several years have been an added burden for the parent company, they say.

Due to tax considerations, however, any disposal of Putnam, which could be valued at several billion dollars, would likely not lead to a large cash infusion into MMC that would directly benefit its other operations, observers said.

In a reversal of its previously-stated position, Marsh said last week that it was exploring possible alternatives for Putnam.

MMC President and Chief Executive Officer Michael G. Cherkasky said in a statement that there have been "repeated inquiries" over the past few months from interested parties wanting to either partner with or acquire Putnam.



> "It was in the interest of our shareholders to do a market check to determine the value others would put on Putnam."
>
> **Michael G. Cherkasky**
> **Marsh & McLennan Cos. Inc.**

"Therefore, in consultation with MMC's board, I decided it was in the interest of our shareholders to do a market check to determine the value others would put on Putnam," he said.

Mr. Cherkasky said the process has just begun and the company has not decided whether to take any specific actions.

Observers say possible options include a sale or spin off of the operation.

The impact on insurance buyers would be "somewhere between neutral and slightly positive," said John L. Ward, chief executive officer of Cincinnati-based Cincinnatus Partners L.L.C., an advisory firm that specializes in the insurance industry.

Putnam "has never been a logical operation for Marsh to own. They are very different markets," said Mr. Ward.

See PUTNAM / page 25

Moderating premiums

Prices of federal employees' health care plans are projected to increase in 2007, but the rise is the smallest in at least a decade.

Year	Average increase
2007	1.8%*
2006	6.4
2005	7.4
2004	9.5
2003	11.3
2002	12.7
2001	10.7

*Estimated
Source: U.S. Office of Personnel Management

Rates hikes slow down for federal benefits

By JERRY GEISEL

WASHINGTON—In yet another sign that once-soaring health insurance premium increases are easing, Bush administration officials say premiums for health plans covering federal employees and retirees will rise by an average of 1.8% in 2007, the smallest increase in more than a decade.

Next year's estimated average 1.8% rise for the Federal Employees Health Benefits Program—the nation's largest such program, with more than 8 million participants—compares with an average 6.4% rise this year, 7.4% in 2005 and 9.5% in 2004.

The Office of Personnel Management, the federal agency that administers the health benefits program, last week said the exceptionally low increase is due to much lower than expected utilization of services.

That, in turn, resulted in excess program reserves, which can be drawn on to partially offset what would have been higher premium increases next year.

Next year, in fact, more than 60% of FEHBP enrollees will not see any premium increases. "That is amazing. It is a terrific result as far as rates," said OPM Director Linda Springer.

The small increase in rates for the federal program mirrors the slowing of health care inflation in the nonfederal sector. Last year, for example, group health care costs rose by an average of 6.1%, down from 7.5% in 2004 and 10.1% in 2003, according to annual surveys by Mercer Health & Benefits L.L.C. in New York.

The FEHBP, though, usually has smaller cost increases as a result of its huge size.

"This is a very large program. Because the program's carriers have such a large book of business, they can negotiate very good terms with health care providers," said Cara Jareb, a consultant with Watson Wyatt Worldwide in Arlington, Va.

Next year, 284 health care plans will be available through the FEHBP, though only a small percentage of plans are offered in all parts of the United States.

The most significant benefit change for next year will be the addition of a comprehensive dental benefit. However, employees and retirees will have to pay the full premium for the coverage. Employees, though, will be able to pay premiums through pretax contributions.

In all, the federal government, on average, pays 71% of premium costs.

PHOTO: CONGRESSIONAL QUARTERLY

Several retirees have sued US Airways, arguing the airline's pension plan violates ERISA.

Case illustrates lessons for ERISA plan sponsors

By DAVE LENCKUS

CINCINNATI—A federal appellate court ruling on how disputes over delayed pension plan benefit payments must be resolved should prompt employers to address the issue in their disability plans as well, according to benefits experts.

A 6th U.S. Circuit Court of Appeals panel largely reversed a lower court's decision that it did not have jurisdiction to rule on a pension benefit dispute over whether interest must be paid on a lump sum benefit the plan delayed paying to calculate the exact benefit.

The Sept. 13 ruling is applicable to disability benefit plans as well as to pension plans, benefit experts say. Like the pension plan in the 6th Circuit case, disability plans typically are governed by the Employee Retirement Income Security Act.

"I think there are a lot of (disability) plans that are silent on the interest issue," said Henry Saveth, an attorney with Mercer Human Resource Consulting in New York.

"It's the exception rather than the rule that a plan talks about interest," said employer attorney Nancy G. Ross, a partner with McDermott, Will & Emery L.L.P. in Chicago.

The interest payment issue at the center of the 6th Circuit case arose two years after pension plan sponsor US Airways Inc. of Tempe, Ariz., negotiated an oral agreement with the Air Line Pilots Assn. over how the airline would disburse lump sum pension benefits. In 1994, the airline and union agreed that US Airways would have 45 days from the date a pilot retired to calculate and disburse the pilot's benefit without interest. The airline said it needed that time to calculate the benefit.

Two years later, though, a US Airways retiree who elected to take a nearly $488,500 lump sum benefit insisted that the airline pay him more than $14,700 of interest he said had accumulated over the 45 days between his retirement and the day US Airways paid his benefit.

The four-member retirement board that the airline and union had created to resolve retirement plan disputes deadlocked over the dispute. But an arbitrator, who relied on both the oral agreement and a history of around 780 lump sum payments the airline had made since 1989 without paying interest, ruled in favor of US Airways.

In a lawsuit seeking class action status, several US Airways retirees argued that the oral agreement as well as the retirement plan violated various provisions of ERISA because the agreement was not in writing, it restricted how the plan would operate and it made the

See ERISA / page 6

Obese worker not ADA-protected

Physiological cause must be established

By JUDY GREENWALD

CINCINNATI—Employees who are morbidly obese do not have discrimination protection under the Americans with Disabilities Act unless there is an established physiological cause for their condition, a federal appellate panel says.

In its unanimous Sept. 12 ruling in *Equal Employment Opportunity Commission vs. Watkins Motor Lines Inc.*, a three-judge panel of the 6th U.S. Circuit Court of Appeals in Cincinnati upheld a lower court's decision to dismiss the case.

The ruling held that since no physiological cause was offered for the morbid obesity of truck driver Stephen Grindle—on whose behalf the EEOC sued—he could not be considered to have a disability and pursue a discrimination claim under the ADA.

Under the federal law, employers are prohibited from discriminating against any qualified individual with a disability, which is defined as a "physical or mental impairment that substantially limits one or more of the major life activities of the individual."

Employees are also protected under the statute if they do not actually have a substantially limiting impairment, but are regarded by their employer as being disabled.

According to the court record, Mr. Grindle weighed 450 pounds when, while climbing a ladder at work, a rung broke and he sustained a knee injury. He subsequently was terminated after a company doctor determined he could not safely perform his job.

Mr. Grindle believed he was discharged because of his weight and registered a complaint with the EEOC.

In its opinion, the appellate panel said it agreed with a lower court's decision that morbid obesity may be an impairment under the ADA "where it has physiological cause," but that "nonphysiological morbid obesity" is not an ADA-covered impairment.

The EEOC argued that "an impairment may be shown by either: weight problems caused by a physiological condition, or morbid obesity (i.e. body weight more than 100% over the norm), regardless of the cause." However, the appellate panel cited a previous ruling in which "we repeatedly emphasized that a physical characteristic must relate to a physiological disorder in order to qualify as ADA impairment."

In a concurring opinion, Justice Julia Smith Gibbons said morbid obesity "as opposed to the general condition of being overweight may have a physiological cause.

See ADA/ page 25

Difficult market tops E&S concerns

NAPSLO attendees cite property cat turmoil, casualty rate slide

By ROBERTO CENICEROS

CHICAGO—A capacity crunch hindering property insurance arrangements for catastrophe-prone regions of the United States dominated conversations at the 2006 Annual Convention sponsored by the National Assn. of Professional Surplus Lines Offices Ltd.

Surplus lines brokers, managing general agents and insurers meet at the convention to solidify their business relationships, discuss ongoing coverage arrangements and seek out new ones.

Discussions on an ongoing slide in casualty rates also shaped the thousands of meetings held in Chicago but "turmoil" in the property catastrophe insurance arena topped the discussions, NAPSLO members said.

Even Victor O. Schinnerer & Co. Inc., an underwriting manager that specializes in professional liability programs and does not underwrite property coverage, was beset by brokers wanting to discuss the difficult property markets they face.

NAPSLO convention coverage continues on page 24

That shows how much property conditions are weighing on excess and surplus lines professionals, said Lorna Parsons, managing director for Victor O. Schinnerer in Chevy Chase, Md.

The difficult property catastrophe market resulted from a re-evaluation of windstorm and earthquake risks following last year's hurricane season, observers say. Catastrophe model companies changed their potential loss estimates and that prompted rating agencies to modify their assessment of insurers' and reinsurers' exposures, which in turn pushed insurers and reinsurers to reduce those exposures (*BI*, June 12).

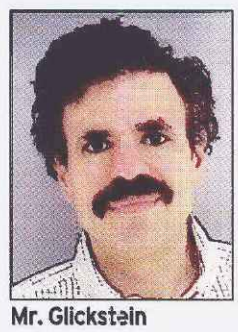
Additionally, the nation's largest personal lines insurers have since used their massive purchasing power to buy up available reinsurance capacity, said Gary L. Tiepelman, a NAPSLO director and senior vp of underwriting for Scottsdale Insurance Co. in Scottsdale, Ariz.

"You could charge what you want (for property catastrophe insurance) if you had the capacity," Mr. Tiepelman said. "The problem is there is not a lot of capacity out there."

See MARKET/ page 24

New life for cash balance plans?

Mr. Geisel



Mr. Glickstein

Mr. Sher

Mr. Sweetnam

Experts to discuss changes in market during BI webinar

Cash balance plans once were the fastest growing type of pension plan design until several lawsuits alleged that the design discriminated against older employees. However, recent federal pension reform legislation and a court ruling involving IBM Corp.'s cash balance plan rebut those claims of age bias, affirming the legitimacy of these plans.

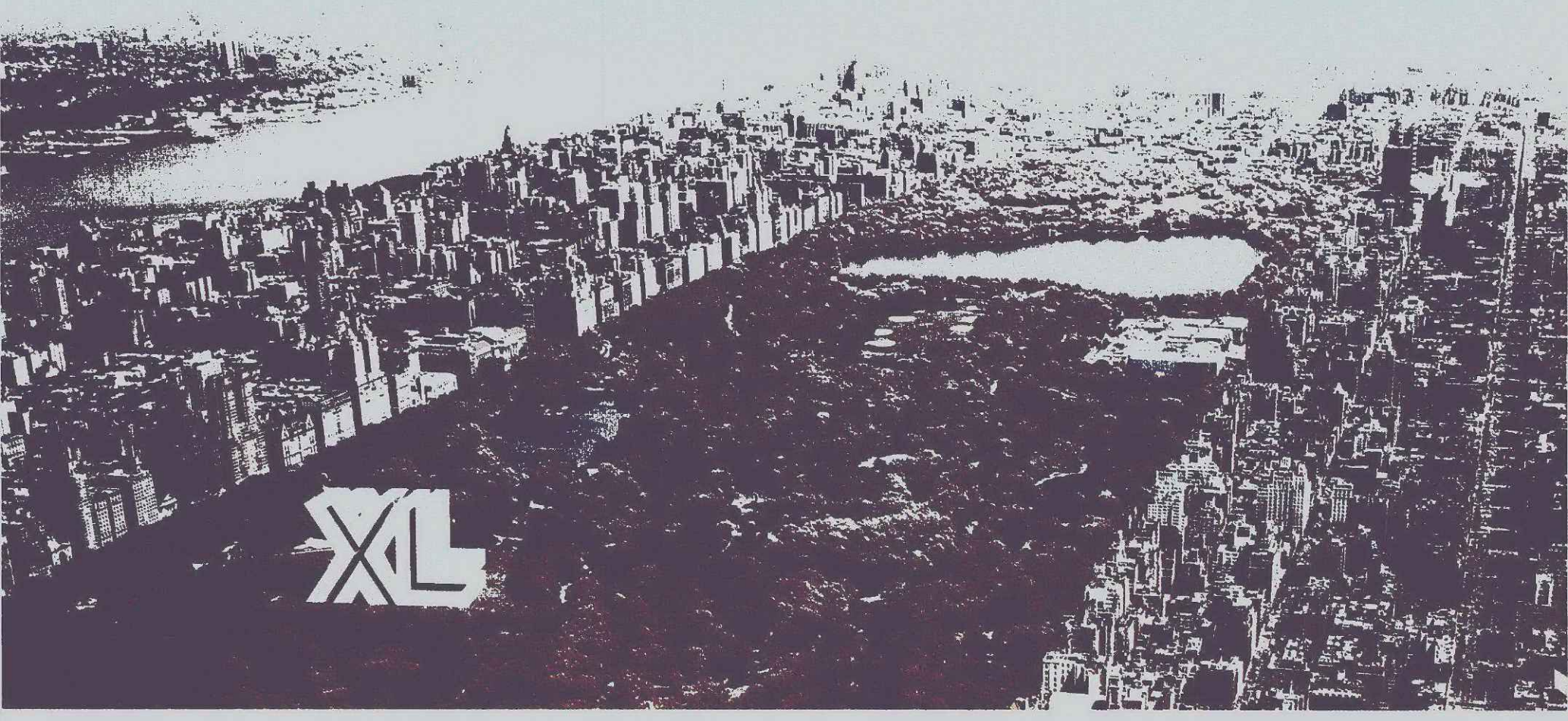
Business Insurance invites readers to register for "Cash Balance Plans: Back on the Table," a free online panel discussion on Oct. 17 that will explore these new developments and what they mean for employers.

Join *Business Insurance* Editor-at-Large Jerry Geisel and our panel of pension and legal experts:

- Alan Glickstein, senior consultant with Watson Wyatt Worldwide in Dallas.
- Larry Sher, principal and director of retirement policy for Buck Consultants L.L.C. in New York.
- Bill Sweetnam, principal with The Groom Law Group in Washington.

BI's Online Executive Forum™ webinars, developed by our editorial staff, are highly informative online events where noted speakers and respected business leaders come together with *BI* editors to discuss the most pressing issues in this live interactive format.

For more information, and to register for the free Oct. 17 Online Executive Forum™ on cash balance pension plans, please visit *www.BusinessInsurance.com/webinars*.



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ERISA: Case shows need for clear plan language

Continued from page 4

lump sum benefit unequal to an annuity benefit.

A federal court refused to assume jurisdiction over the case. It ruled that each of the plaintiffs' claims required an interpretation of US Airways' retirement plan and that the retirement board had exclusive jurisdiction over such interpretations.

The court based its decision on its interpretation of the Railway Labor Act, which Congress amended in 1936 to include airline labor-management disputes. The district court reached its decisions by classifying the plan participants' claims as a "minor dispute," which the RLA defines as a controversy over the meaning of an existing collective bargaining agreement.

But the appeals court classified several of the retirees' claims as "major disputes," which the RLA defines as those arising out of the formation or change of collective bargaining agreements. The appellate court remanded those claims to the lower court.

The retirees' attorney, J. Bruce Bennett of Austin, Texas-based Cardwell Hart & Bennett L.L.P., said he was unsure how many retirees eventually would attempt to join the litigation. But he said the interest the current group of plaintiffs lost ranged from $15,000 to $25,000 each.

The Pension Benefit Guaranty Corp., the U.S. agency that insures pension plans, represented US Airways in the case. The PBGC in 2003 took over and terminated the pilots' plan, which was severely underfunded. It did not comment on the ruling.

While the appellate panel's decision was procedural and leaves the case open to the federal district court to resolve, the case illustrates valuable lessons for ERISA plan sponsors, according to Ms. Ross and Mr. Saveth.

Participants in all kinds of ERISA plans—and the plaintiffs bar—are paying much closer attention to participants' rights, Ms. Ross noted.

"This delayed payment issue is on the radar screens of plan participants," she said.

Disability claimants are raising the interest payment issue most often, Ms. Ross and Mr. Saveth said. That's because disability claims often are resolved long after a plan participant has become disabled, so the participant is owed back payments, they said. Interest payments are debated often because so few plans address the issue, they said.

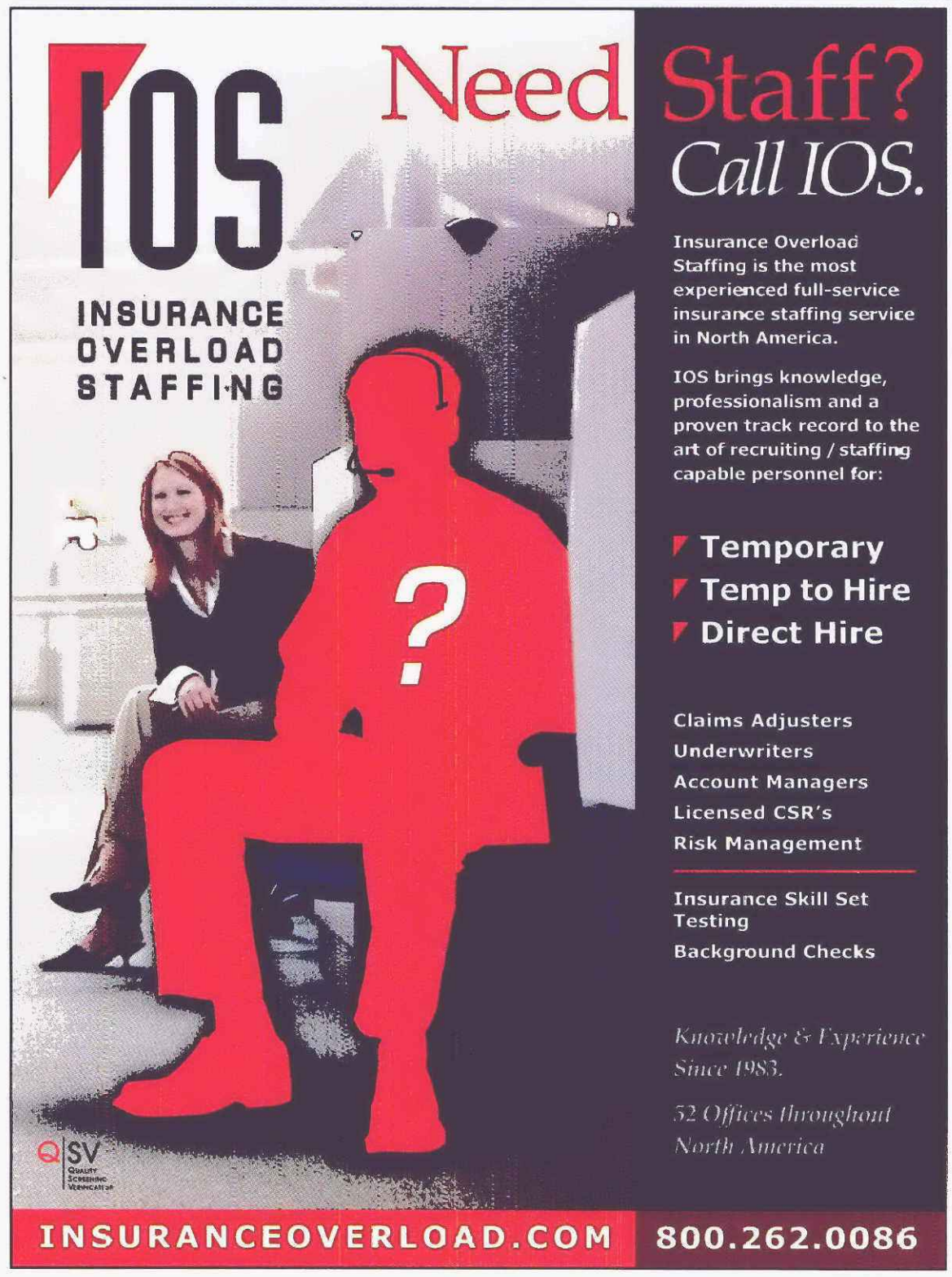
The 6th Circuit case underscores the problems that inadequate ERISA plan language can create for employers, the experts said.

"If you have an ERISA issue and it's not addressed in writing, you're looking at litigation," Mr. Saveth said.

And any clarification of plan language has to be written, the experts said.

"Employers need to recognize they need to memorialize anything that is adopted—whether it's with a union or done unilaterally," Ms. Ross said.

James C. Stephens et al. vs. Retirement Income Plan for Pilots of US Air Inc., 6th U.S. Circuit Court of Appeals, Sept. 13; No. 01-3913.



REGIS COCCIA

Suing automakers won't save the planet

Many people are concerned about global warming and the impact it may have on life as we know it. Reports of increased levels of greenhouse gases and climate changes already taking place are troubling, but what can be done about it? California Attorney General Bill Lockyer last week unveiled one idea: sue automakers.

Yes, California's top lawyer filed suit against six of the largest auto manufacturers in the United States, alleging that the companies' vehicles have created a public nuisance by contributing to global warming.

If it's possible to recover costs for climate change from automakers, what businesses would not be liable?

The attorney general argues that California has spent millions of dollars to address the effects of global warming and that the cost will escalate as long as the problem continues. Mr. Lockyer's lawsuit seeks to hold the companies jointly and severally liable for unspecified monetary damages, attorneys' fees and costs. Whatever that amount turns out to be is beside the point, really. Imagine the flood of litigation that will result—against virtually any company deemed to contribute to global warming—if this lawsuit is upheld.

There are sound reasons to try to reduce emissions that may speed warming of Earth's atmosphere, accelerate melting of glaciers and ice sheets, and foster conditions that favor stronger windstorms and greater flooding. So why not promote regulations to address this? Is it really necessary to take to court businesses whose products are a linchpin of the national economy?

Consider the following facts:

- California already has some of the strictest auto emissions standards in the nation.
- The automakers Mr. Lockyer is suing—General Motors Corp., Ford Motor Co., DaimlerChrysler Corp., Honda North America Inc., Toyota Motor North America Inc. and Nissan North America Inc.—face stiff challenges in selling cars and meeting their benefit obligations to employees and retirees. Ford, for example, this month announced it will lay off nearly one-third of its workforce to reduce the company's operating costs. Ford isn't doing this to be unkind; it views the layoffs as vital to its survival.
- California and other states in April sued the U.S. Environmental Protection Agency for failing to regulate greenhouse gas emissions, particularly from power plants.
- Nine state attorneys general, including Mr. Lockyer, in July 2004 sued five U.S. power plant operators for carbon dioxide emissions.
- California's general election is Nov. 7, and Bill Lockyer is a candidate for state treasurer.

It's easy to dismiss Mr. Lockyer's recent lawsuit as a political gambit, but this suit has significant public policy implications. Greenhouse gas emissions, as even Mr. Lockyer's suit acknowledges, go well beyond California's borders. There's a good reason the problem is called global warming.

Businesses need to take seriously the risks that global warming poses. More frequent climatic events, such as droughts, floods and more severe hurricanes, will increase not only the risk of loss of life and property but also business interruption. If global warming leads to more storms such as Hurricane Katrina, the world is in big trouble.

From a legal perspective, if it's possible to recover costs for climate change from automakers, what businesses would not be liable? Insurers and reinsurers expend huge amounts of capital to pay for losses from windstorms and other catastrophes. Using Mr. Lockyer's logic, underwriters could cease to insure businesses that may be liable for contributing to global warming. Or they could subrogate windstorm claims to recover costs.

Where would such litigation end? Driving defendant companies into bankruptcy might halt their carbon dioxide emissions, but that also would deprive California and other states of economic benefits.

The courts should be a last resort for relief, not the first stop in an effort to safeguard the environment, noble as that is.

Editor Regis Coccia's commentary appears periodically. He can be reached at rcoccia@businessinsurance.com.

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Editorial

Draw encouragement from creative solutions

SHARP HIKES in reinsurance rates already have been felt at the primary insurance buyer level, but, uncomfortable as that experience may be, a closer look at the reinsurance market does offer some good news for risk managers.

The big increase in reinsurance rates for catastrophe-exposed risks over the past year has been one of the major factors in driving up coastal property insurance rates and, according to reinsurers, there is not likely to be a letup in rate increases anytime soon.

As our report starting on page 11 on the Rendez-Vous de Septembre reinsurance meeting indicates, reinsurers and primary insurers still think there is a ways to go before primary rates for U.S. coastal property exposures reflect the underlying risk, regardless of the mild storm season so far in 2006.

But the reinsurance and capital markets' reactions to the problem also raise a little hope for risk managers.

First, rate hikes at the year-end renewal season are likely to be confined, in large part, to the problem area: coastal cat risks. Other lines are not being penalized and competition to attract those risks is rising.

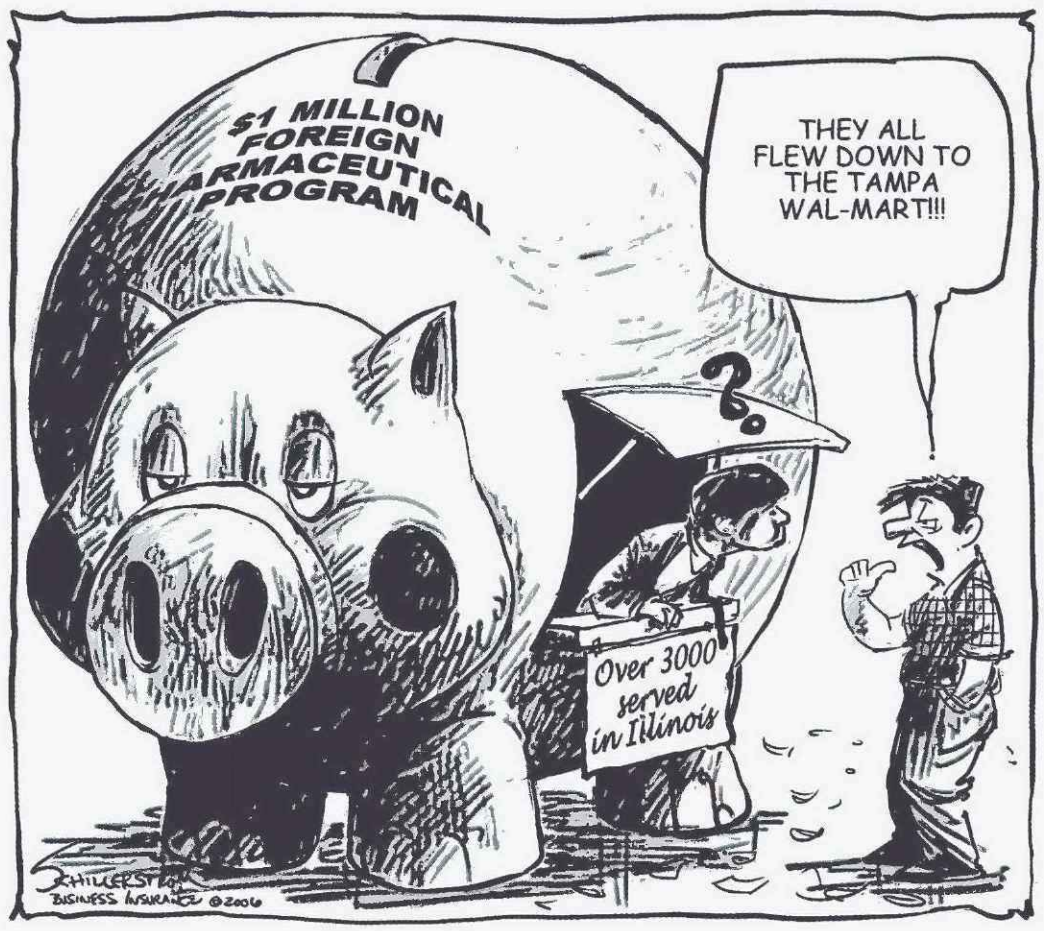
Secondly, high reinsurance prices have led to another spate of innovative risk financing vehicles in the same way that other capacity crises in the past have inspired innovation in the insurance sector.

This time, several reinsurers have established "sidecar" companies that enable them to offer more capacity to cedents, and industry loss warranties—risk financing structures that are linked to overall industry loss experience—have started to come into their own. ILWs have even been touted as instruments that could be used as part of a program to cover some terrorism risks.

While these vehicles are not going to turn the market on their own, they are a reassuring indication that the insurance and reinsurance industries are still capable of providing creative solutions to difficult problems.

Such innovations provide relief to buyers now, and in the future the potential for them to be used to at least alleviate, if not eradicate, other problems is encouraging.

Schillerstrom



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Wal-Mart's generic drug plan contains obvious benefits

IN A WORD, WAL-MART Stores Inc.'s move to cut the price of a 30-day supply of many generic prescription drugs to $4 is brilliant.

As we report on page 1, Wal-Mart is launching the program in the Tampa Bay, Fla., area and plans to expand it early next year to the rest of Florida and later to other states.

The benefit to consumers is obvious. With the average cost for a month's supply of generic drugs at nearly $30, the savings to consumers will be substantial.

For Wal-Mart, the new generic drug pricing strategy also makes a lot of sense. First, Wal-Mart has reaped a public relations bonanza, no small benefit for a company that has been the target of much criticism in recent years for a variety of reasons, including the benefits it provides to workers.

Far more important than a PR boost—the benefit of which is typically temporary—is that rock-bottom pricing of generic drugs makes good business sense.

Unquestionably, $4 prescriptions will be a powerful lure for consumers to have their prescriptions filled at Wal-Mart stores where they are likely to buy other, more profitable products.

There are benefits to this new program that extend beyond Wal-Mart and its customers. Unquestionably, other big retailers, unless they want to lose business, are certain to respond, which means lower prescription drug prices will be more widely available.

Indeed, applying to prescription drugs Wal-Mart's well-known marketing strategy of "Always low prices. Always." is bound to shake up an industry whose motto could well be described as, "Always high prices. Always."

We also think that the publicity generated likely will encourage more employees to have, wherever possible, their prescriptions filled with a generic rather than a brand-name drug.

Given that the retail cost of brand-name drugs typically is several times higher than generics, the savings of to employees and to employers in making such switches would be substantial.

To that end, we would hope that Wal-Mart's move is a catalyst for employers to examine whether their prescription drug copayment tiers give employees sufficient financial incentives to opt for generics.

Given that generics must, under federal rules, have the same strength and quality and work in the same way as brand name drugs, greater employee use of generics is in both employees' and employers' best financial interest.

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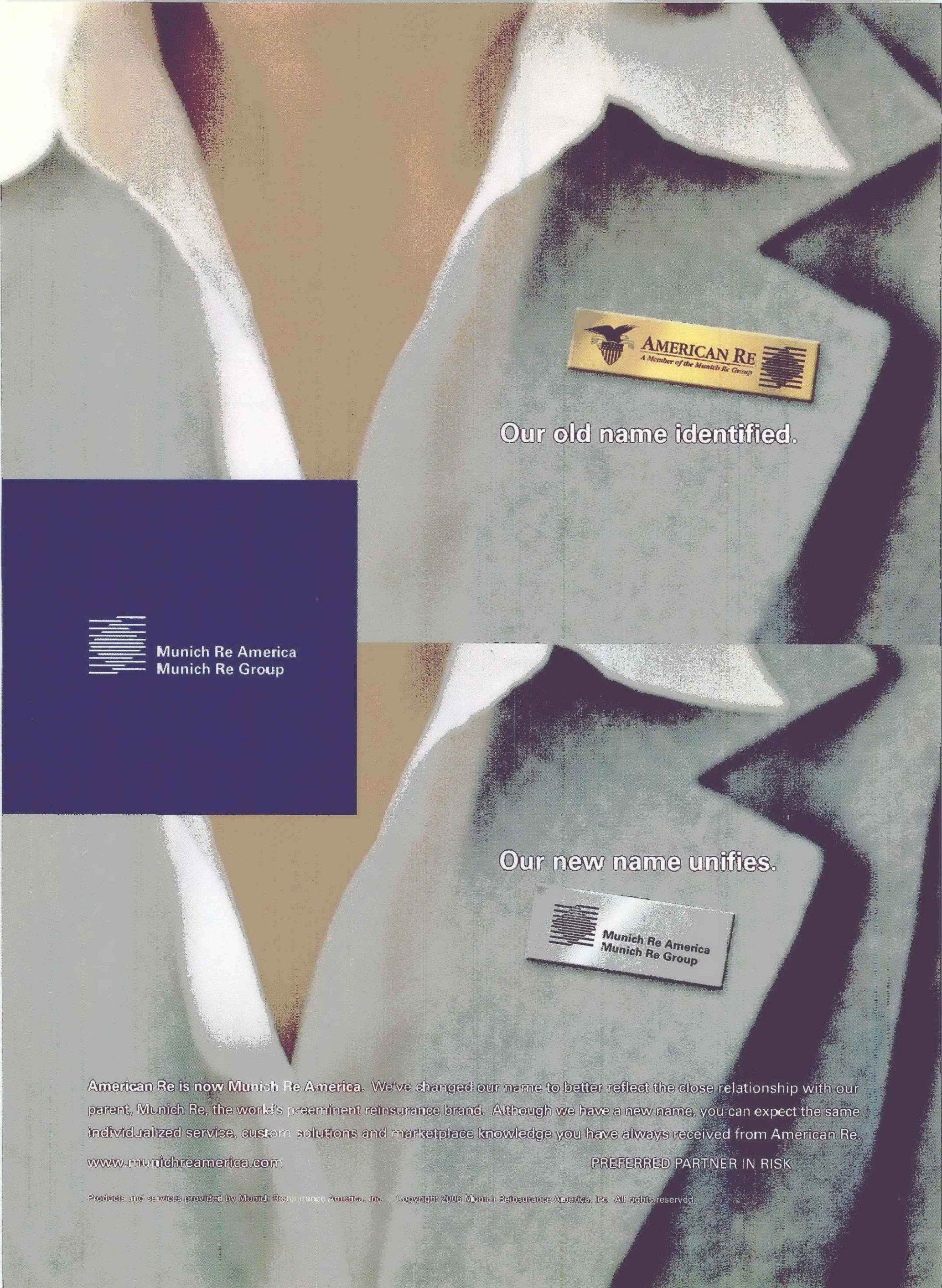

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Spotlight Reinsurance: Rendez-Vous Report

Underwriters look to diversify exposure away from North America / 15

Swiss Re's pullback worsens the retrocessional capacity crunch / 18

Cat losses prompt market shifts

Property market expected to stay hard for U.S. but stable in Europe

By REGIS COCCIA and SARAH VEYSEY

MONTE CARLO, Monaco—Rates for property catastrophe reinsurance business are expected to remain hard for North American business at year-end renewals but the effect on European business is less clear.

While reinsurers continue to reel from the 2005 U.S. storm losses and revised models for future losses, the European market remains comparatively stable and cedents should not expect large rate hikes at the upcoming Jan. 1, 2007, renewals, according to industry executives.

Reinsurers, brokers and analysts gathered at the 50th annual Rendez-Vous de Septembre in Monte Carlo, Monaco, earlier this month noted that the hard market conditions experienced on U.S. property catastrophe-exposed business at the mid-year renewals are likely to be maintained at year-end renewals, but brokers said they would resist any substantial rate increases on European business.

The meeting marks the traditional beginning of year-end renewal discussions.

A "two-tier market" has been a theme of the past nine months, said Charles Cantlay, deputy chairman of Aon Re U.K., a unit of Aon Corp., in London.

Many reinsurers are seeking to diversify their books of business, he said, in part because of the increased capital requirements being placed upon monoline-style underwriters by rating agencies (see story, page 12).

Price rises 'muted'

Underwriters with heavy U.S. property catastrophe exposures increasingly are seeking to diversify, he said, and this—coupled with availability of affordable retrocessional capacity for non-U.S. property/catastrophe exposures (see story below)—has meant that any rate rises for European property business have been "muted."

In the immediate aftermath of Hurricane Katrina last year, observers were predicting the storm would be a market-changing event, said Mr. Cantlay, resulting in rate rises across the board.

But, he said, "the reverse has been true" and severe rate hikes have only really been seen on U.S. catastrophe-exposed business.

U.S. catastrophe business, however, will likely continue to experience rate increases, said Jacques Bonneau, chairman and chief executive officer of ACE Tempest Re Group in Hamilton, Bermuda.

"I think we can expect to see increases" in catastrophe-exposed U.S. areas, such as the coasts, he said. "I

See RATES / next page

PHOTO: BIE/NICK LISEIKO

Casualty rates steady to slightly lower

By REGIS COCCIA and SARAH VEYSEY

MONTE CARLO, Monaco—Property reinsurance market conditions clearly appear they'll harden further, but trends in the casualty market are a little harder to discern, suggested reinsurance industry executives at the Rendez-Vous de Septembre.

Overall, casualty lines in both Europe and North America show signs of stable capacity and pricing, but there may be some competition and even pricing decreases, executives said. One factor that may add stability to the casualty market is the desire of some reinsurers with large catastrophe portfolios to diversify into other business, they said.

On casualty lines, "it's more complex" than the property market, said Hans Rohlf, managing director and chief underwriting officer of North American treaty reinsurance at Hannover Reinsurance Co. in Hannover, Germany. "It's very much dominated by insurance carriers maintaining security requirements on reinsurers," he said. The number of highly secure global casualty reinsurers available for placements is small, "so it's relatively stable on the casualty side."

Hannover Re is concerned about cedents allowing erosion of pricing on umbrella liability coverage, Mr. Rohlf said. "We have seen some not unsubstantial reductions" in umbrella rates, he said. "On Fortune 2000 umbrellas, there's no fat anymore. Flat renewals generally mean that participants lose out" because loss cost trends further reduce their margin, he said. "Medical inflation is still there, but usually you need at least 5% rate increases" to offset it, he said.

Jacques Bonneau, chairman and chief executive officer of ACE Tempest Re in Bermuda, agreed. On casualty business outside the United

See CASUALTY / page 16

Monaco meeting celebrates 50th year

By REGIS COCCIA

MONTE CARLO, Monaco—For the past 50 years, insurance and reinsurance executives have been flocking to the principality of Monaco to discuss market issues, and the Rendez-Vous de Septembre has grown to include participants from many nations.

It wasn't always that way, though.

The Rendez-Vous began in 1957, principally as a gathering of continental Europeans initiated by Andre Roux, then president of France's Assurances Générales des Accidents, and others to exchange information on market trends before the Jan. 1 reinsurance renewal period. Monaco had held meetings of marine insurance executives prior to 1957, and the location was attractive for several reasons, according to the Direction du Tourisme et des Congrès. Monaco's weather is mild, Monte Carlo is a small area with relatively easy access from other cities, and in the 1950s it had no insurance or reinsurance entities domiciled there, offering a neutral venue for the industry.

The tiny principality bordering France attracted America's attention when actress Grace Kelly married Prince Rainier of Monaco in 1956, but U.S. reinsurance industry participants were infrequent at the Rendez-Vous until the early 1980s, according to market executives.

In French, "rendez-vous" means "meeting," and that precisely describes the main activity here. Informal meetings of participants occur in hotels, cafes, restaurants and

See HISTORY / page 15

Appearing Oct. 9: Women to Watch

Rates: Ongoing market challenges expected to remain a force in the coming year

Continued from previous page

don't see a great decrease in catastrophe exposure in the U.S., irrespective of whether we have a good year."

While 2006 so far has had light catastrophe activity, "it's a good news/bad news scenario. If we have a good cat year in 2006, people will do well, but it will certainly fuel a more daunting 2007 in terms of competition," Mr. Bonneau said.

"Some not well-educated observers would expect the lighter hurricane season would lower rates at Jan. 1 renewals," said Hans Rohlf, managing director and chief underwriting officer of North American treaty reinsurance at Hannover Reinsurance Co. in Hannover, Germany. "It's not happening."

Pricing of catastrophe business is "very much influenced by the modeling agencies and this is not going to change," Mr. Rohlf said. "It's very clear in the U.S. that at Jan. 1, cat rates will have to catch up to the models," he said, adding that increases of up to 50% are warranted on some cat exposures. "Even the influx of additional capacity from capital markets is not going to change that."

"We continue to believe it will be a challenged market going into 2007," said David Priebe, CEO-Europe for Guy Carpenter & Co. Inc.

In North America, the major question for cedents has been: "How do I access capacity, how do I assess exposure and hedge against that?" Mr. Priebe said.

Additional capital

Mr. Priebe said the capital markets are expressing a growing appetite for some catastrophe risk, but available capacity for property cat exposures remains tight. While Guy Carpenter is "looking to educate a broader range of investors and increase knowledge around this asset class, there still is a sizable gap between supply and demand for capacity in the southeast" United States, he said.

Some capital that entered the market after last year's hurricanes went into sidecar arrangements that provide a form of retrocessional cover, noted Ted Collins, managing director-global insurance at Moody's Investors Service in New York. "To the extent that capacity is restricted in the market broadly, rates will go up," he said. "But with the influx of additional capital supporting sidecars, there is less pressure to raise prices."

In the United States, renewals at June 1 and July 1 were "tough," said Patrick Thiele, president and CEO of PartnerRe Ltd. in Pembroke, Bermuda. "Clients didn't get all their programs placed," but "inevitably, supply and demand will come back into balance in the catastrophe market," he said.

Cedents and reinsurers such as PartnerRe are "not particularly far apart in many cases" in their expectations heading toward the Jan. 1 renewal period, Mr. Thiele said. "There is some gradual, modest pressure on rates overall, but it won't be dramatic. The underlying stability is there," he said.

PartnerRe remains committed to writing catastrophe business, and "we quoted business all through the fourth quarter of 2005 and through 2006," Mr. Thiele said.

'An unhealthy obsession'

Julian James, director of worldwide markets at Lloyd's, said "there's almost an unhealthy obsession with hurricanes" by insurance and reinsurance companies. "No one's talking about the Terrorism Risk Insurance Act, liability classes or earthquake risk. People aren't talking about that in our industry."

"People need to remind themselves that they live in a bigger world. Nothing has changed with the fundamental need to get pricing right with the risk," Mr. James said. "Most underwriters recognize the fact that 2005 was exceptional and they shouldn't do anything stupid for prices going forward."

After Hurricane Katrina last year, reinsurers reacted quickly to increase prices and have done so at successive renewal periods, said Marc Grandisson, chairman and CEO of Arch Worldwide Reinsurance Group, a unit of Arch Capital Ltd. in Hamilton, Bermuda.

"Insurers feel losses over time and can't pass price increases along right away. It usually takes 12 months to turn over their portfolio," he said. As a result, North American cat risks are reinsured at "not much less than 10 rate on line, about double the rate a year ago, and in Europe about six to eight rate on line," Mr. Grandisson said.

Rate on line expresses reinsurance cost in relation to limits purchased; for example, a premium of $100,000 for $1 million of limits would yield a rate on line of 10.

Generally, "renewals should be easier than last year, but there still will be good discussion of what will happen," said Mr. Grandisson.

The only really hard part of the market is U.S. catastrophe-exposed business, said Simon Gander, CEO of the London operations of broker Gallagher Re.

Primary insurers are "minting money" and that will likely lead to softening in most areas apart from U.S. property catastrophe business, added J. Patrick Gallagher Jr., president and CEO of Itasca, Ill.-based Arthur J. Gallagher & Co., Gallagher Re's parent.

In Europe, property catastrophe renewals may be affected by "a perception of increased cat risk," said Mr. Grandisson of Arch. "There is a

See RATES / page 14

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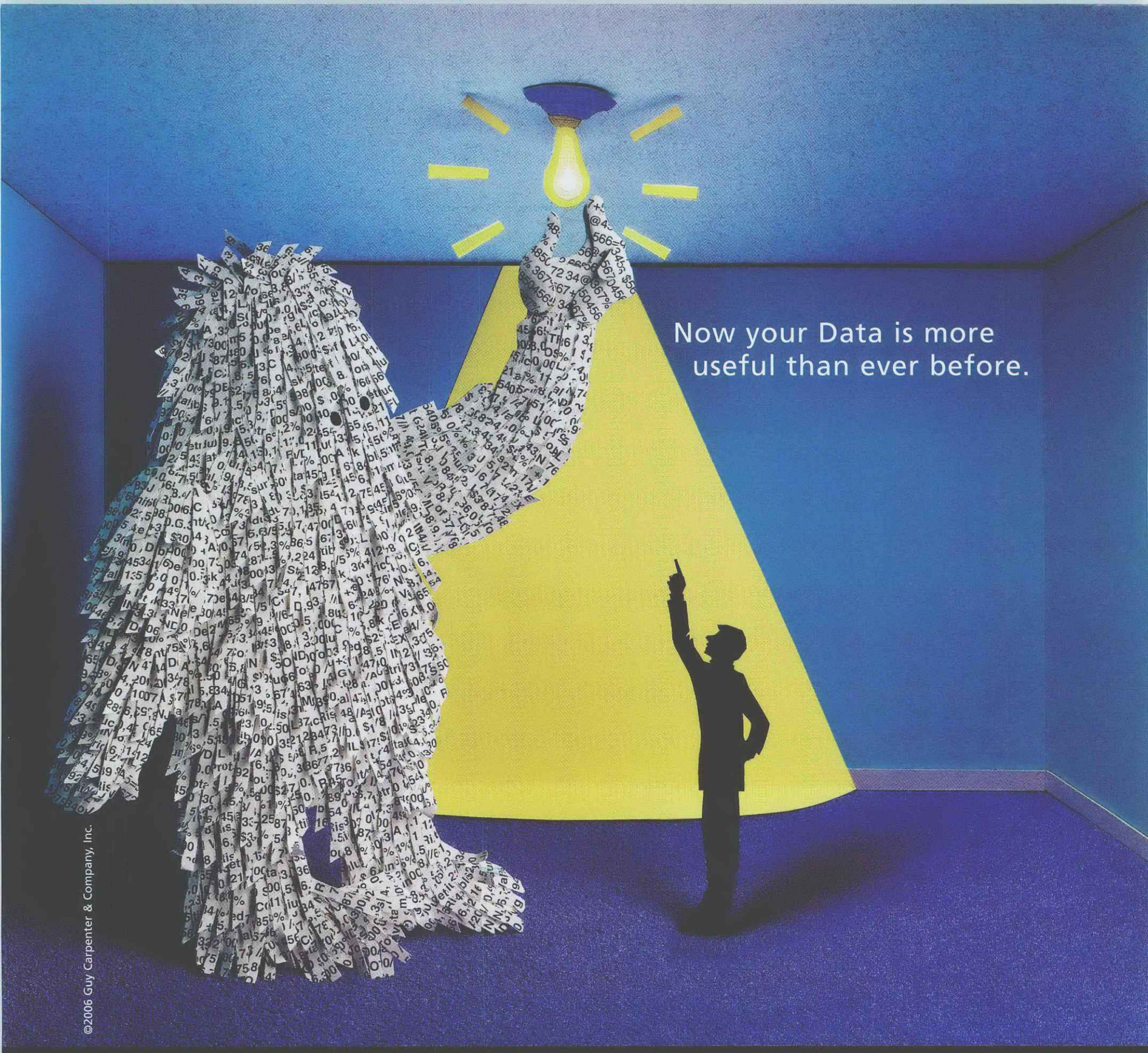

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GUY CARPENTER

Rates: Capacity not nearly as tight outside catastrophe-exposed Gulf of Mexico

Continued from page 12

heightened perception of cat exposure and not enough capacity, and rating agencies are putting tougher constraints around capital," Arch's Mr. Grandisson said. "This will have an inductive effect on European markets," but the overall impact on renewals for European risks is hard to tell, he said.

Generally, property catastrophe business outside of the Gulf of Mexico is not affected by severe capacity restrictions, said Henry Keeling, chief operating officer of XL Capital Ltd. in Hamilton, Bermuda. "Capacity issues aren't the same outside the Gulf of Mexico. More traditional issues apply" elsewhere around the world, he said.

This is one reason why XL prefers to look more closely than just pricing, Mr. Keeling said. "Telling people to pay more money" is not going to help if the terms and conditions around the risk don't make sense, but XL does anticipate pricing will increase, he said.

"We focus at least as much on terms and conditions as we do on price," agreed James Veghte, CEO of reinsurance general operations at XL Re, a unit of XL Capital Ltd.

Brokers will try to resist imposition of any rate rises for European property catastrophe business at the upcoming renewal, Aon's Mr. Cantlay said. Reinsurers would like to see "double digit" rises in rates for the business at the year-end renewals, but "the reality is that there is overcapacity for the sort of business because people are keen to diversify."

Changes in models

But he noted that changes to European catastrophe models, such as those introduced recently by Risk Management Solutions Inc. (*BI* Sept. 11), would "run contrary to that" because reinsurers likely will have to hold more capital for writing European catastrophe business.

While further rate rises are likely for some U.S. business, only business in "peak zones" in Europe is likely to be subject to price increases, observers said.

In Europe, "even after Hurricane Katrina, there were not really any major rate increases," a situation likely to remain true at Jan. 1 renewals, said Frank Rieder, vp at Cooper Gay & Steele in New York.

"What you should see is increases in international property catastrophe pricing" and probably "a slight bump in peak zones in Europe," said Mr. Bonneau of ACE Tempest.

"Whether property rates will be up in other non-peak zones remains to be seen," he said. Some programs "may renew as is, just because people are looking for diversification."

The property cat markets in Europe and Asia are likely to see "a continuation of business as usual" and clients there will seek to "continue to enhance their ability to assess and manage their risks," said Mr. Priebe of Guy Carpenter.

Apart from U.S. windstorm-exposed business, the market is largely "stable, flat," said Hans-Peter Gerhardt, CEO of Paris-based AXA Re.

Reinsurers are concerned about "primary rate erosion" on business not exposed to U.S. windstorms, he noted. The German motor market, for example, "appears to be in free fall," he noted.

Industrial business in general is softening in Europe, and some property programs will see reductions of between 20% and 40% at renewal, he said.

Market conditions for major commercial property risks in Europe are softening, in part because of good results in recent years, according to A.M. Best Co. Inc. analysts.

In Europe, new capacity is coming in to write property business, noted Vincent Redier, chairman and CEO of Aon France in Paris, and it is likely there will be increased competition as reinsurers seek to write more European business to move away from heavy concentrations of U.S. property risk.

Primary insurance rates for European property business have been softening since the July renewals, he noted, and competition for European reinsurance business likely will result in some softening of rates.

Aon expects European property reinsurance rates to be stable or to rise by up to 10% in some cases, according to a report by the broker.

Catastrophic rates on lines will increase by about 10% for continental Europe, predicted Konrad Rentrup, president and CEO of Hannover Reinsurance (Bermuda) Ltd. in Hamilton, Bermuda.

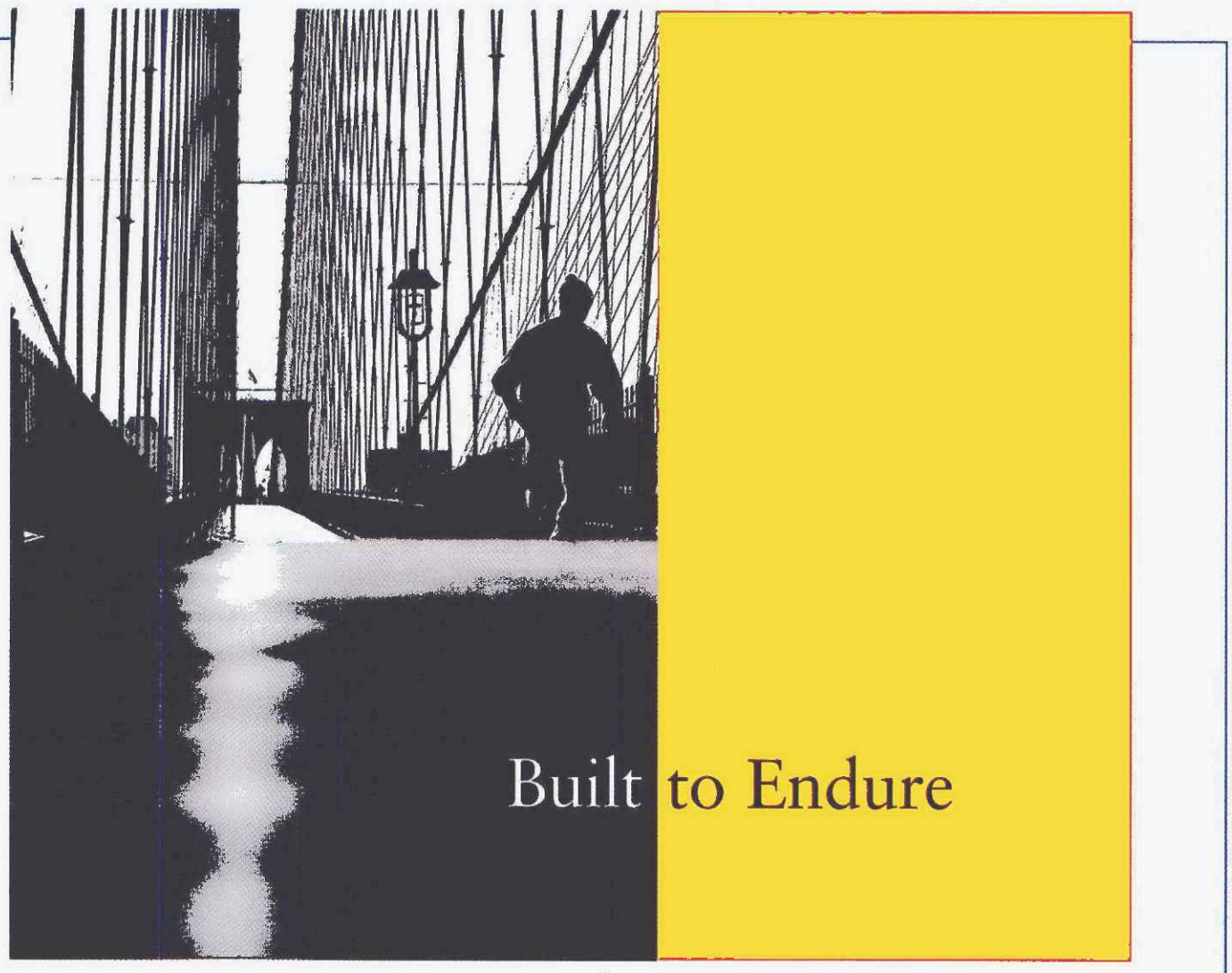
An area where there are signs of capacity pressure, though, is northern European wind exposure, said James Vickers, CEO of Willis Re International in London.

"When capacity pressure comes, then prices move up a bit," Mr. Vickers said. "But, having said that, the key buyers of northern European wind exposure are the major European primary companies, and their balance sheets are in pretty good shape, so they may not be so happy to see prices going up and they may adjust themselves by retaining more, which could take a little bit of pressure off the capacity."

Rates for some property business in northern Europe may rise at upcoming renewals, said Seymour Matthews, managing director of reinsurance at Heath Lambert Group in London.

The extent to which large programs will see rate increases in Europe depends largely on what the "professional reinsurers"—Munich Reinsurance Co. and Swiss Reinsurance Co.—decide to do, Mr. Matthews said.

Richard Miller contributed to this report.



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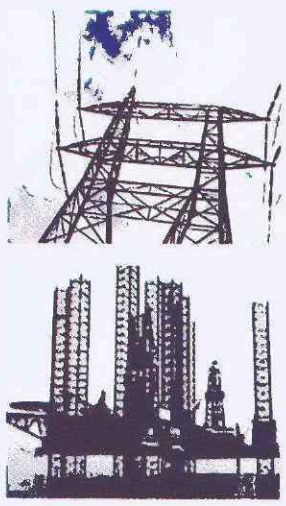

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Katrina, Rita still rocking offshore energy markets

2005 hurricanes rewrite the book on predicting, underwriting storm damage in the Gulf of Mexico

By LAWRENCE RICHTER QUINN

Energy industry risk managers and insurers cannot get their arms around the wind.

Both groups acknowledge that they still do not have a good idea of potential aggregate losses in a highly exposed, geographically defined area like the Gulf of Mexico.

The inability to forecast these losses is a primary factor causing insurers to shrink capacity and raise premiums for windstorm coverage.

Meanwhile, some still doubt the effectiveness of modeling systems being developed to make better projections about damages from future windstorms.

"Before the record-breaking hurricane season of 2005, underwriters generally assumed that the largest-valued site of any policyholder was the largest potential loss under that policy," Bruce A. Jefferis, managing director of the natural resources group at Aon Risk Services in Houston, said in an e-mail response. "The possibility of losing many sites in one storm was not considered, or it was very heavily discounted."

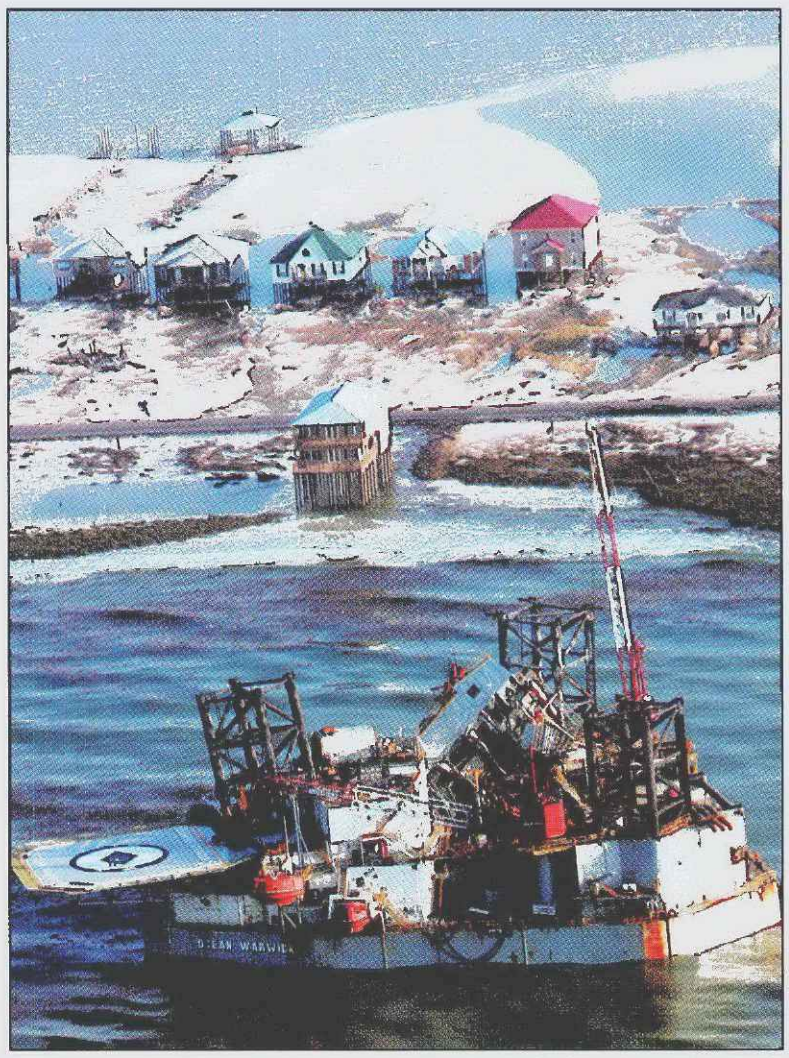
Some underwriters have divided the Gulf of Mexico into sectors that represent possible storm tracks in order to limit their exposure in any one sector. Of course, any storm could take a track through the Gulf that cuts through several sectors, he said.

"The question with windstorm modeling that's being raised is: Just how good are those 100-year models?" said John W. Schaefer, president of Global Risk Advisors, an enterprise risk management consulting firm in Redwood City, Calif. "It's almost becoming a political issue, because the question is if, and how, global warming should be factored into those models."

The attempts to analyze future potential exposures are hitting corporate wallets hard, even at companies that have excellent claims histories.

"There's definitely been a real sea change in the past year. It's fair to say if you have Gulf of Mexico operations, you're paying three to five times more in premiums, and there's also much less coverage available," Mr. Jefferis said. "Coverage is still available offshore, but because of the significant reduction in windstorm limits, there's a greater risk of being underinsured after a windstorm."

Before last year's hurricane season wreaked its record-breaking havoc, obtaining wind coverage was never an issue for those doing business in the Gulf of Mexico.



Hurricane Katrina destroyed many oil rigs in the Gulf of Mexico, and pushed this one near to shore in Alabama. (AFP/Getty Images)

Windstorm damage was covered up to the full policy limits of the applicable policy without any limitation other than the general policy limit, Mr. Jefferis said.

Since the storms, underwriters are imposing a sublimit lower than the general policy limit and they are also aggregating that limit for total claims during the year, he said. Previously, they would respond up to the general limits for any one occurrence and they could pay that limit multiple times if there were multiple storms during the policy year.

In the aftermath of hurricanes Katrina and Rita, "the biggest challenge risk managers face in our industry is trying to find enough capacity for wind coverage," said Frank Costa, president of AIG Oil Rig in New York. "Today, it's greatly reduced. In the past, wind coverage was always an unlimited product, written on each platform like any other peril. Now there's a hard cap on wind coverage for all of (a company's) platforms combined, an aggregate limit for any year, regardless of how many losses you may have and how many disasters."

John A. Rathmell Jr., president of broker Lockton Marine & Energy in Houston, said the amount of wind coverage insurers are willing to offer has been reduced by 60% to 75%. So if you had $100 million before Katrina, you might only be able to get $25 million to $40 million today.

"I would say the risk management and insurance marketplace is probably confused today," said C. Jeffrey Triplette, vp of continuity, insurance and security services at Duke Energy Corp. in Charlotte, N.C., and a board member of Hamilton, Bermuda-based mutual insurer Oil Insurance Ltd. "Part of that is that there has been such an explosion of the value of insured facilities over the last several years: Replacement costs of new plants and energy platforms have been escalating rapidly over the past several years, so overall, exposures have gone up much faster than anticipated.

"Add to that the anomaly of having two 500-year storms back-to-back in a 30-day period, and suddenly no one knows if they have enough premium for what's needed to cover future storms or (understands) exactly what they've been insuring," said Mr. Triplette. "The fact is that both risk managers and insurers have not understood the aggregated exposures they have had to these natural catastrophes."

That misunderstanding has become all too clear in the aftermath of Katrina and Rita, with related claims totaling somewhere between $15 billion and $19 billion and the market having generated only $3 billion in premiums, said Anthony Carroll, chief underwriting officer for the global energy division at Liberty International Underwriters in New York.

"For the risk manager, the issue is balance sheet protection," said Mr. Carroll. "The question remains, what will happen to rates and ca-

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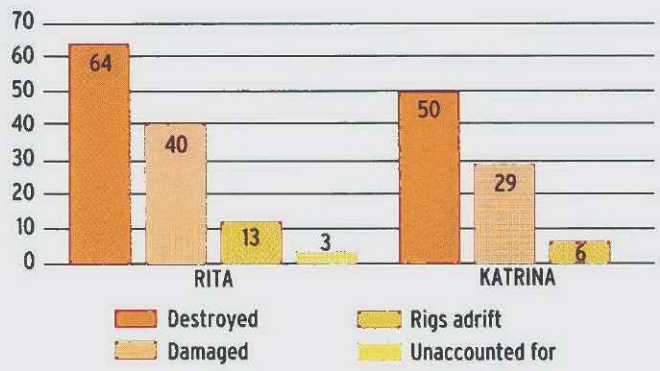
2005 Hurricane losses

Numerous platforms and rigs were damaged or adrift shortly after last year's storms.



Source: M nerals Management Service, U.S. Department of the Interior

Continued from previous page

pacity going forward, and what (must a company do) today to differentiate itself so that underwriters are willing to expose their capacity to that company?"

"There's a shift going on within the insurance industry, where insurers are trying to differentiate those oil assets in the Gulf from those located elsewhere around the globe," Theo Guidry, vp-business risk management at San Antonio-based oil refiner Valero Energy Corp. "They're trying to make the Gulf exposures seem greater due to the recent hurricane season."

But, Mr. Guidry said, "these hurricanes of the past year were a one-time phenomenon, coming in and hitting us for the first time in many, many years. We're a little bit taken aback with what has happened with coverage and its cost, particularly when you consider that there are other operational losses on a much more regular basis elsewhere due to poor design or man-made errors.

"We have done as much as we can to withstand these types of natural events, and our assets are mostly onshore, so we've definitely been a little more penalized than we should have been. The insurance companies haven't done their homework; they haven't gotten the premiums they should have. But to penalize good operators who have paid premiums into the market year after year after year with infrequent claims is a bit much," Mr. Guidry said. "Good operators have probably been penalized as much as other companies with poorer operations."

Push for data

To obtain whatever coverage they can, risk managers have been asked to produce a far greater amount of information about their individual platforms and other properties than in years past.

"The requirement for more and better data from underwriters is definitely true," said Aon's Mr. Jefferis. "They're requiring more data because they realize they have a lot of gaps in the data they've had. So now, some are requiring (global positioning system) coordinates, for instance, so they can plot (a policyholder's) every existing facility on the map."

"It's absolutely true that underwriters need more information than ever before. Level of detail is the name of the game," AIG's Mr. Costa said. "The information has always been there, but if insureds could get away without providing it, why would they?"

Some companies say they've always provided a significant amount of information to their underwriters, so any new requirements haven't been cumbersome.

Mr. Costa said that data has been available about newer Gulf facilities for some time, but not about older ones. "The deep-water platforms have always been on the radar screen—they're well documented and engineered—and we've known what their value is. But the older platforms—those 20 or 30 years old—really haven't had the same level of focus. Information about them has been scarce, and they've been viewed as a benign risk. But that thinking was turned on its head with these hurricanes; the older facilities did not withstand the hurricanes as well, so today they're also viewed as a critical issue."

Getting that data—and formatting it in a way that meets underwriters' needs—has been a significant preoccupation for some companies. "Some buyers have had to scramble to get up to speed, because the information may not be all that available," said Richard Inserra, president and owner of Insurance Strategies Ltd., a Ridgefield, Conn., consulting firm, and a former risk manager at Union Carbide Corp. "We've seen this before—about 10 years ago—with flood exposure, when underwriters said they wouldn't cover a flood-related risk, or there would be higher deductibles if the information wasn't provided. It became clear that a lot of companies did not have a good understanding of their exposures in these flood areas."

Mr. Inserra said that simply having a facility that's built to withstand catastrophes—and the engineering studies saying so—may not be enough to tell underwriters what their total exposure really is. "At Union Carbide, I was asked about windstorm for our facilities: How many miles per hour could our facilities withstand? But you can also have serious damage caused during a windstorm just by the things flying through the air, almost like shrapnel, and that's sometimes forgotten."

Other problems

Seriously curtailed capacity overall and windstorm-related sublimits aren't the only new financial uncertainty risk managers are facing: So, too, are changes at Hamilton, Bermuda-based mutual insurer Oil Insurance Ltd., which until this year had a $1 billion aggregation limit for each storm to help its members collectively as a first line of defense against catastrophes. OIL covered windstorm damage without question.

After Katrina and Rita, however, members were able to collect far less than their total damages because of the claims cap. In its 2005 annual report, OIL estimated that Katrina caused $1.87 billion in damages to members, while Rita caused $1 billion in damages.

And now—of far greater importance going forward—OIL has imposed a $500 million claims cap for future storms.

"Historically, OIL has been an invaluable primary all-risk insurance provider to its members and undoubtedly will continue to be. However, with the reduction to $500 million, you really have to ask yourself as an insured how much recovery you're going to get through OIL," said Derek Whipple, vp of global property heading the new energy practice at ABD Financial Services in Redwood City, Calif. "If you have additional hurricanes like those of the past year or so, and you're only going to collect something like 25 cents on the dollar, are you budgeted for that?"

Making matters worse for companies in the energy sector: Companies will find it difficult—if not impossible—to obtain a so-called "dropdown provision," where claims above what OIL could pay out were covered by the commercial marketplace. "The last thing...you want if you're a commercial insurer is to be stuck with these excess needs not covered by OIL," said Mr. Whipple. "Now those other insurers are going to say, 'If that's all you can get from OIL, that's not my problem.'"

Some OIL members acknowledge the difficulty its new limit of $500 million will cause. "There was explosive growth at OIL over the past four or five years, and not simply because of new members," said Duke Energy's Mr. Triplette. "In addition, existing members acded a number of new facilities to their existing coverage, so there was even greater aggregation of large amounts of value in certain geographic areas."

OIL has "created quite a gap in the marketplace," said Thomas G. Kaiser, New York-based presicent of Arch Insurance Group's business divisions that handle marine, energy, aviation and construction risks.

Those struggling through this market don't have much choice but to swallow their premium increases and reduced coverage and hope that succeeding, relatively mild hurricane seasons will result in premium reductions and increased coverage.

"There have been a lot of emotions running high, and one of our biggest jobs is to keep the buyers who want to tell the market 'drop dead' continuing to work with the insurers, to get both of them in a frame of mind to reach an agreement," said Lockton's Mr. Rathmell. "And in fact, most of our buyers have stayed with the same underwriters with a different-looking program."

Valero's Mr. Guidry said he is staying put with his underwriters. "We have long-term relationships with people in the marketplace, and we haven't felt the need to shift our business," he said. "The only time we would go with a new underwriter was if there was a lack of capacity in the marketplace. Our underwriters understand the risks they're taking, and they have full access to us and our loss control staff."

Mr. Guidry said he understands the increased rates for now. "We all have losses, and if you have several years that are bad, you can expect the rates to go up," he said. "It doesn't do us any good if an underwriter goes under. It's to our advantage to have strong underwriters, so when there are losses, they can pay them."

But even if Mr. Guidry finds it understandable for rates to rise for a year or two, after that, he said, "We expect them to come down."

Meanwhile, some risk managers expect the cat bond market to continue its current effort to tailor itself to the energy market and its needs. "I think it will be another year or so before you see new products and solutions," said Mr. Triplette, who noted that some reinsurance sidecars already have formed to boost capacity.

"You will see them: There are lots of smart people on Wall Street and at the hedge funds, and so risk managers probably will be able to access new capital before too long," he said.

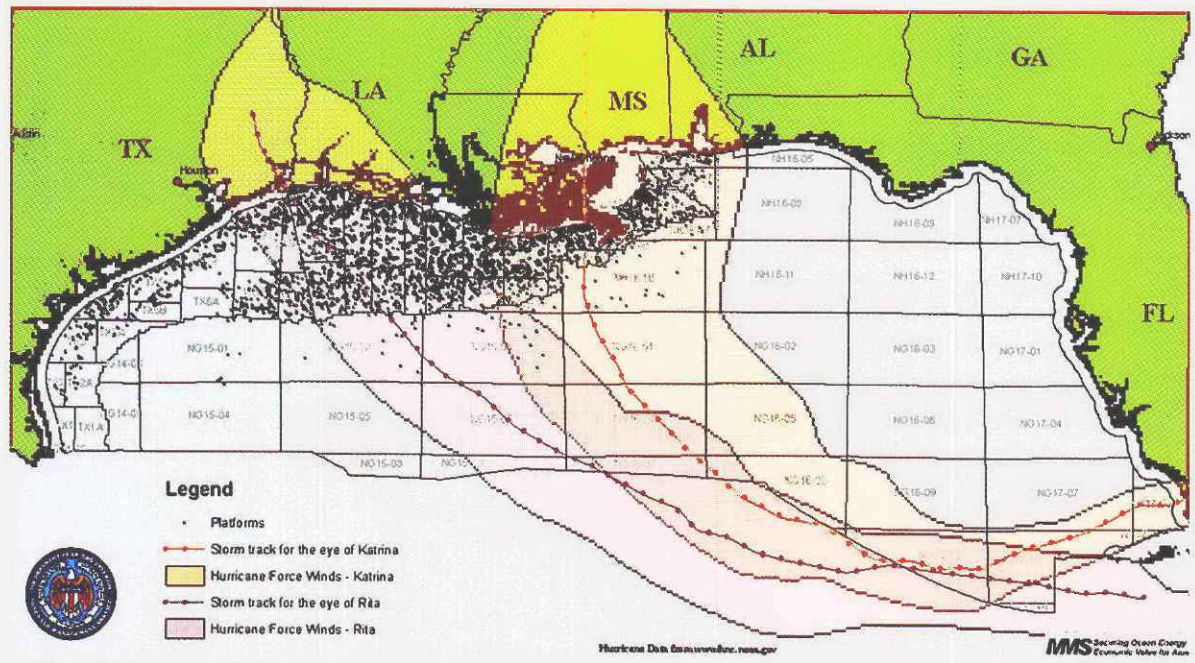
For the moment, Arch's Mr. Kaiser thinks energy risk managers shouldn't expect traditional windstorm coverage to look much more appetizing in the near future.

"The ratings agencies want the insurers to diversify, so this will keep the windstorm situation pretty much the way it is," Mr. Kaiser said. "Another pressure point is the realization that more capital has to be applied to the short-tail end of insurance—wind events, in other words.

"These issues—and the need to recalibrate the windstorm models—will force things to stay the way they are longer," said Mr. Kaiser. "In other words, the cycle will stay flat and not come back as quickly as people would like."

Paths of destruction

Hurricanes Katrina and Rita caused significant damage to offshore energy facilities in the Gulf of Mexico.



Source: Minerals Management Service, U.S. Department of the Interior

"It doesn't do us any good if an underwriter goes under. It's to our advantage to have strong underwriters, so when there are losses, they can pay them."

THEO GUIDRY, VALERO ENERGY CORP.

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Global energy firms face changing world of risks

By JONATHAN GARDNER

Global energy companies have assets and revenues larger than many national economies—and huge, diverse risks to match. One week the peril may be a raging windstorm. The next, it could be a rogue dictator.

Companies in the oil and gas industry, even under less-than-catastrophic conditions, need complex insurance programs and highly customized coverage to protect their earnings and assets.

But circumstances during the past few years have been extraordinary. Energy companies are dealing with natural disasters that industry experts fear are gaining in strength and with political risks that seem increasingly intense and widespread.

Last year, companies with Gulf of Mexico oil installations suffered $15 billion in offshore damages from Hurricanes Katrina and Rita, according to a May energy market report from London-based broker Willis Group Holdings Ltd. This year's hurricane season was anticipated with dread, but it has been quiet in comparison.

"We're in a time when clients both upstream and downstream are holding their breath," said Phillip Ellis, London-based chairman of the global energy practice at Willis. "The industry was prepared for a worst-case scenario this season."

Since the disastrous 2005 hurricane season, energy companies have had to view their Gulf of Mexico exposures through new eyes—because insurers are. For example, now underwriters more frequently consider such storm-worthiness determinants as the age of oil drilling platforms in the Gulf and their height above the water before deciding how much they are willing to risk. Older and shorter platforms were more likely to be destroyed by the massive waves created by last year's intense hurricanes.

Underwriters this year also are dividing the Gulf Coast into blocks—some 50 square miles and some 100 square miles—and setting aggregate limits on how much capacity they will sell in each block, said Tim Fillingham, chairman of the natural resources group with broker Aon Ltd. in London.

So far, Mother Nature has been merciful in 2006, producing far fewer named storms than last year as of late September. However, the season does not end officially until Nov. 30.

Merciful, too, has been the economy. With the high price of crude oil, major energy multinationals have seen enormous increases in revenue and profits. A Congressional Research Service report put total profit of the nine biggest integrated energy companies at $116.4 billion in 2005, up 36.4% from 2004.

As a result, those companies are in a better position to retain risk. "Most companies have come down to the decision that they'll take a hit," said Willis' Mr. Ellis. "The industry feels better able to sustain hits than they have in the past."

Although, on occasion, the decision to purchase coverage is not based on a company's financial reserves, said Thomas G. Kaiser, New York-based president of Arch Insurance Group's business divisions that handle marine, energy, aviation and construction risks. "A lot of companies that are very rich just feel better going in front of their own boards saying they bought insurance."

And energy companies still face the threat of production stoppages, which ring up greater financial losses and drive up the cost of business interruption coverage.

Mr. Fillingham said the underwriting community has been most concerned with placing tighter limits on contingent business interruption coverage because of the unpredictable costs of covering the losses of customers forced to close their plants because the insured supplier company shuts down its operations.

Profitable times themselves present risks. The price of oil and increasing demand has the entire energy industry working at a fever pitch. Growth in demand is coming not just from U.S. markets but also markets such as India and China, which by itself represents 38% of the total worldwide growth in oil demand, according to the U.S. Energy Information Administration in Washington, the U.S. Department of Energy agency responsible for energy statistics.

With drilling rigs, pipelines and refineries humming away at full capacity or even above it, machinery can be stressed and scheduled maintenance delayed, leading to breakdowns, production stoppages and potential business interruption risks.

As Gulf Coast reconstruction continues, labor and machinery are harder to find, driving up the cost of repairs.

The high price of oil also is making techniques for extracting oil from new reserves more economical—for example, oil-laden sands in Alberta, Canada. But those new resources carry with them fresh risks as "prototype technologies," said Mr. Kaiser. Indeed, two of the seven worldwide energy losses last year that exceeded $100 million involved Albertan oil sands, according to Willis' report.

Still, intentional human action may present a greater risk. From Bolivia's attempts to nationalize the hydrocarbon industry to Chad's recent expulsion of ChevronTexaco and a Malaysian oil company amid the potential for widening war in the Middle East, the threat of political action is what most worries some analysts.

Those with Middle East assets right now may have good reason to be nervous about their risk profiles.

"It's pretty obvious that the war in Lebanon shook a lot of nerves," Mr. Ellis says. "There's also a focus with Iran and its nuclear program and what actions the West takes."

Some risks in unstable countries can find underwriters—though sometimes at prohibitively expensive rates—but some cannot. Ralph Mucerino, president of AIG Global Marine & Energy in New York, said it is difficult for companies—except for contractors covered by the U.S. Defense Base Act—to find coverage for assets in Iraq, for example. Covering assets in Iraq also is complicated by administrative difficulties, such as a lack of adjusters.

Furthermore, the volume of oil moved through the energy infrastructure, the still-high but easing oil prices and the risk of an attack mean that covering business interruption may be too risky for any underwriter

"If we talk about crude oil offloading infrastructure at a port in the Middle East, for physical damage, you can find markets that will write that," Mr. Ellis said. However, business-interruption coverage "for something like that is unlikely."

Another long-term risk stems from pressure being applied by governments to reduce emissions of greenhouse gases.

The Kyoto Protocol adopted as part of the United Nations Framework Convention on Climate Change binds 35 signatory nations and the European Union to reduce greenhouse gases and avert global warming.

Within that framework, countries in excess of their allotted carbon dioxide-equivalent emissions can come into compliance by purchasing credits from signatories that emit less than their allotments. Companies, too, are permitted to buy and sell credits on the market.

The energy insurance sector is now trying to determine the level of risk presented by a company's failure to reach its carbon emissions targets, reducing the number of carbon credits on the open market—potentially constituting a business interruption cost—or possibly exceeding its allotment, forcing it to buy credits from elsewhere.

"Is it really (business interruption)? Is it insurable, or is it uninsurable?" asked Mr. Mucerino.

James R. Pierce Jr., Houston-based managing director and chairman of the global marine and energy practice at Marsh Inc., said that after the initial shock, energy companies have come to terms with the new marketplace. "Buyers are prepared now, when they weren't nine months ago," he said. "They're expecting to pay more. They're expecting to retain more risk."

> **"Most companies have come down to the decision that they'll take a hit. The industry feels better able to sustain hits than they have in the past."**
>
> PHILLIP ELLIS, WILLIS GROUP HOLDINGS LTD.

A security contractor protects an oil worker for DNO of Norway last November in northern Iraq. (AFP/Getty Images)

Protecting workers a central concern

Many energy company employees face trials far greater than the occasional hard day at the office. Those based on offshore drilling rigs or in areas of political strife, for example, face risks ranging from hurricanes to kidnapping.

Energy industry experts say wherever workers are located, they want to feel safe at home, at the job site and traveling between the two places. Oil and gas company executives will not discuss the security measures they take, but they emphasize that worker safety is a top priority.

"Oil seems to be found in abundance in the world's most troubled areas," said James R. Pierce Jr., Houston-based managing director and chairman of global marine and energy practice at broker Marsh Inc. "You can't manage that risk the way you can other risks." The extraordinary measures required can range from "armed camps to just being situated in what are considered safe zones," said Mr. Pierce.

On-the-job injuries for employees of U.S. companies are covered by the same workers compensation programs they receive in the United States—with government contractors covered by the Defense Base Act and marine employees covered by the Longshore and Harbor Workers' Compensation Act.

With workers often far from quality health care facilities, injuries or sudden illnesses force companies to take drastic, and sometimes expensive, steps to try to save lives. A spokeswoman for London-based BP Amoco P.L.C. said when local health care facilities are inadequate, the company will hire its own medical support systems to supplement what is available.

"What we say to (clients) is, 'Act like a prudent uninsured,'" Mr. Pierce said. In other words, if a life can be saved, take the steps necessary to do so. Energy companies "will life-flight (a worker) out of a country anywhere," he said.

—By Jonathan Gardner

Gulf of Mexico risks buoyed by influx of fresh capacity

Some foresee softening of catastrophe rates barring major storms, but others still see many challenges ahead

By ADRIAN LADBURY

MONTE CARLO, Monaco—There is, literally, a gulf between rates that energy insurance buyers will face at year-end renewals.

Buyers with risks outside of the Gulf of Mexico can expect stable or even softening market conditions when renewing at the end of the year.

But the best that energy companies with Gulf of Mexico exposures can hope for are flat rates and terms, according to reinsurers and reinsurance brokers at the Rendez-Vous de Septembre, which is the annual meeting in Monte Carlo, Monaco, that marks the beginning of discussions for the year-end renewal season.

Capacity for offshore risks in the Gulf of Mexico almost evaporated and prices rocketed during last year's renewals because of the massive losses caused by hurricanes Katrina, Rita and Wilma. Companies with oil installations in the Gulf of Mexico suffered $15 billion in offshore damages from hurricanes Katrina and Rita, according to a May energy market report from London-based broker Willis Group Holdings Ltd. Losses from Hurricane Wilma were still being reported.

Before those hurricanes last year, operators of offshore oil platforms in the Gulf could find insurance capacity up to $2.5 billion for their risks. By contrast, 2006 capacity for Gulf wind cover totaled about $150 million, according to brokers at the Rendez-Vous.

Capacity does, however, appear to be returning to the energy market as the buoyant underwriting conditions, due to higher rates, continue to attract new insurers.

Most of the fresh capacity created by the Bermuda startup companies in late 2005 and early this year—coupled with sidecars, which are special-purpose reinsurance vehicles often capitalized by hedge funds, and industry loss warranties, which are reinsurance coverages that are tied to an index of industry losses—have been directed at those lines hit hardest by the storms, such as U.S coastal property catastrophe coverage and marine and energy business.

Also a subject of discussion in Monte Carlo was the possibility of additional fresh sidecar capacity and equity capital arriving for the coming renewal season, spurred by the reinsurance market's apparent resilience and potential for satisfactory returns for capital providers.

Interest in energy and U.S. coastal property catastrophe business also is evident in the London market.

C.V. Starr & Co. Inc., headed by Maurice R. Greenberg, New York-based American International Group Inc.'s former chairman, recently announced the formation of a new syndicate at Lloyd's of London. Syndicate 1919, which plans to begin underwriting effective Oct. 1, will write energy, marine and aviation business.

And, according to sources, Lloyd's managing agency Argenta Syndicate Management Ltd. is also planning a new energy team in London. However the company declined to comment.

Some brokers said they believe this fresh capacity will force a softening in the reinsurance market and, subsequently, the direct market for energy risks at this renewal, even for Gulf-exposed offshore risks.

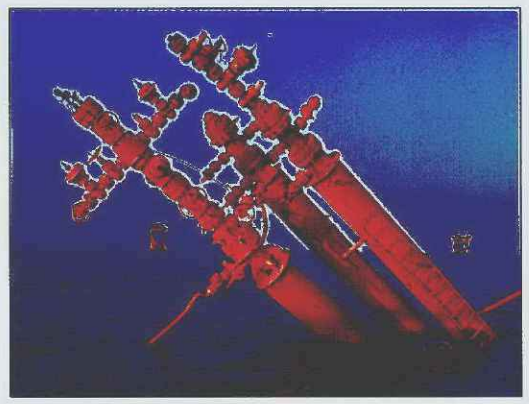
Tim Fillingham, London-based chairman of natural resources and energy at Aon Ltd., certainly thinks that the fresh capacity will force the underwriting community to soften its stance this year-end.

"I am sure the reinsurers will talk it up and point out that they are still paying losses for the 2005 storms, and that the retrocession market is very tight. But this is a bit old hat, because there is no doubt the market is seeing some changes," Mr. Fillingham said.

"Not least, we are expecting a profitable year for 2006, hurricanes allowing, and this will bring competitive pressures to bear," Mr. Fillingham said. "We will see new entrants to the market, and I cannot imagine any existing energy underwriter that does not have an increased budget for 2007. There is also much talk of fresh capital and sidecars being raised for this renewal generally, which will add capacity to the market as a whole.

"We have seen the formation of C.V. Starr's Lloyd's syndicate, and I certainly expect more to come to the table as premiums build after Monte Carlo and Baden-Baden," the German spa town that hosts an October gathering of reinsurers and reinsurance brokers. "I cannot believe the buyers will not be demanding reductions or looking for alternatives. They will not just roll over and pay the same figure again," Mr. Fillingham said.

The hardening this year was driven not just by increased rates but also much tighter terms and conditions, Munich Reinsurance Co. said. Deductibles are up, reinstatements are rarer and Munich Re, for example, insisted on providing only second-event coverage for Gulf of Mexico risks in its offshore excess-of-loss contracts.



Only the top of a Marlin Energy rig hit by Hurricane Katrina remained above water. (ZUMA Press)

Mr. Fillingham said buyers will be looking for more than just a softening in prices at the coming renewal season. "Whether it is reductions achieved by restructuring (the program), bigger retentions, better use of captives or securitization through the capital markets, the clients will seek improved terms," he said.

Outside the Gulf of Mexico, Mr. Fillingham sees a further softening in what is already a healthy market for buyers.

He said that the Middle Eastern energy market is highly competitive, because the risks are generally high-quality and insurers have sought to diversify their books away from the Gulf of Mexico.

The broker estimates that market capacity for onshore energy risks is at least $2 billion in working capacity. He said there is a "good chance" that this will increase. "It certainly gives opportunities where clients are buying $500 million to $700 million" in limits, he said.

Differing opinions

Other brokers do not share Mr. Fillingham's optimism, at least not for Gulf of Mexico energy risks.

Just prior to Rendez-Vous, London-based broker Benfield Group Ltd. said in its first-half 2006 results report that it sees little room for growth in the primary energy market.

"The severe impact of last year's hurricane losses on the pricing of and the capacity for Gulf of Mexico energy risks has led to less movement of business between brokers, and in some cases, has discouraged buyers from entering the market," the broker said in a report.

"Market conditions remain challenging in loss-affected segments. Whether or not early predictions of another active hurricane season are fulfilled, we expect further hardening of U.S. property catastrophe and energy markets to be evident at year-end renewals," continued Benfield.

Ulrich Wallin, member of the executive board at Hannover Re Group, the Hanover, Germany-based reinsurer, said during the Rendez-Vous gathering that he sees "stable" conditions for the Gulf of Mexico.

Mr. Wallin said that 2006 underwriting of primary and reinsurance offshore energy markets for the Gulf of Mexico had been "successfully completed," and this led to significant increases in both premium and retention levels.

Looking forward, Mr. Wallin said he expects "stable" conditions in both primary and non-proportional reinsurance. "Depending on the loss situation, we do not expect further increases for Gulf of Mexico-exposed business," he said.

Rating agency A.M. Best Co. Inc., based in Oldwick, N.J., said much of the new capital raised since the U.S. storms of 2005 had been directed toward the most affected lines—namely U.S. coastal property catastrophe and offshore energy lines.

But Best pointed out that the impact of the fresh capacity has been limited, partly because of the shortage of retrocessional capacity for reinsurance companies. Another factor that has limited the impact of the fresh capacity is increased capital requirements placed on insurers by a raft of new and updated catastrophe and capital models from catastrophe modeling and rating agencies.

Best also suggested that buyers of energy coverage should not become too excited by the arrival of fresh capacity, because it may not be around for too long.

"When the current market opportunities in property, marine and energy business begin to diminish, the new capital that flowed into the market through special-purpose vehicles will seek alternative investment strategies," stated Best in a recent report about the Lloyd's market.

In that same report, Best said it sees a further hardening for energy business anyway.

"Best believes that overall opportunities for underwriting profits are good. Currently the market (Lloyd's) is bifurcated between classes that were affected by the catastrophes, and those that were not. For affected classes such as property catastrophe and energy, rates are hardening," commented the rating agency.

"I cannot believe the buyers will not be demanding reductions or looking for alternatives. They will not just roll over and pay the same figure again."

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History: Rendez-Vous celebrates 50th year

Continued from page 11

elsewhere.

Even though "very little" business is transacted in Monte Carlo, the event remains an important opportunity to see where reinsurance rates, terms and conditions may be heading, said veteran reinsurance executive John Berger, chief executive officer of Pembroke, Bermuda-based Harbor Point Ltd.

2006 registrants from North America

United States:	**136**
Bermuda:	**104**
Canada:	**16**

Note: not counting press
Source: Rendez-Vous de Septembre

"The Rendez-Vous sets the stage" for serious renewal discussion and business written in Baden-Baden, Germany, each October, noted Mr. Berger, who has attended the Rendez-Vous almost every year since 1986. "It has always been very social, very traditional. From an overall networking and market knowledge standpoint, how productive (the Rendez-Vous is) is determined by what's going on in the market," he said.

Jacques Bonneau, chairman and CEO of Hamilton, Bermuda-based ACE Tempest Re, said the Rendez-Vous gives reinsurers a good opportunity to meet brokers and "get a beginning feel for what people are thinking. It gives you a chance to meet with clients specifically and have good dialogue." He said the gathering also "gives us an opportunity to talk to people in other areas of the world where you don't have a presence and get educated" on activity in those markets.

"The value of the Rendez-Vous is that it provides such a concentrated view of what's happening," said Henry Keeling, chief operating officer of XL Capital Ltd. in Hamilton, Bermuda. "You might have 40 meetings in two days, so you don't have a lot of time to drill down into business issues. But communication can be very direct and very insightful across a wide range" of topics, said Mr. Keeling, who has been coming to Monte Carlo for nearly 15 years. "Monte Carlo is not a lot of fun—it's a lot of work."

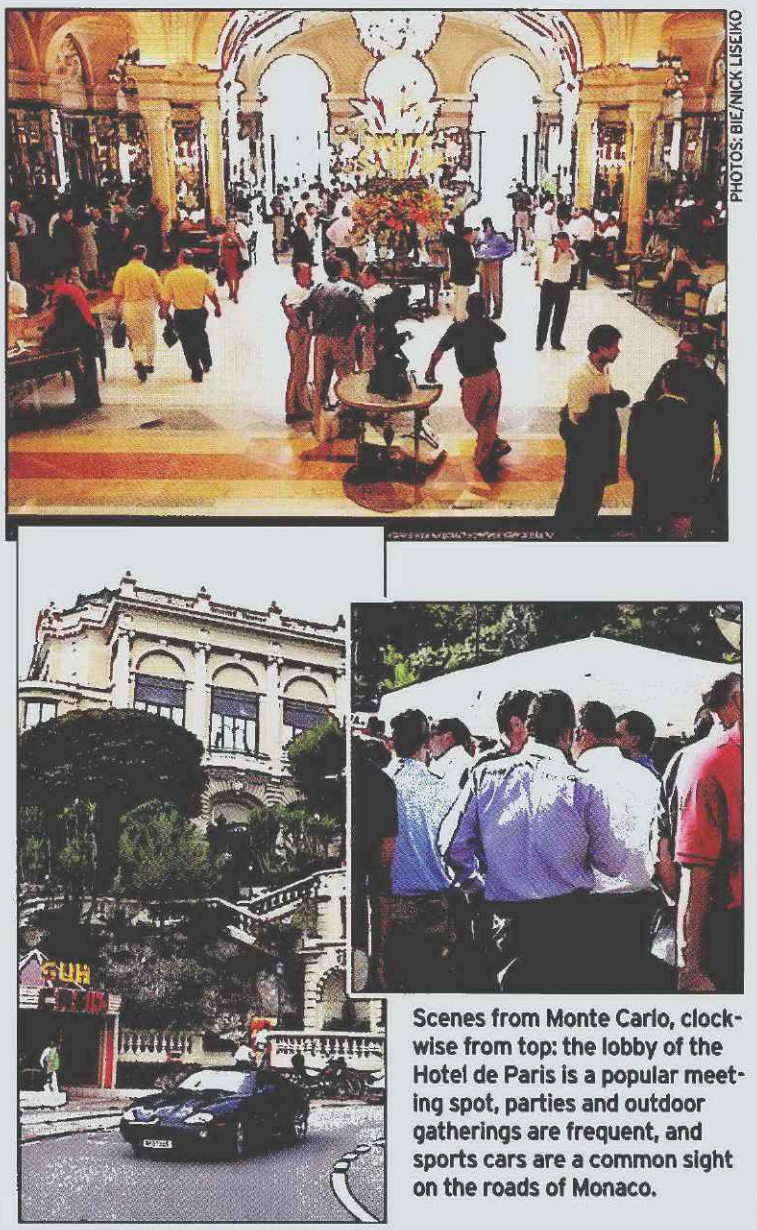
While the Rendez-Vous annually attracts participants from dozens of countries, especially in Europe, in recent years large numbers have come from outside Europe.

"The American contingent has grown over the years," said Mr. Berger. "A small number of Americans always came," but the group grew dramatically in the 1980s, when the U.S. reinsurance market saw a wave of company formations.

Consolidation over time has made U.S., U.K. and Bermuda-based companies among the most influential players in the global reinsurance business, and the Rendez-Vous' participant list reflects that shift.

Jean-Philippe Thierry, chairman of Paris-based Assurance Générales de France, the successor to Assurances Générales des Accidents, pointed out that the world's four largest reinsurance brokers are either U.S. or U.K. based. "The world market for reinsurance brokers has fallen into the hands of U.S. and British companies," Mr. Thierry said in translated remarks at a press conference September 12. "As a result, the Rendez-Vous de Septembre has become more Anglo-American than usual," he said.

Approximately 2,500 participants from 83 countries—comprising reinsurers, insurers, brokers, consultants, accountants, attorneys, investment banks and others allied to the reinsurance business—were registered attendees for this year's Rendez-Vous. But many who come for the informal gathering do not officially register, so the total number of attendees from year to year is typically higher. Fifty years ago, there were 462 registrants from 24 countries at the first Rendez-Vous, and by 1973 those numbers had reached 1,300 participants and 66 countries. The Rendez-Vous has attracted more than 2,000 participants annually since about 1990, according to the event's organizing committee.



PHOTOS: BIE/NICK LISEIKO

Scenes from Monte Carlo, clockwise from top: the lobby of the Hotel de Paris is a popular meeting spot, parties and outdoor gatherings are frequent, and sports cars are a common sight on the roads of Monaco.

Cat losses leading many to diversify their exposures

By SARAH VEYSEY and REGIS COCCIA

MONTE CARLO, Monaco—Many cedents and reinsurers that suffered large losses during the record catastrophe year in 2005 are looking to diversify their exposures, reinsurance industry executives said at the Rendez-Vous de Septembre.

That means many are looking to write risks other than North American property catastrophe, and the increased competition may push rates down in noncatastrophe lines of business, the executives said.

Many Bermuda-based companies have been diversifying into U.S. casualty lines, in particular, which in all likelihood is accelerating the softening of rates in that area, said Michael Zboron, managing senior financial analyst at A.M. Best Europe Ltd., the London-based arm of A.M. Best Co. Inc.

The large, multiline reinsurance groups also are continuing to grow the life reinsurance portions of their business, noted Mr. Zboron, as another way of diversifying. Life business tends to provide fairly stable earnings, he noted.

Over the past year, the buzzwords for the reinsurance industry have been "diversify, diversify, diversify," according to Charles Cantlay, deputy chairman of Aon Re UK in London.

"Even non-U.S. catastrophe business is getting looked at," said Bruce Ballentine, vp and senior credit officer at Moody's Investors Service in New York. "Asia catastrophe business has been fairly competitive" as a result, he said.

PHOTO: REGIS COCCIA

Monte Carlo's Cafe de Paris attracts hundreds of visitors daily during the Rendez-Vous and is a popular place to meet.

Companies' motivation to increase their spread of risk generally stems from the catastrophe losses following last year's hurricanes. "With the development of improved internal risk management and modeling, companies are seeing a spike in their loss exposure and want to flatten that," said Timour Boudkeev, vp and senior analyst at Moody's.

Not all diversification is viewed as positive, however.

"I don't believe that diversification for diversification's sake is an appropriate goal," said John Berger, chairman and CEO of Pembroke, Bermuda-based Harbor Point Ltd. "Well-priced diversification happens if the market allows that. If you write an underpriced book of diversified business, you're guaranteed to have a bad result," he said.

"Diversification is predicated on a desire to avoid volatility," said Ken LeStrange, CEO of Pembroke, Bermuda-based Endurance Specialty Holdings Ltd. "In my view, diversification only works if it supports your return goals."

Reinsurers attempting to diversify their portfolios can become a matter of concern for rating agencies if the companies do not have proven expertise in the areas into which they are diversifying, noted Matthew Mosher, group vp at Best in Oldwick, N.J.

"We'd be concerned by inappropriate or poorly controlled diversification," noted Chris Waterman, senior director at Fitch Ratings in London.

Whether diversification has a positive or negative influence on a company largely depends on whether the company is diversifying from a position of strength or of weakness, noted Mark Rouck, senior director at Fitch in Chicago.

Most of the Bermuda-based companies currently are fairly well diversified from a product perspective, according to Mr. Rouck. "You almost have to be countercyclical," he added.

Caroline Foulger, a partner at PricewaterhouseCoopers L.L.P. in Hamilton, Bermuda, agreed. "One of Bermuda's challenges is infrastructure. There's no need for Bermuda companies to diversify their products more than they're already doing," she said. "A company in one platform shouldn't try to diversify too far because it doesn't make sense. Stick to what you're good at," she said.

Endurance's Mr. LeStrange said he generally has not seen Bermuda's class of 2005 startups moving to diversify away from their business plans to write specific lines.

"The struggle for diversification will have its limitations," said Hans Rohlf, managing director and chief underwriting officer of North American treaty reinsurance at Hannover Reinsurance Co. in Hannover, Germany. "There clearly is a desire among investors for a diversified book," he said, noting Hannover Re will increase "significantly" its securitization of worldwide property cat, aviation and marine business—a program it calls K-5—on Jan. 1.

Investment returns are improving for many companies, and this could prompt some to rely more heavily on that income stream—especially if they have difficulty in buying retrocessional cover (see story, page 18) for property business, said Seymour Matthews, managing director at Heath Lambert Group in London. And this also may prompt companies to diversify into longer-tail lines, he said.

With the exception of U.S. wind-exposed business, the reinsurance market likely has all the capacity it needs, said Hans-Peter Gerhardt, CEO of Paris-based AXA Re, the reinsurance arm of AXA S.A. And it's likely that some underwriters will diversify and attempt to compete on price in other areas, such as Europe, he said.

There is a "demand to diversify," said Robbie Klaus, CEO of Pfaffikon, Switzerland-based Glacier Reinsurance A.G., and because property catastrophe business is in many ways a worldwide business, that diversification is likely to be seen into other areas.

Casualty: Market conditions appear stable with reinsurers seeing rate decreases

Continued from page 11

States, "I don't see upward movement, and I think you'll see flat" market conditions at renewal. ACE Tempest Re, a unit of ACE Ltd., writes a broad book of international property and casualty business.

"The whole casualty market is tougher" for reinsurers, he said. "When you have rate decreases on traditional business and add (the less cost) trend, that takes a lot out of your expected margins," Mr. Bonneau said.

"Barring any big catastrophe activity in 2006, there probably will be an erosion of pricing" for U.S. casualty risks, he said. "I like to think it will be gradual, but it's going to be tougher in the United States" to maintain casualty pricing.

David Priebe, CEO-Europe for New York-based Guy Carpenter & Co., a unit of Marsh Inc., said the overall outlook is "a very stable, flat casualty market," with some potential improvements in terms and conditions for buyers.

A stabilizing factor is reinsurers' increasing demand for access to noncorrelated business. For example, in Europe there is an increasing appetite to write nondollar-denominated business, Mr. Priebe said.

Bruce Ballentine, vp and senior credit officer at Moody's Investors Service in New York, foresees "neutral to softening" conditions in the casualty market. "People are trying to write anything but U.S. cat-exposed property business," he said. Terms and conditions appear to be holding, however, as reinsurers remember the soft casualty market of 1997-2001, Mr. Ballentine said.

As rates "come off" for property risks, reinsurers will seek to diversify into casualty, and overcapacity in those lines could cause softening, noted Seymour Matthews, managing director of reinsurance at Heath Lambert Group in London.

But it appears currently that reinsurers are being disciplined in their underwriting of U.S. casualty business, noted Matthew Mosher, group vp, property/casualty division at A.M. Best Co. Inc. in Oldwick, N.J. The real extent of that discipline will not be evident, however, for at least three to four years, he noted.

Some casualty lines, such as directors and officers coverage, are showing signs of softening, said Hans-Peter Gerhardt, CEO of AXA Re in Paris.

As well as a reduction in price, some casualty lines are seeing a broadening of coverage, he said.

Over the past few years, "casualty pricing has crept up a bit, and terms have tightened enormously," said Caroline Foulger, a partner at PricewaterhouseCoopers L.L.P. in Hamilton, Bermuda. "The market learned its lesson from 1997 to 2001" when it underpriced casualty risks and paid a steep price for doing so, she said.

While property exposures have focused the market's attention, "people don't have the same scrutiny in casualty," said Marc Grandisson, chairman and CEO of Hamilton, Bermuda-based Arch Worldwide Reinsurance Group, a unit of Arch Capital Ltd. "The market is fixed and working well, and the balance is shifting toward the insurer" at renewals.

"The U.S. casualty market conditions are still pretty good, much better than we thought they would be," Mr. Grandisson said. "People are still disciplined on D&O, and general liability is spotty but stable. I don't see pervasive changes around the industry" on casualty lines.

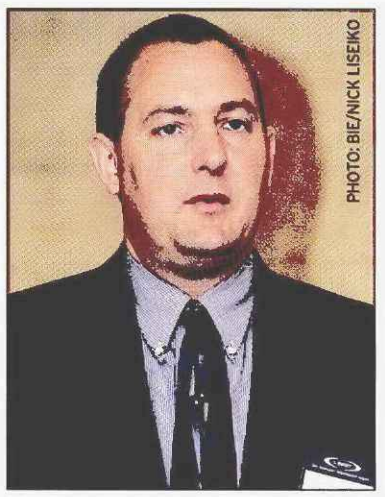


PHOTO: BIE/NICK LISEIKO

Matthew Mosher of A.M. Best Co. Inc. says reinsurers are staying disciplined on U.S. casualty business.

Casualty market conditions generally are "a little more problematic" than those in the property market, said Patrick Thiele, president and CEO of PartnerRe Ltd. in Pembroke, Bermuda.

Rates are steady or falling in most casualty lines in most areas, said Chris O'Kane, CEO of Aspen Insurance Holdings Ltd.

An important question for reinsurers looking at casualty business is, "'What is the underlying loss trend?' Because prices follow losses, pricing has been declining" since late 2003, Mr. Thiele said. "Reinsurance pricing (on casualty lines) has held up better than on the primary side" in the past few years, Mr. Thiele said. "Most of the pain in the 1990s was borne by reinsurance companies, not insurance companies," he said, referring to several years of bad loss experience in casualty business.

There is some indication that "we've improved our tools and our underwriting, which should lead to more stability," Mr. Thiele said. "I'm a cautious proponent of that, and I hope there becomes less amplitude to the swings in pricing."

"From PartnerRe's perspective, we still think we can write significant amounts of casualty reinsurance," Mr. Thiele said. "We believe virtually every line can be written. If we can evaluate and understand the risk, we can price it."

Cash Balance Pension Plans: Back on the Table

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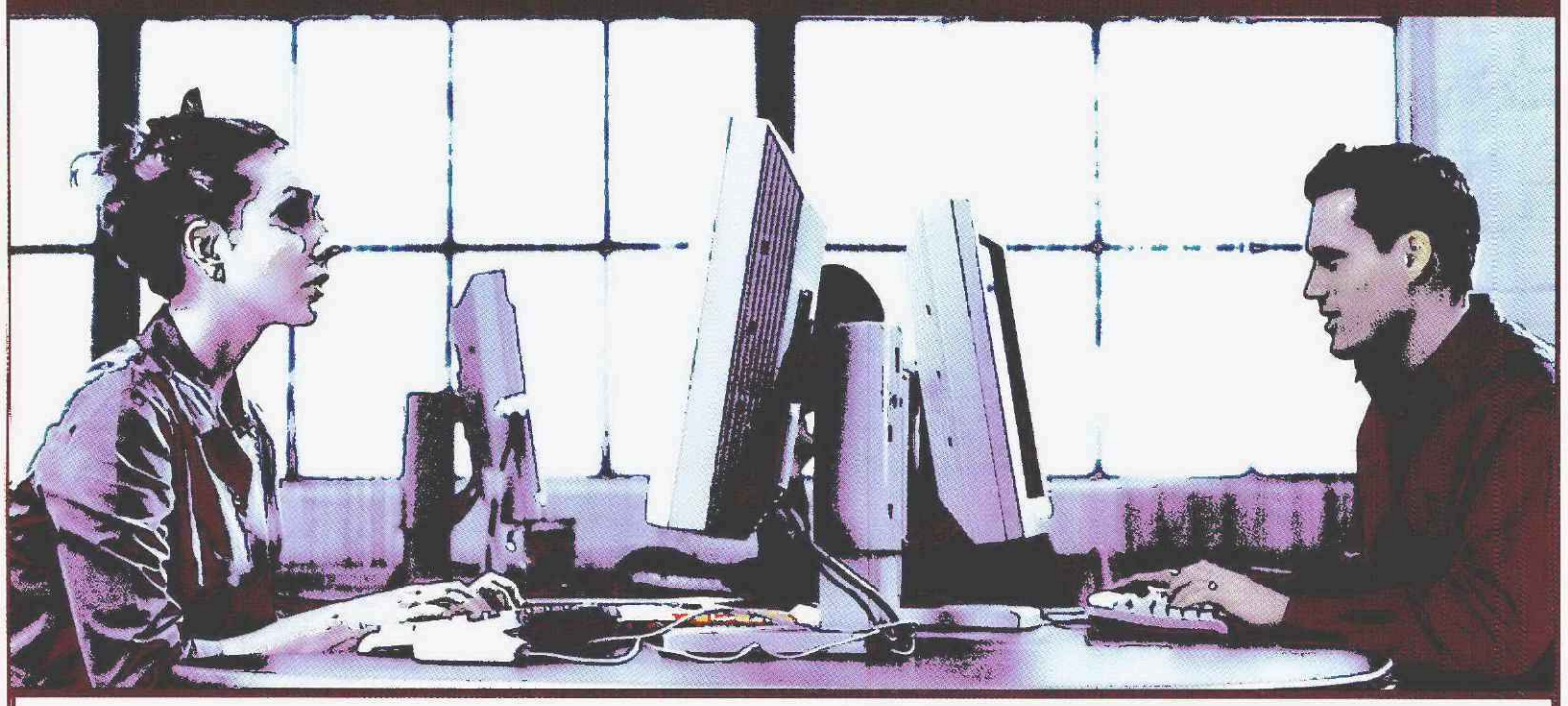

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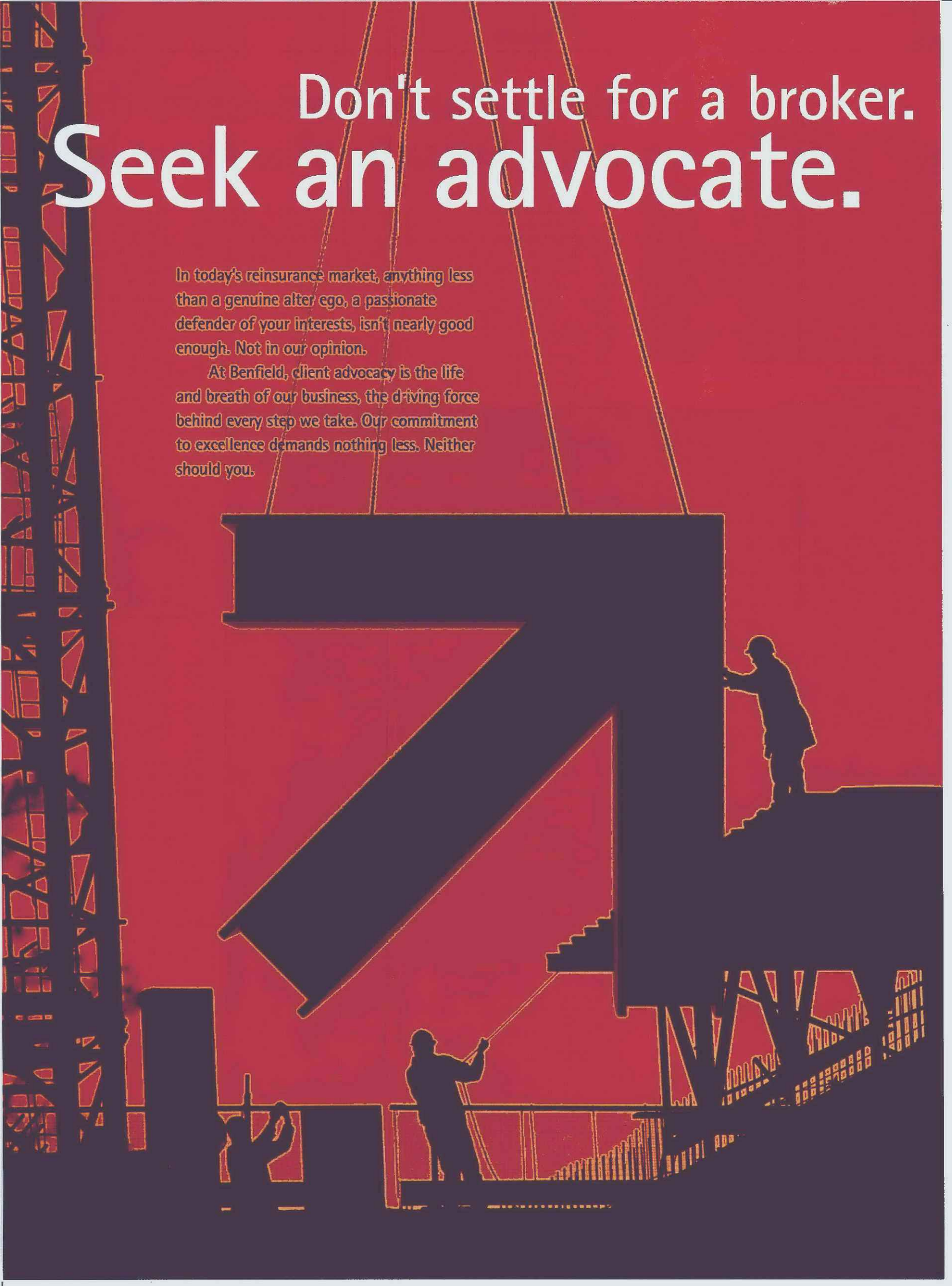

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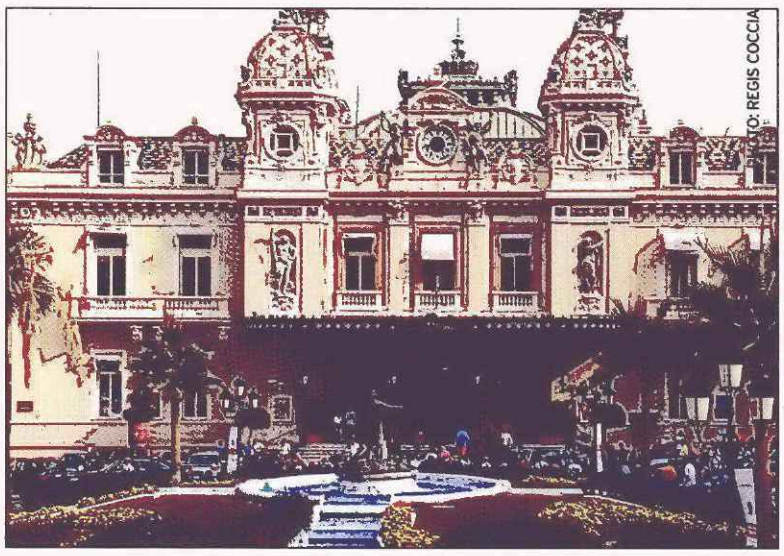
PHOTO: REGIS COCCIA

Monte Carlo's Grand Casino is a landmark near the hubs of activity during the annual Rendez-Vous reinsurance gathering.

Retro market shrinks further amid Swiss Re plan to cut back

By SARAH VEYSEY

MONTE CARLO, Monaco—Worldwide retrocessional capacity remains scarce, according to attendees at the Rendez-Vous de Septembre reinsurance meeting earlier this month, and the withdrawal of a major player will serve to exacerbate that shortage.

Swiss Reinsurance Co. announced at the meeting that it would not renew the book of retrocessional business it inherited with the purchase of GE Insurance Solutions from General Electric Co.

While Swiss Re would not comment on how much premium volume it would sacrifice by not renewing GEIS' retro book, GEIS was a major player in that market segment sources said.

A withdrawal of Swiss Re from GE's participation in the worldwide retrocessional market likely will substantially reduce the amount of such capacity available going forward, said Michael Zboron, managing senior financial analyst at A.M. Best Europe Ltd., the London-based unit of A.M. Best Co. Inc.

The retro market for U.S. property catastrophe and catastrophe-exposed energy business "really has dried up," according to Miles Trotter, an analyst at Best in London.

Jacques Bonneau, chairman and chief executive officer of ACE Tempest Re in Bermuda, said that the retro market for U.S. property cat business is virtually "nonexistent. Capacity at prices and attachment points, from our perspective, are nonconducive to a buy."

"I feel that U.S. catastrophe retro" cover will disappear "unless new capacity comes in," said Robbie Klaus, chief executive officer of Glacier Reinsurance A.G. in Pfäffikon, Switzerland.

Charles Cantlay, deputy chairman of Aon Re UK, a London-based unit of Aon Corp., said that while there has been a "crunch" in retro capacity for risks such as U.S. wind-exposed energy business, there is "plenty" of available capacity for non-U.S. catastrophe-exposed business.

Prices for retrocessional cover are unlikely to increase significantly at the upcoming renewals because rates for that coverage already are so high that if they increased any further, it would become totally unaffordable, according to Seymour Matthews, managing director of reinsurance at Heath Lambert Group in London.

Some capital providers may attempt to find ways to fill the current gap in retrocessional cover, either by traditional or alternative means, observers said.

The tight retro market and high rates for catastrophe business may result in an increase in securitization deals, Best's Mr. Zboron said.

Some start-up companies may seek to provide retrocessional capacity to fill the current gap, according to Matthew Mosher, group vp, property/casualty, at Best.

But he noted that the capital requirements rating agencies place upon retrocessional writers are "onerous"—at about 15% to 20% higher for retrocession business than for other lines.

Sidecar structures provide a sort of retrocessional cover "to an extent," said Mr. Matthews.

Some of the capital that entered the market after last year's hurricanes flowed into so-called sidecars, special limited-time investment vehicles that provide retrocessional capacity, said Ted Collins, managing director of the insurance practice at Moody's Investors Service in New York.

Adrian Ladbury contributed to this report.

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COMMENTARY

Mark A. Hofmann

The risk of subsidization

No one knows for certain what role, if any, global warming plays in hurricane formation and intensity.

That includes climatologists. Some claim global warming means that we can expect a lot more hurricane seasons like last year's record-breaker; others claim that hurricane frequency and severity reflect a cyclical pattern unrelated to any rise in average temperatures.

The debate can be quite fierce. That makes it all the more noteworthy that a group of 10 nationally recognized climatologists with widely divergent views recently issued a three-paragraph document titled "Statement on the U.S. Hurricane Problem."

According to the climatologists, the problem isn't global warming, either. The document notes the debate over climate change, but says that debate "should in no event detract from the main hurricane problem facing the United States: the overgrowing concentration of population and wealth in vulnerable coastal regions."

Then it places blame—on the government.

"Rapidly escalating hurricane damage in recent decades owes much to government policies that serve to subsidize risk," say the climatologists. "State regulation of insurance is captive to political pressures that hold down premiums in risky coastal areas at the expense of higher premiums in less risky places. Federal flood insurance programs likewise undercharge property owners in vulnerable areas. Federal disaster policies, while providing obvious humanitarian benefits, also serve to promote risky behavior in the long run."

The signatories then "call upon leaders of government and industry to undertake a comprehensive evaluation of building practices, and insurance, land use, and disaster relief policies that currently serve to promote an ever-increasing vulnerability to hurricanes."

In short, the problem is us, as reflected through the actions of our lawmakers and regulators. Nobody wants to pay the real cost of protecting buildings in catastrophe-exposed areas. That's just human nature. The problem comes when human nature confronts Mother Nature in the form of a hurricane.

The real cost keeps going up, too. People like salt water and pleasant temperatures, so they flock to coastal areas. Population density increases, but it's more than head count that matters.

For example, the nature of exposed property is changing as well. Not that long ago, a beach house was just that—a structure nowhere near as expensive as the owner's primary inland residence. Now the once-humble beach house has often been replaced by multimillion-dollar houses. So, how to deal with the problem? You can't unbuild buildings without making the owners of said buildings quite unhappy. You can, however, make existing structures stronger. Insurers and advocacy groups have stressed for years that an investment of a few hundred dollars in things such as brackets to bolster corners or even more screws to hold down roofing can save thousands of dollars.

But that's the easy part. The hard parts are social and political.

The social part—persuading people that coastal areas cannot bear unlimited development—will probably prove to be a hard sell indeed. Once again, we're talking human nature—nobody likes to be told, "You can't do that."

That leaves the political part, and that's the hardest part of all. Government policies helped create the situation by underpricing insurance and subsidizing development where it may not have been wise to build. But changing government policy often borders on the impossible.

Allowing insurance prices to accurately reflect risk in one fell swoop would lead to a voters' revolt. But permitting the market to work is the best way to reduce the hurricane exposure. And reduction is the best that can happen. The exposure can't be eliminated—entire populations aren't going to move 50 or 100 miles inland. In fact, simply holding the line would be a step in the right direction, and possibly the only realistic one.

Rather than artificially depress insurance prices, regulators should let them gradually increase to reflect real risk. "Gradually" is the key word, too—gradual increases could be politically palatable.

Policymakers need to heed the Hippocratic Oath's admonition to do no harm as well. That means avoiding the politically attractive temptation to encourage development—either directly or indirectly—where it shouldn't be. Governments generally try to keep their citizens out of harm's way, not encourage them to seek it out.

The choice is stark—policymakers can take meaningful steps to avoid adding to the hurricane exposure, or wait for nature to take its course. Either way, it's going to cost. The only question is whether we're willing to pay now or, as the climatologists remind us, face the distinct probability of paying much more in the future.

Senior Editor Mark A. Hofmann can be reached at mhofmann@businessinsurance.com.

Heinz captive to reinsure term life

WASHINGTON—Consumer food products manufacturer H.J. Heinz Co. has received final U.S. Labor Department approval to fund employee benefit risks through its Vermont captive.

Pittsburgh-based Heinz will use its Vermont captive, Heinz-Noble Inc., to reinsure group term life insurance policies written by Minnesota Life Insurance Co. The transaction will cover about 9,300 individuals, mostly hourly employees and retirees.

Heinz, which in 2005 generated more than $8.9 billion in revenues, has about 41,100 employees worldwide, including more than 10,000 in the United States. The company now uses Heinz-Noble to fund a variety of property/casualty risks for Heinz and related companies.

Heinz said in its application, which was filed by Aon Consulting,

PHOTO: LANDOV

that the transaction would enable its term life insurance plans to provide benefits "in a cost-effective manner."

Earlier this year, the Labor Department gave final approval to the U.S. affiliates of AstraZeneca P.L.C. to fund benefit risks through the pharmaceutical manufacturer's Vermont captive and to AGL Resources Inc., an Atlanta-based natural gas distributor, to use the Hawaii branch of its British Virgin Islands captive to reinsure certain benefit risks.

In all, 10 employers, including Heinz, have had their captive benefit funding applications approved since the Labor Department six years ago eased a key roadblock to captive benefit funding arrangements.

—By Jerry Geisel

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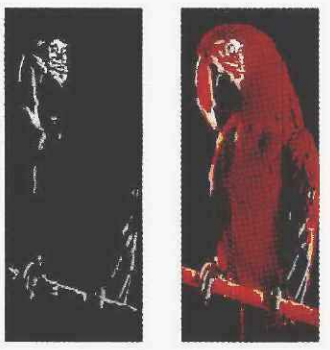

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Investment holding firm acquires Price Forbes

LONDON—The book of business of Price Forbes Ltd., the London-based global wholesale brokerage arm of Marsh & McLennan Cos. Inc., has been acquired by newly incorporated Price Forbes & Partners Ltd. in a management buyout.

Terms of the deal were not disclosed.

Price Forbes & Partners is a wholly owned subsidiary of PFIH Ltd., an investment holding company owned by employees.

Price Forbes Ltd. places marine, nonmarine, power, energy and construction business, among other lines.

Price Forbes & Partners has "acquired the exclusive rights to invite renewal of the existing book of Price Forbes business," the company said in a statement.

All members of staff employed by Price Forbes will transfer to the new company.

"We are delighted to have completed this transaction, to have gained our independence and to have brought to an end the uncertainty and speculation regarding the future ownership of Price Forbes," Michael Donegan, executive chairman of Price Forbes & Partners, said in a statement.

Marsh last year sold its main wholesaler operation, Crump Group Inc., to private equity firm J.C. Flowers & Co. L.L.C. (*BI*, Sept. 12, 2005). That deal included the Hamilton, Bermuda, office of Price Forbes.

—By Sarah Veysey

Malaysia OKs licenses for retakaful companies

KUALA LUMPUR—Bank Negara Malaysia, the country's central bank, has approved licenses for Munich Reinsurance Co. and MNRB Holdings Berhad to establish retakaful companies in Malaysia.

Takaful insurance is a form of mutual insurance that is acceptable under Islamic—Shari'ah—law, and retakaful is reinsurance of that cover.

Munich, Germany-based Munich Reinsurance Co. said in a statement that the license would entitle it to offer retakaful independently of any joint venture.

"Munich Re expects that takaful and retakaful business will gain in momentum in regard to premium growth, as well as variety of products offered," it said.

MRNB is the holding company of Malaysian Reinsurance Berhad, a domestic reinsurance company.

According to Bank Negara, the total assets of the takaful industry in Malaysia currently stand at 6.5 billion ringgit ($1.77 billion).

"The establishment of these retakaful companies will also promote Malaysia as the center for international currency retakaful business, which is one of the measures taken to promote Malaysia as an international Islamic financial center," the bank said in a statement.

—By Sarah Veysey

Investor group forms offshore sidecar for Lloyd's syndicates

HAMILTON, Bermuda—An unnamed group of investors has established a Bermuda-based sidecar to provide reinsurance to Lloyd's of London syndicates.

The special-purpose vehicle, called Syncro Ltd., has been formed in Bermuda, although it has not yet applied for authorization from the Bermuda Monetary Authority.

Syncro is looking to offer Lloyd's managing agents additional capacity in the form of reinsurance. According to a statement issued on behalf of the company by international law firm Clyde & Co., Syncro will replicate sidecars, which are typically capital market-backed offshore SPVs offering reinsurance for a limited period of time.

Syncro will be available to any managing agency "irrespective of size, allowing syndicates with small stamp capacity to access the advantages of a sidecar arrangement without incurring the setup costs," according to the statement.

—By Stuart Collins

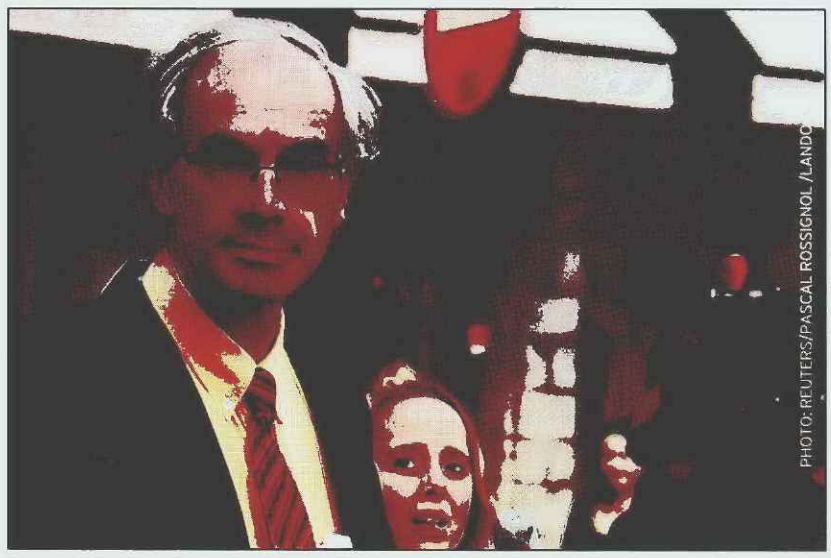

PHOTO: REUTERS/PASCAL ROSSIGNOL /LANDO

Bernard Gomez, former site manager for French power generator and high-speed train manufacturer ALSTOM, leaves the Lille, France, regional courthouse after being convicted of exposing workers to asbestos. The court also found ALSTOM criminally guilty, which is the first ruling of its kind in France.

French employer found guilty of crime in asbestos exposure

Court's ruling is first of its kind

By RICK MITCHELL

LILLE, France—A French criminal court has convicted a company and a former plant manager of exposing workers to asbestos, in the first ruling in France in which an employer has been found criminally guilty of endangering employees by exposing them to the potentially fatal fibers.

The Lille region criminal court earlier this month fined ALSTOM—a power generator and train manufacturer—the maximum €75,000 ($94,950) for the crime of putting others in danger. ALSTOM, which said it would appeal the decision, was accused of knowing that its now-defunct ALSTOM Power Boilers site in Lys-lez-Lannoy, near Roubaix in northern France, was heavily contaminated with a potentially carcinogenic substance during 1998 to 2001 but did not inform workers or take steps to decontaminate the site.

The court awarded €10,000 ($12,660) to each of 150 ex-employees—none of whom is ill—and sentenced a former site manager, Bernard Gomez, to a nine-month suspended prison sentence, fining him €3,000 ($3,798). It ordered the company to display conviction information at its Paris headquarters for two months and to advertise it in national and Lille-region publications.

Pending ALSTOM and Mr. Gomez's appeals, which have already been lodged, the funds awarded to workers will reportedly go into an escrow account. The appeal could extend the case by one to two years, sources said.

The ruling, based on a 1997 law, marks the first time in France that a court has found a company criminally responsible for endangering employees by exposing them to asbestos.

"This judgment finally makes companies and their managers take note that if they violate labor laws on hygiene and safety they will run major risks," said Jean-Paul Teissonnière, lawyer for the Assn. Nationale de Défense des Victimes de l'Amiante, an asbestos victims group participating in the case.

Mr. Teissonnière noted that it had previously been necessary to wait for asbestos victims' symptoms to appear before they could seek redress. "Now, we don't have to wait for illnesses to show up to pursue the people responsible," said Mr. Teissonnière. "This could certainly affect other cases involving chemical or radiation poisoning or other disasters. We will see convictions that have an immediate dissuasive effect."

During the trial, ex-employees and a government inspector testified that ALSTOM and Mr. Gomez took no precautions on the site until 2001, while the defendants argued that they had. SI-Energie, which purchased the site from ALSTOM in 2001, "had to remove 50,000 tons of asbestos in 2002," said Sylvain Stanesco, who served as secretary of ALSTOM Power Boilers' labor management board, and also as a civil party to the case. SI-Energie closed the site in 2003, laying off all workers.

Mr. Gomez's lawyer, Pierre Cornut-Gentille, said, "We (and ALSTOM's legal team) disagree with almost every line of the judgment, but our main reproach is that the court did not take into account independent scientific testing by two organizations that found no asbestos in the plant atmosphere in 2001."

Announcing its appeal, ALSTOM suggested that high emotions made an objective decision impossible in the case. "ALSTOM's appeal aims to re-establish the reality of events and situations. Several points of application of the law, as argued by the court of Lille, call for fresh examination."

Mr. Stanesco said at least 1,200 workers were exposed to asbestos at the site, of whom 10 have died and 80 are ill from asbestosis. Of the ill, some have received compensation from the court for social security affairs. However, since the law took effect in 1997, these employees, who left the company before 1998, were not eligible to join the current case.

"There are also people who worked for this company and were exposed, but don't know about it yet," said Mr. Stanesco. Contending that ALSTOM refuses to assist the search for these people, he warned that, "now that we have a first condemnation, we can go back and attack ALSTOM on several fronts," including demanding a list of all the employees.

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PRODUCTS & SERVICES

Schinnerer combines policy applications

CHEVY CHASE, Md.–Victor O. Schinnerer & Co. has simplified the application process for agents and policyholders by combining the environmental and specialty construction consultant applications.

Clients in these programs often have intertwining responsibilities, according to Chevy Chase, Md.-based Schinnerer. Depending on the services offered and their target markets, it's often difficult to determine which application is appropriate. The new application allows underwriters to obtain the required information and streamlines the process for brokers.

The application applies to a large number of environmental and specialty construction firms including transportation consultants, testing labs, forensic consultants, geologists, hydrologists, telecommunications consultants, consulting engineering firms, soil scientists, natural resource managers, wetland consultants and many others.

The application is available in several different formats, one of which is an online form. The new application also includes the appropriate fax approval questions to comply with Federal Communications Commission regulations.

To access the application, go to: *www.schinnerer.com/form/edit2.do?classID=EASPApplication.*

For more information, call Mary Jefferson, senior vp of corporate marketing, at 301-951-9798.

RiskMeter expands flood risk tool

BOSTON–CDS Business Mapping L.L.C.'s RiskMeter flood elevation report is now available in 32 states and the District of Columbia, and soon will be available nationwide.

By typing in an address, users will be able to get the following information: specific Federal Emergency Management Agency flood zone, distance to flood zone, estimated base flood elevation, elevation at a specific location, estimated height above a flood zone, estimated water depth in a flood zone and an optional aerial photo.

The Boston-based company's RiskMeter flood elevation report allows underwriters to gather more information to evaluate flood risk.

For more information on this report, contact Daniel Munson, vp of sales and marketing, at 617-737-4444 or by e-mail at *dmunson@cdsys.com.*

National Union offers identity theft policy

NEW YORK–New York-based National Union Fire Insurance Co. of Pittsburgh, Pa., a unit of American International Group Inc., has introduced AIG Corporate Identity Protection, an insurance policy designed to protect small and midsize companies from financial exposures related to identity theft or the threat of identity theft.

AIG Corporate Identity Protection, aimed at Main Street businesses with revenues up to $100 million or holding up to 1 million identities, provides coverage to a company when the personal data of its employees or customers is compromised, regardless of whether an actual identity theft results.

The policy offers coverage to the insured company for the following: legal liability damages, defense costs, regulatory action expenses, notification costs, crisis expenses and post-event services–including identity theft recovery services such as education, assistance and credit monitoring for victims.

Companies can obtain a policy with limits of $100,000 to $5 million.

For more information on the program, contact Nancy Callahan, vp, AIG identity theft and fraud division, at 212-458-1420, or by e-mail at *nancy.callahan@aig.com*, or visit *www.aignationalunion.com.*

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PETITION OF DAN YORAM SCHWARZMANN, AS ADMINISTRATOR OF **FOLKSAM INTERNATIONAL INSURANCE COMPANY (UK) LIMITED,**
DEBTOR IN A FOREIGN PROCEEDING
CASE NO. 02-14070 (PCB)

NOTICE IS HEREBY GIVEN THAT ON SEPTEMBER 13, 2006, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON SEPTEMBER 9, 2002. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED TO BE HELD ON MARCH 6, 2007 AT 11:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE PRUDENCE CARTER BEATTY, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE PRUDENCE CARTER BEATTY AND SERVED ON COUNSEL FOR THE PETITIONER LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE PETITIONER.

CHADBOURNE & PARKE LLP
ATTORNEYS FOR THE PETITIONER
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NEW YORK, NEW YORK 10112
(212) 408-5100
ATTN: HOWARD SEIFE, ESQ.
FRANCISCO VAZQUEZ, ESQ.

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PETITION OF ROLF ÅBJÖRNSSON, AS OFFICIAL RECEIVER OF **ATERFORSAKRING AB LUAP**
DEBTOR IN A FOREIGN PROCEEDING
CASE NO. 03-10945 (PCB)

NOTICE IS HEREBY GIVEN THAT ON SEPTEMBER 13, 2006, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON FEBRUARY 19, 2003. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED TO BE HELD ON MARCH 6, 2007 AT 11:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE PRUDENCE CARTER BEATTY, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE PRUDENCE CARTER BEATTY AND SERVED ON COUNSEL FOR THE OFFICIAL RECEIVER LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE OFFICIAL RECEIVER.

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Queries in relation to this Notice may be addressed to Steve Aldous at No. 1 Stoke Road, Guildford, Surrey, GU1 4HW or to **steve.aldous@castlewood.co.uk.**

Dated: 19 September 2006 Reynolds Porter Chamberlain LLP, ref: Miriam Bartlett.

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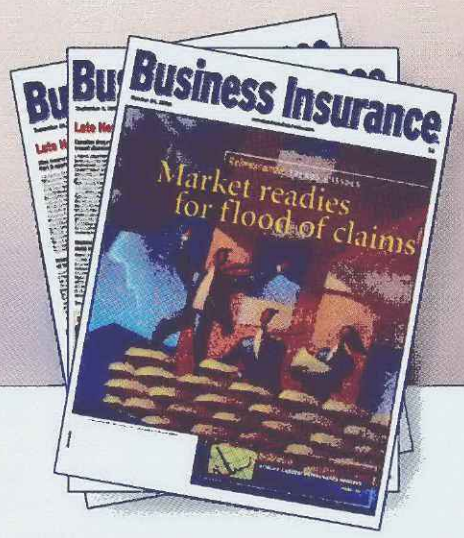

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E&S brokers cut commissions on some accounts

By ROBERTO CENICEROS

CHICAGO—With prices soaring for scarce property insurance capacity in catastrophe-prone areas, surplus lines brokers say they are cutting their commissions to help make some arrangements more attractive to potential buyers.

Otherwise certain deals may not come together, said brokers attending the 2006 Annual Convention sponsored by the National Assn. of Professional Surplus Lines Offices Ltd., which was held in Chicago from Sept. 13-16.

There also is pressure from insurance buyers, said John F. Jennings, president of Tri-City Insurance Brokers, a unit of BISYS Commercial Insurance Services Inc. in New York.

Buyers are questioning their brokers whether commissions that are traditionally based on a percentage of premiums should escalate as dramatically as pricing for property coverage in catastrophe-prone areas.

"On deals that double, triple, quadruple (in price), I think compensation ends up being very negotiable," Mr. Jennings said. "When something goes up that dramatically for the same risk, some insureds certainly don't think the percentage formula should stay" the same.

So some of his brokers are reducing their commissions on a case-by-case basis, Mr. Jennings said.

Insurers, meanwhile, cite increased reinsurance costs and other expenses as reasons for reducing the commissions they pay to wholesalers, brokers say.

"The markets are definitely squeezing us on front-end commissions," said J. Neal Abernathy, president and chief executive officer for Swett & Crawford Group in Atlanta.

"We haven't seen much slashing yet," said Ronda Whaley, a property broker for Brown & Riding Insurance Services Inc. in Los Angeles. "But some (insurers) are holding the line. Some are starting to reduce their commissions."

At the same time, Ms. Whaley said that she and other wholesalers have been negotiating their fees on an account-by-account basis to help offset some increases in difference-in-conditions premiums.

Several insurers at NAPSLO's convention said they have not cut their commissions to brokers. But others acknowledged they have on some deals, particularly on complex arrangements involving layers of coverage.

Insurers can drive commission levels to some extent, some NAPSLO attendees said, because property coverage for catastrophe-exposed regions is now a "seller's market" with scare capacity in high demand.

But brokers say they are working much harder to find coverage for purchasers given the capacity crunch.

Obtaining the desired limits for property in a catastrophe-prone region currently requires more layering than usual, said Mark M. Smith, division president in New York for AmWINS Brokerage, a division of American Wholesale Insurance Group Inc.

Because of current market conditions, purchasers also are taking higher retentions and buying lower limits. So pricing for one layer on a given risk might rise 300%, Mr. Smith said, but the broker's overall commission won't increase by as much as it would had the entire account renewed its previous limits at a 300% premium increase.

Across all the lines of coverage that AmWINS places, the wholesaler's retained commissions remain unchanged, Mr. Smith said. But for catastrophe-exposed properties, AmWINS' retained commissions have dropped about 1% or 2%, he said.

AmWINS said its commissions vary by line and account size. Those commissions are generally 5% on accounts in excess of $100,000 and 6.5% on accounts of less than $100,000. Typically, retail brokers retain about 10% of commissions, the wholesaler said.

NAPSLO conference sees record attendance

CHICAGO—Premium volume for the surplus lines market remained flat in 2005, just as it did in 2004, according to an annual report released at the 2006 Annual Convention of the National Assn. of Professional Surplus Lines Offices Ltd.

Kansas City, Mo.-based NAPSLO held its convention Sept. 13-16 in Chicago. It drew 3,400 attendees, which surpassed the prior year's record-setting attendance of 3,100.

The lack of overall growth in the surplus lines market is the result of the softening trend within the overall insurance industry that began late in 2004, according to a report produced by A.M. Best Co. Inc. for NAPSLO.

Yet the softening market conditions "did not have a marked impact on smaller and, in some cases, middle-market surplus lines risks in terms of average rates and pricing," Best's report states.

The report also shows, among other characteristics, that the surplus lines industry in 2005 accounted for 12.65% of total commercial premiums, or nearly $33.3 billion in premiums.

—By Roberto Ceniceros

Market: E&S casualty rates see slight decrease

Continued from page 4

During past tough market cycles, brokers could at least show insurers a risk and if insurers thought it was an appropriate opportunity, they would underwrite it, added J. Neal Abernathy, president and chief executive officer in Atlanta for Swett & Crawford Group.

"Today, it doesn't matter whether they want to respond or not," Mr. Abernathy said of insurers. "They just don't have the capital."

Brokers and insurers say many buyers are increasing their retentions, reducing the limits they purchase and even going bare. Accounts that find coverage are paying the price.

An earthquake-exposed California account that paid $25,000 per $1 million in coverage last year might pay $100,000 for that same cover today, depending on the account's specific location, the age of its buildings and the soil type they sit on, said Ronda Whaley, a property broker for wholesaler Brown & Riding Insurance Services Inc. in Los Angeles.

With such conditions, many NAPSLO attendees wondered whether any relief is in sight.

Insurers, in general, will have a tough time explaining current property rates if this year's hurricane season passes without causing significant damage, said Jeffrey A. Segall, vp in Chicago for CNA Financial Corp.'s E&S unit. On the other hand, CNA is unlikely to base its rates on just one good year, Mr. Segall noted.

"I don't see any one factor that is going to change the (current) business condition" for either property or casualty insurance, said John F. Jennings, president of Tri-City Insurance Brokers in New York, a unit of BISYS Commercial Insurance Services Inc.

During last year's NAPSLO meeting, shortly after hurricanes battered the Gulf Coast, attendees speculated that storm losses might also boost casualty rates, noted Brett Woods, president of Brett Woods & Associates in Dallas, a unit of U.S. Risk Insurance Group Inc.

"The opposite happened," Mr. Woods said. Casualty underwriters today are willing to cut rates and write riskier excess and surplus lines accounts than a year ago, he said.

Some casualty risks are getting written at or below insurers' break-even point, said Brian Evans, E&S risk leader in Overland Park, Kan. for Swiss Reinsurance Co.'s Commercial Insurance.

Casualty rates, in general, however, are decreasing only slightly, Mr. Evans said.

For example, some construction contractors and habitational risks are seeing slight decreases for liability coverage while some manufacturing entities are seeing flat or slightly increasing rates, Mr. Evans added.

Some of the largest decreases for E&S casualty insurance have come for premises liability risks, said Denise Morris, senior vp of U.S. excess liability umbrella for Liberty International Underwriters in San Francisco.

Pricing for those risks has dropped 20% to 30%, according to LIU. For example, self-insured retentions that had been $25,000 or $50,000 have dropped as low as $2,500.

E&S casualty rates are decreasing only slightly without much in sight to change the scenario, said James C. DeSimone, New York-based senior vp of specialty casualty for Zurich Financial Services Group.

"There is nothing that I can see on the horizon that would be a make or break move in the E&S casualty business," Mr. DeSimone said.

With more standard insurers entering E&S territory, such as for architects and engineers liability coverage, many surplus lines brokers, insurers and managing general agents are seeing their sales and bottom lines flatten out, said Alan J. Kaufman, chairman, president and chief executive officer for Burns & Wilcox Ltd., an MGA based in Farmington Hills, Mich.

Therefore, E&S brokers and insurers are looking for areas where they can expand, making for a competitive marketplace, Mr. Kaufman said.

"They are all chasing the same products to sell, looking for what is not going to get gobbled up by the standard markets," he said.

Construction prices ease

Right-to-repair laws reduce losses

By ROBERTO CENICEROS

CHICAGO—Growing insurer competition and possibly so-called "right-to-repair" laws are easing prices and conditions for liability coverage of U.S. residential construction, said attendees at the annual gathering of the National Assn. of Professional Surplus Lines Offices Ltd.

The situation is part of an overall trend in which excess and surplus lines writers are attempting to counter softening liability insurance conditions by writing riskier business, said Brett Woods, president of Brett Woods & Associates in Dallas, a unit of U.S. Risk Insurance Group Inc.

Some excess and surplus lines insurers now offer broader endorsements covering additional insureds, said Brian Evans, E&S risk leader in Overland Park, Kan., for Swiss Reinsurance Co.'s Commercial Insurance.

"We're seeing competition offer broader additional insured endorsements than we are willing to offer," Mr. Evans said.

A policy sold to a subcontractor can, for example, name the general contractor as an additional insured with the coverage applicable until completion of a building project, Mr. Evans said.

Some competitors, he said, are expanding those endorsements to cover the additional insured beyond completion of the building project—for example in the case of a fire linked to the subcontractor's electrical work occurring after completion of the project.

Conditions for the coverage are easing because insurers that wouldn't consider underwriting it a year ago now are willing to write it, Mr. Woods said.

Observers say competition is especially keen for smaller projects of roughly 20 homes. The smaller projects allow insurers that are new to the line learn how to underwrite it without committing large amounts of capital that more expansive building projects would require, they say.

But Mr. Evans says that E&S insurers that recently entered the residential construction arena "are looking at some fairly large projects."

Prices on average are dropping about 10%, Mr. Evans added.

While rates for residential wrap-up insurance are down, they remain "adequate," said John S. Edak, executive vp of the western region in San Francisco for Arch Insurance Group.

Observers differ, however, on the impact so far of right-to-repair laws adopted in roughly half of the U.S. states, most within the past several years.

The laws responded to rising construction defect litigation that accompanied housing construction booms. They typically require homeowners to notify builders of a defect and allow the builder a specific amount of time—ranging from days to months—to conduct inspections and make repairs before a lawsuit can be filed.

California and Nevada, for example, passed their right-to-repair legislation in 2003. But the California law, S.B. 800, has not impacted rates, Mr. Edak said.

While Mr. Woods described the right-to-repair laws as a "great thing," he also said he has not seen any indication they are helping bring premiums down as insurers are typically wary of reform laws until time shows they work as hoped.

However, Swiss Re's Mr. Evans says that the laws have helped reduce losses and have helped reduce insurance premiums.

Spinach: While coverage is available, few growers buy comprehensive protection

Continued from page 1

sors, Salinas, Calif.-based River Ranch Fresh Foods and West Caldwell, N.J.-based RLB Food Distributors, also have voluntarily recalled packaged spinach products supplied by Natural Selection.

Calls to Natural Selection and River Ranch seeking insurance information were not returned, while a spokesperson for RLB declined to discuss coverage issues.

Product recall experts say the spinach contamination situation is unique in that the contamination appears to be linked to one farm, but is affecting the whole industry as the U.S. Food and Drug Administration warned the nation to not eat bagged fresh spinach.

"You're not seeing one particular spinach brand having the problem, you're seeing it with multiple brands because it's been mixed with so many different manufacturers' bags of spinach and under so many different labels," said Bernie Steves, a senior vp with Chicago-based wholesaler Colemont Insurance Brokers of Illinois L.L.C.

Contamination cover

Any of those companies that are suffering financial losses from contaminated spinach likely would be covered under a product contamination policy, if it was purchased, experts say.

Unlike standalone product recall coverage, which only covers the costs associated with getting the contaminated product off the shelf and destroyed, a more comprehensive product contamination policy covers the cost of the recall, plus bigger costs such as business interruption, product rehabilitation and crisis management consulting.

Such risks are excluded from traditional commercial general liability policies.

"If an insured grower can point to the contamination occurring in their fields, water or product, we may have a business interruption loss," said Louis Lubrano, a senior vp in the crisis management division of AIG WorldSource, a unit of New York-based American International Group Inc. "And if this goes on for months and they can't sell the insured product, that could easily cost insurers money. That is where the public relations or crisis management aspect of the policy comes into play, to reassure the public that the product really is OK and mitigate the longer term business income losses."

In addition to the cost of the actual recall, a spinach grower or processor also needs to worry about future income losses associated with its damaged brand and the liability it faces from third parties whose brand names may be tarnished as a result of the contaminated spinach supplied to them, said Rick Shanks, national managing director of Aon Corp.'s agribusiness and food systems group based in Kansas City, Mo., noting that such coverage is available.

But for those spinach processors and packagers whose product was not contaminated, but that suffered a financial loss due to consumer fear, insurance recovery is unlikely, experts say.

"If an insured's product was not contaminated, it is just rejected due to a market scare, coverage is rarely available," said Mary Qualls, vp in the crisis management division of AIG WorldSource.

But while product recall and product contamination coverage is available and the market is more attractive today than it was several years ago, it's not industry standard to purchase it, experts say.

"It is a market that is underserved because people think it can't happen to them and that their quality control systems are so unique and specialized that...they do not purchase it," Ms. Qualls said. "What we always battle in this product line is the self-insurance aspect or the person that decides it won't happen to them."

There is a "misconception" that growers are either covered for the risk under another policy or it's never happened to them and never going to happen to them "when in reality, these things are occurring on a continuous basis," Mr. Steves said.

"It's still pretty slow in terms of companies really buying it," said Jane Hamilton, a senior vp with broker Beecher Carlson in Atlanta. "I don't think it's as prevalent as one might imagine it would be given...the events that do occur."

Ms. Hamilton noted, however, that the market has stabilized and she is encouraging her clients that have looked at product recall and product contamination coverage in the past to take another look.

The combination of the soft market and an increase in frequency and severity of product recall losses several years ago—particularly in the meat and poultry industry—sent many reinsurers and insurers running from the market, leaving buyers with inadequate and expensive coverage options (*BI*, July 29, 2002).

"Five to six years ago the product was much more expensive, the capacity was lower, the forms were tighter," Colemont's Mr. Steves said.

PHOTO: ZUMA PRESS

Numerous California companies last week tested their fields of spinach for contamination by the potentially deadly E. coli bacteria.

But the market has stabilized and more buyers today are seeing the product contamination product "as an affordable coverage, an available coverage and a necessary coverage," he said.

Not everyone convinced

Mike Benishek, risk manager for Palmetto, Fla.-based Pacific Tomato Growers Ltd., however, is still a nonbeliever.

"We've looked at (product recall coverage) and passed on it. For what we would get, it just doesn't make financial sense," he said. "If we get a load that goes bad on the delivery end, they just dispose of it in the dump and then we'll send them a free load or whatever makes them happy."

And in terms of the more comprehensive contamination coverage, Mr. Benishek said what "turned him off" was the "humongous" deductible.

A semitrailer load of tomatoes at average market prices is $12,800, he said. "Why would I want to buy a policy with a $100,000 deductible?"

Mr. Benishek noted that Pacific Tomato Growers is rated either "excellent" or "superior" in all of its packing houses and farms by a third-party food safety auditor.

Putnam: Marsh & McLennan weighs spinoff

Continued from page 3

There is not much synergy between Putnam and Marsh "and right now—with all the other problems Marsh is dealing with, and has dealt with over the last several years—as problems continue to mount in the Putnam operation, this divestiture will enable Marsh to really focus on its core business, and I think that will ultimately benefit the risk management community," said Mr. Ward.

Putnam, which had $181 billion in assets as of the end of August, generated $140 million in operating income for the first half of 2006, compared with the $407 million posted by MMC's risk and insurance services segment, and the $237 million reported by its human resource consulting and specialty consulting businesses, according to filings with the Securities and Exchange Commission.

Regulatory and legal issues

SEC filings describe a host of regulatory and legal issues related to Putnam. For instance, in 2003 and 2004 Putnam entered into agreements with the SEC and state authorities in Massachusetts regarding excessive short-term trading by former Putnam employees in Putnam mutual fund shares. Under these agreements, Putnam paid a total of $110 million in restitution and civil fines and penalties. Short-term trading refers to frequent trading in and out of positions.

Furthermore, MMC and Putnam have received complaints in more than 70 civil actions based on allegations of market timing and, in some cases, late trading activities. Late trading occurs when a purchaser places a post-closing order and buys at that day's net asset value, thus unlawfully receiving a benefit other investors are denied. Market timing can involve illegal, short-term transactions.

> "My first question would be, 'what took them so long?' "
>
> **John Wicher**
> **John Wicher & Associates**

Observers say there is little if any connection between Putnam and MMC's other operations, which include insurance brokerage Marsh Inc., reinsurance intermediary Guy Carpenter & Co. Inc. and Mercer Human Resource Consulting.

"I think for the typical Marsh risk management client it's a nonissue," said Timothy J. Cunningham, a principal with insurance brokerage adviser OPTIS Partners L.L.C. in Chicago.

Observers say disposing of the Putnam operation is a logical move. MMC is seeking to focus on its core competency, which is insurance distribution and its Mercer unit, said Robert J. Lieblein, president and chief executive officer of Harrisburg, Pa.-based WFG Capital Advisors, an investment banking and financial advisory firm that specializes in the insurance industry.

"My first question would be, 'what took them so long?'" said John Wicher, of San Francisco-based John Wicher & Associates Inc., which provides consulting and investment banking advisory services to the insurance industry.

Putnam was "an outlier on the screen. It wasn't a strategic priority." Disposing of it would result in a "smarter, better-focused Marsh" and a "crisper story" of who they are, said Mr. Wicher.

Putnam's performance has been lackluster in recent years and its contribution to MMC's earnings has diminished, said Greg Dickerson, New York-based associate director for Fitch Ratings.

Any move is unlikely to lead to a capital infusion that would directly benefit MMC's other operations, said Mr. Ward, who estimates the value of a Putnam deal could exceed more than $5 billion.

A deal is likely to be structured as a noncash transaction "which would involve more of a securities exchange" because MMC would be charged at a 40% tax rate for any cash it receives, he said.

MMC's stock closed at $28.35 on Friday, up $2.38 from a week ago.

ADA: Obese worker not protected

Continued from page 4

The EEOC, however, has put forth no evidence in this case either that Grindle's morbid obesity has a physiological cause or that morbid obesity, because of the nature of the disorder, always has a physiological cause. For this reason, the EEOC cannot defeat the motion for summary judgment" for dismissal.

EEOC may seek rehearing

Daniel T. Vail, an attorney in the EEOC's office of general counsel in Washington, said the agency is considering seeking a rehearing of the case before the full court. "We think there's solid basis in the law in prior rulings by both the 6th Circuit and other courts" that support the EEOC's position that "once a weight-related condition rises to a level of morbid obesity, then that's an impairment, and you don't need a physiological disorder accompanying that to qualify," said Mr. Vail.

Observers had mixed reactions to the ruling.

Frank Alvarez, an employer attorney with Jackson Lewis L.L.P. in White Plains, N.Y., said the decision "gives employers some reason to feel more comfortable about adopting positive solutions to potential workplace injuries or challenges to health care costs" without worrying about ADA discrimination charges.

However, Jon Coppelman, vp with Lynch, Ryan & Associates Inc., said the decision "raises more questions than it answers."

"Employers all across the country are struggling" with the issue of whether morbid obesity is protected under the ADA without any direct guidance from the courts, said Mr. Coppelman of the Wellesley, Mass.-based management consulting firm that specializes in workers compensation cost controls.

For instance, he said he learned recently of a morbidly obese hairdresser in her mid-60s who has been at the job for 20 years.

"You're probably looking at knee replacements and hip surgery, and the question becomes, what do you do? Do you leave her on the job" until these problems develop? "What happens when their obesity starts to impact their ability to perform the job?" If morbid obesity is ADA-eligible, the employer must try to reasonably accommodate them under the statute, Mr. Coppelman said.

If the situation involves a valuable employee, "you should try to accommodate them anyway, but you may reach a point where you say, 'Sorry, I can't do anything for you. Being overweight puts you at risk for injury, and you can't perform this job,'" Mr. Coppelman said.

Equal Employment Opportunity Commission, plaintiff-appellant, vs. Watkins Motor Lines Inc., defendant-appellant, 6th U.S. Circuit Court of Appeals, No. 05-3218

Wal-Mart: Employers see prescription drug price cut as beneficial

Continued from page 1

competitive" with Wal-Mart.

Representatives for other pharmacy chains could not be reached or would not comment on whether they plan to follow Wal-Mart's and Target's moves.

Boon for employers

Consultants and benefits managers hailed the effort.

Paul Wernick, a Minneapolis-based consultant at Watson Wyatt Worldwide, said employers could reap significant savings from the changes, depending on how much they are paying for generic drugs under their pharmacy benefit programs.

For example, with the average cost of generic drugs currently between $20 and $25 and average employee copayments at about $10, employers are paying an average of about $15 per 30-day prescription for these drugs under most PBM contracts, Mr. Wernick estimated. But if an employee pays just $4 for a prescription from a retailer, employers will pay nothing, he pointed out.

"I can't see a downside," said Mike McNabb, risk manager for the city of Tampa, who is also in charge of benefits. "We've always encouraged our people to use discount retailers because their cost is lower. One of our plans has a 25% coinsurance, so it pays to shop."

In addition, some employers with mandatory mail-order provisions—most of which charge twice the retail copayment for a three months' supply—may want to rethink that strategy, at least for the drugs on the Wal-Mart list, Mr. Wernick said. Such provisions usually only apply to maintenance drugs.

Last week, beginning in Tampa, Fla., Wal-Mart began offering nearly 300 generic drugs for $4 for a 30-day supply to customers and employees.

"There would be no reason to use mail-order," he said, "because it will cost the employer and the member more."

The Hillsborough County, Fla., government already began encouraging its employees to seek retail refills, rather than mail-order refills, when Kmart Corp. announced several months ago that it would begin filling 90-day supplies of 75 different generic drugs for just $15, according to Christina Swanson, the county's human resources division director. Normally employees would pay $20 for a 90-day supply through their prescription drug plan, which is administered by Louisville, Ky.-based Humana Inc., the same company that administers the county's self-funded health plan.

Ms. Swanson said when she heard Wal-Mart announce that it was slashing prices on 291 generic drugs to $4, and Target's subsequent declaration that it would match the pricing, "my response was, 'Yahoo! We're finally going to get some competition going in the drug world!'"

The moves may also put pressure on PBMs to lower the prices they charge employers, some experts say.

By creating greater transparency in generic drug pricing, the moves by both Wal-Mart and Target are "definitely going to push PBMs to lower prices," said Sean Brandle, a vp at the New York-based consultant Segal Co. who specializes in pharmacy management.

"Because it's out there that this prescription is available for four bucks, plan sponsors are going to ask their PBMs why they're paying more. There will be pressure on the pharmacy benefit manager to account for that."

Though shares of several pharmacy benefit managers fell in response to Wal-Mart's announcement, a spokeswoman for Franklin Lakes, N.J.-based Medco Health Solutions Inc. said that PBMs will also reap the benefits of the lower pricing, since most include Wal-Mart in their pharmacy networks.

She explained that Medco plan members either pay their regular generic copay or the usual and customary price, whichever is lower, when they have a prescription filled at a retail pharmacy.

Moreover, "we don't believe it will have a big impact, because many of the drugs (on the Wal-Mart list) are a carefully selected subset of acute care and maintenance medications," the Medco spokeswoman said.

Wal-Mart's plan, which is said to cover some 291 drugs, includes only about 124 separate medications in various dosages. For example, there are 12 versions of the antibiotic amoxicillin, several industry sources pointed out. It also leaves out some popular maintenance drugs, such as the generic version of the cholesterol-lowering Zocor. There currently are more than 3,500 generic equivalents on the market.

Boost for generics

Wal-Mart's move could give a boost to generics, whose use many PBMs and employers have been encouraging to lower health care costs, said a spokesman for St. Louis-based Express Scripts.

"We see this as a plus for our clients and our patients," because "when more people begin asking physicians about generic alternatives, more physicians are likely to begin considering generics for all of their patients," he said.

Leesburg, Va.-based Quest Diagnostics Inc., which has several facilities in the Tampa area, is hoping to save money as a result of the Wal-Mart and Target moves both through the discount pricing, but also by encouraging greater generic drug use.

"I hope it makes a difference just by elevating consciousness," said Fred R. Williams, Quest's director, benefits and strategic alliances.

"For every 1% increase we have in generic drug use, it reduces our overall drug costs by 1%," he said.

Quest is cutting copayments for generics under its drug plan next year. "We're actually reducing the cost of generics to as low as $5," Mr. Williams said.

But, if employees go to Wal-Mart or Target to get their prescriptions filled, they will be paying even less, he acknowledged.

Helen Darling, president of the National Business Group on Health in Washington, said Wal-Mart's generic pricing strategy will help stimulate the fledgling consumerism movement in health care, which seeks to make individuals more prudent buyers of services and products.

"Getting people to think more about prescription drugs as something to 'shop around for' is a good way to encourage consumerism," she said.

Supreme: High court to rule in key punitive damages, gender discrimination cases

Continued from page 1

cumstances, a plaintiff may bring such an action when the allegedly disparate pay was received within the statutory 180-day limitation period but resulted from allegedly discriminatory decisions that happened earlier.

Philip Morris involves the Oregon Supreme Court's Feb. 2 ruling upholding a $79.5 million punitive damage award to a smoker's widow. The punitive damage award, however, came on top of a compensatory award of $521,000. In 2003, the U.S. Supreme Court held in *State Farm Mutual Automobile Insurance Co. vs. Curtis Campbell* that punitive damages in excess of single-digit multiples of underlying compensatory damages are under most circumstances as disproportionate as to be unconstitutional. However, the Oregon Supreme Court earlier this year held that the cigarette maker's conduct was so "extreme and outrageous" that the guidelines didn't apply.

Jonathan Franklin, head of the Supreme Court and appellate practice in the Washington office of Fulbright & Jaworski L.L.P., told a Washington Legal Foundation briefing that he believes the case "is the most important business case" accepted thus far by the court for this term. "The issues go far beyond tobacco litigation," he said.

In addition, the case is the first time the Supreme Court has considered a product liability punitive damages case rather than a business tort punitive damages case, Mark Levy, chair of Kilpatrick Stockton L.L.P.'s Supreme Court and appellate litigation group, noted during a Supreme Court preview held last week by the National Chamber Litigation Center.

Mr. Levy pointed out that the Oregon court took into account harm allegedly caused by other smokers who were not part of the Williams lawsuit when allowing the punitive damage award to stand. That interpretation could lead to the "endless possibility of multiple punishments" where the other plaintiffs remain unknown, he said.

Lori Nugent, the Chicago-based chair of the punitive damages practice area of Philadelphia-based law firm Cozen O'Connor, called *Phillip Morris vs. Williams* "the most important punitive damages" case the Supreme Court has faced. "If the court were to permit unbounded punitive damages, corporate defendants would face the possibility of bankruptcy every time they faced a serious punitive damage exposure in any court of the United States," she said.

Ledbetter involves a woman who worked at a Goodyear plant in Gadsden, Ala., for nearly 20 years. She sued Goodyear, claiming it paid her less than her male counterparts because of her gender. Goodyear reviewed Ms. Ledbetter's salary annually, and Goodyear held that Ms. Ledbetter's case depended on whether she could prove that unlawful discrimination impacted an annual salary review within 180 days of her filing her discrimination charge. A jury, however, took into account 19 years of Ledbetter's salary history before ruling in her favor.

The 11th U.S. Circuit Court of Appeals reversed the lower court in August 2005, holding that "all we need to do is examine the last salary decision Goodyear made that affected Ledbetter's pay during the limitations period."

Employers are concerned that the high court could expand their exposures, say legal experts.

"What happened in *Ledbetter* was that the trial court allowed the plaintiff to focus in great detail on years and years of her compensation and employment history, although only her last compensation change was arguably within the limitations period based upon the Supreme Court's relatively recent decision in 2002 in case of *National Railroad Passenger Corp. vs. (Abner) Morgan*," said Jonathan Wetchler, a partner at Wolf, Block, Schorr & Solis-Cohen L.L.P. in Philadelphia.

"Some employers are concerned about the case because they fear that the Supreme Court might expand the exception laid out in *Morgan* to bring in claims beyond the limitation period to compensation claims. Right now *Morgan* has generally been interpreted to only allow claims to proceed on a 'continuing violation' theory if they allege hostile work environment," he said,

"The *Ledbetter* case could turn out to be a big-impact ruling," said Gerald Maatman, a partner at Seyfarth Shaw L.L.P. in Chicago.

"While its focus is on the application of Title VII's statute of limitations and the extent to which workers can reach back and challenge pay practices decisions outside the limitations period, the Supreme Court's disposition of the case is apt to ripple across current class-action litigation," Mr. Maatman said. "The scope of liability periods and examination of historical pay practices are at the center of most big Title VII class actions, and the stakes are high with plaintiffs looking to broaden the actionable pay practice liability and defendants hoping to close and narrow the liability window. The *Ledbetter* case will be watched closely on account of its potential impact on class actions," he said.

ADVERTISER INDEX

Issue of September 25

ADVERTISER	PAGE #
Ace Insurance	9
Aon Corporation	2
Benfield	17
Burnham System	20
Business Insurance	16, 19, 23, SB5
Corporate Environmental Advisors	20
Endurance Re	14
Guy Carpenter	13
Harvard Pilgrim Health Care	19R
Insurance Overload Staffing	6
Katie Insurance School and Financial Services	20
Lexington Insurance	28
Munich Reinsurance America	10
Saxe, Doernberger & Vita, LLP	27
Spencer Educational Foundation	18
Wausau Signature Agency	12
XL Insurance Energy	SB2
XL Insurance	5
Zurich Global Energy	SB8
Zurich North America	7

Gen Re: Prosecutors add charges against group of former execs

Continued from page 3

Monrad each face up to 230 years in prison and $46 million in penalties if convicted of all charges outlined in the indictment.

Mr. Garand, meanwhile, faces a maximum term of 160 years in jail and a fine of up to $29.5 million.

> "The U.S. attorney's office has made a huge mistake. Mr. Garand has never committed any crime."
>
> **Robert J. Cleary**
> **Proskauer Rose L.L.P.**

According to Robert J. Cleary, Mr. Garand's attorney with the law firm of Proskauer Rose L.L.P. in New York, Mr. Garand plans to plead not guilty to the charges.

"The U.S. attorney's office has made a huge mistake," Mr. Cleary, said. "Mr. Garand has never committed any crime. He has a completely unblemished record and is a man of uncompromising integrity, and the highest moral and ethical standards. We look forward to our day in court, where we are confident Mr. Garand will be fully vindicated."

All five individuals also face an enforcement action by the SEC, which similarly alleges that the former executives—in concert with a number of other Gen Re and AIG executives—created two phony reinsurance contracts between the reinsurer's Cologne Re Dublin unit and a unit of AIG, which in the fourth quarter of 2000 and the first quarter of 2001 falsely increased AIG's loss reserves by $500 million.

New York-based AIG conceded last year that the deal at the center of the investigation, a retrocessional loss portfolio transaction, did not transfer sufficient risk and restated its results to account for it as a deposit rather than as reinsurance. The insurer later paid $1.64 billion to settle civil charges—including those related to the transaction—with the SEC, New York Attorney General Eliot Spitzer and New York Insurance Superintendent Howard Mills (*BI*, Feb. 20).

That settlement does not apply to AIG's former chairman and CEO, Maurice R. Greenberg, and former CFO, Howard I. Smith, who were also named in regulators' civil suit against AIG and have vowed to fight the charges in court.

Two other former Gen Re officials—John Houldsworth, former CEO of Cologne Re Dublin, and Richard Napier, a former senior vp—last year pleaded guilty to criminal conspiracy charges related to the investigation.

Late News

Continued from page 1

including founding Arch Capital Group in 1995.

Willumstad named chairman of AIG

American International Group Inc.'s board has elected Robert B. Willumstad as chairman to succeed Frank G. Zarb, who has served as interim chairman since April 2005. The change is effective Nov. 1. Mr. Willumstad, who retired in 2005 as president and chief operating officer of New York-based Citigroup Inc., has been on the AIG board since January. Mr. Zarb remains an AIG director and will continue to serve as a nonvoting member of each of the board's standing committees.

Omega to move base to Bermuda

Omega Underwriting Holdings P.L.C., which operates at Lloyd's of London and in the United States, said it plans to set up a Bermuda-based holding company for its operations. Omega said the move "will position us to grow and develop our business significantly." The move follows Hiscox P.L.C.'s announcement earlier this month that the London-based company had received approval from its board to set up a Bermuda-based holding company, Hiscox Ltd.

Agent group opposes Zurich settlement

The National Assn. of Professional Insurance Agents has asked a New Jersey federal court to reject Zurich American Insurance Co.'s proposed class action settlement over its broker compensation practices, which the PIA says would unfairly harm insurance buyers and independent agents. In an amicus brief filed with the U.S. District Court for the District of New Jersey, the Alexandria, Va.-based trade group specifically takes issue with the mandatory disclosure statement set forth in a regulatory settlement that agents would be required to use with clients if transacting business with the insurer. Schaumburg, Ill.-based Zurich reached two regulatory settlements in connection with the proposed class action lawsuit pending in the New Jersey court against several commercial insurers and brokerages allegedly involved in improper broker compensation and insurance placement practices.

Quanta Capital sells environmental unit

Quanta Capital Holdings Ltd. said Monday it has sold its Environmental Strategies Consulting L.L.C. unit to WSP Environmental Holdings Inc. for $11.3 million in cash. The sale is the latest move by the embattled insurer and reinsurer following a ratings downgrade out of the A range in March by A.M. Best Co. Inc. Hamilton, Bermuda-based Quanta, which was hit hard by the 2005 hurricanes, placed the bulk of its specialty lines insurance and reinsurance business into runoff in May and sold the renewal rights to its U.S. environmental liability business to Liberty International Underwriters. Quanta continues to operate its Lloyd's of London syndicate 4000, which accounted for $80.7 million of gross premiums written in 2005.

Mental health benefits still fall short: Study

Ambulatory mental health treatment remains less well-covered than other types of health care despite a 1996 law and numerous state laws that require employers to provide mental health care benefits equal to those for medical care, a federal study shows. While out-of-pocket expenses for mental health care visits paralleled those of non-mental health visits for the first five visits each year, consumers' cost grew as the number of mental health visits approached and surpassed 20 annually, according to researchers at the Agency for Healthcare Research and Quality in Washington. By contrast, as the number of outpatient visits for non-mental health care increased, out-of-pocket costs generally declined, researchers say. However, out-of-pocket costs for prescription drugs were not effectively higher for treatment of mental health conditions vs. medical conditions, concludes the study by the arm of the U.S. Department of Health and Human Services. To estimate out-of-pocket costs for mental health and non-mental health treatment, researchers used data from AHRQ's ongoing national Medical Expenditure Panel Survey. The study covers the period from 1996 to 2003, the latest year for which data is available.

Max Re launches aviation unit

Max Re Ltd. has formed an aviation insurance unit that will underwrite airlines and manufacturers from its offices in Dublin, Ireland. Max Re, a subsidiary of Bermuda-based Max Re Capital Ltd., previously reinsured aviation risks. A Max Re Capital spokesman would not discuss how much capacity Max Re would offer airlines and product manufacturers. The unit will be headed by Senior Vp Olivier Marre, who previously was general manager of underwriting, accounting and claims in the Paris and London offices of Paris-based insurer La Reunion Aerienne.

Briefly noted

Former **Oil Insurance Ltd.** Vp Elspeth Brewin has joined mutual and captive insurance manager Thomas Miller (Bermuda) Ltd. as executive vp and director. Ms. Brewin, who earlier this month left her post at OIL, a Bermuda-based energy mutual insurer, will help to grow London-based Thomas Miller's Bermuda operations. Thomas Miller manages mutuals the U.K. P&I Club and the TT Club, among others....California Gov. Arnold Schwarzenegger vetoed legislation that would have doubled the state's **permanent disability benefits** over three years. In his veto message, the governor said S.B. 815 would have undermined reforms that were adopted in 2004 and that have since cut workers compensation premiums in half....**St. Paul Travelers Cos. Inc.** for a second time this year issued a statement denying media reports of an impending merger with Zurich Financial Services Group. In March, The Wall Street Journal reported that the St. Paul, Minn.-based insurer was in talks to merge with ZFS, and a similar report surfaced last week in the Swiss newspaper CASH....**Everest Re Group Ltd.** said its chief financial officer, Stephen L. Limauro, plans to retire at the end of the year. The reinsurer has begun an outside search for his replacement.

BI Stock Index [9/18 - 9/22]

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

Percentage change of *BI* Stock Index vs. key indicators

***BI* Stock Index**	3050.32	-1.09
Dow Jones	11508.10	-0.46
S&P 500	1314.78	-0.39

Largest gains

Axis Capital Holdings	4.98%
Aspen Insurance Holdings	2.86%
Marsh & McLennan	2.38%
Tower Group Inc.	2.12%
CIGNA Corp.	1.61%

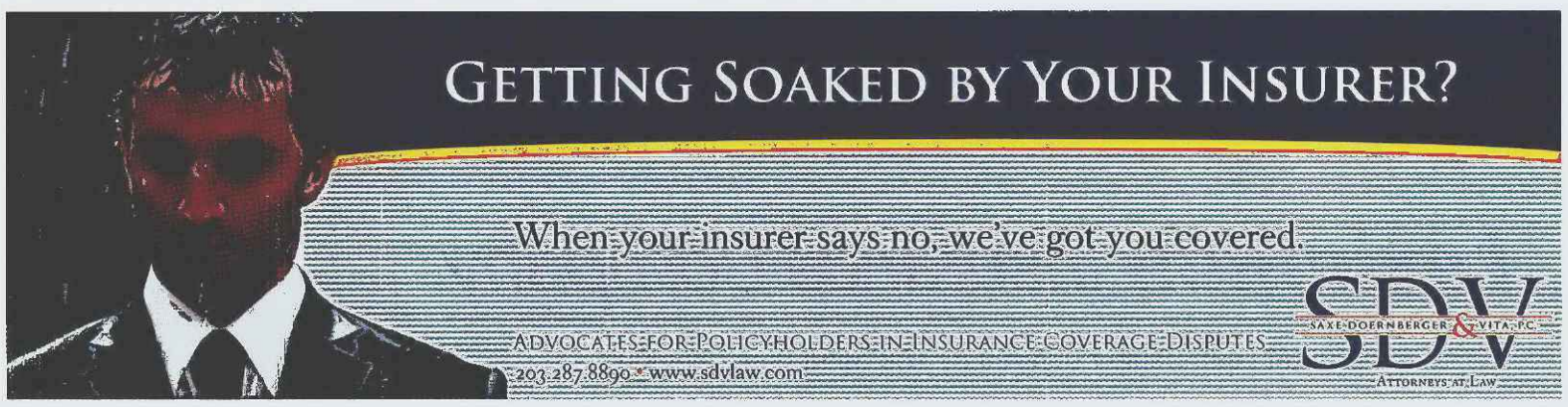
Largest losses

UnitedHealth Group Inc.	-6.21%
SCPIE Holdings Inc.	-5.75%
Fairfax Financial	-5.00%
Clark Inc.	-4.48%
Baldwin & Lyons Inc.	-4.04%

Weekly change by market segment

Brokers	-1.20%
Insurers/Reinsurers	-0.60%
Managed Care Organizations	-1.54%

Source: FinancialContent Inc. *(http://financialcontent.com)*



At *BusinessInsurance.com*

New **Online Poll:** How well has the soon-to-be-adjourned Congress performed in dealing with issues of importance to you?

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property casualty healthcare programs

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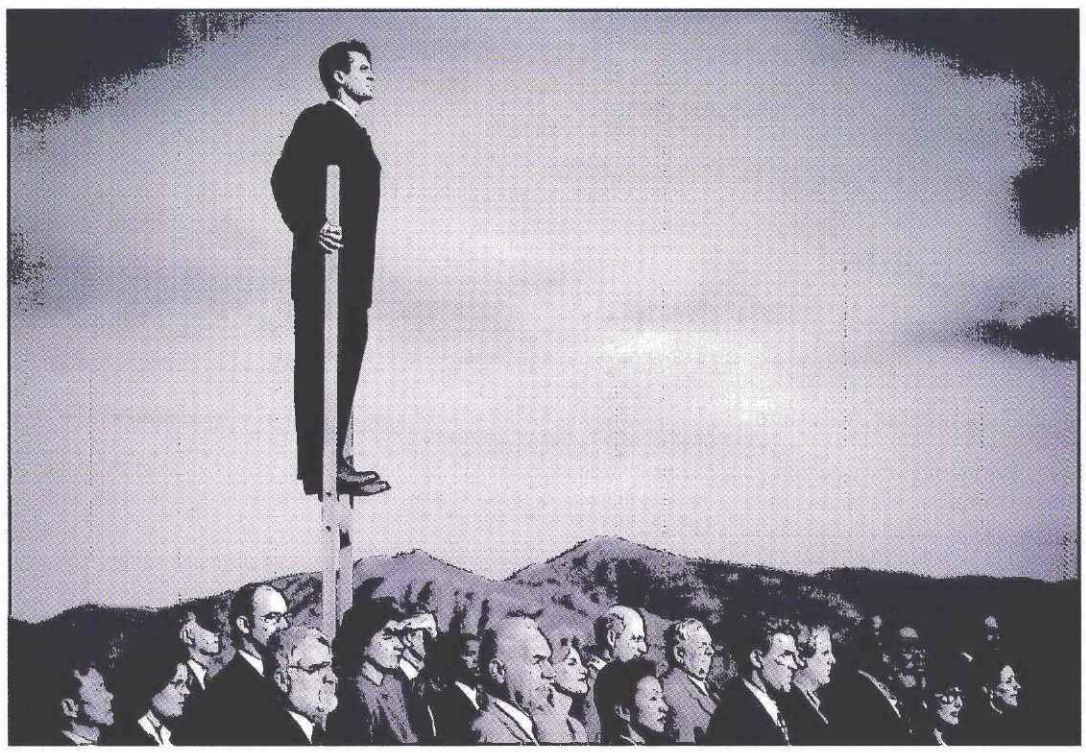

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