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Business Insurance

September 3, 2007

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PUBLIC ENTITY RISK MANAGERS FEAR FEMA MAY PULL PLUG ON CAT COVER / PAGE 3

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UNITEDHEALTH DEAL IN NEVADA SUBJECTED TO MORE SCRUTINY BY STATE OFFICIALS / PAGE 3

In Brief

Reinsurer results improve in first half

U.S. reinsurers reported a 90% combined ratio for the first half of 2007, compared with 96.5% reported by a comparable group for the same period last year, according to the Reinsurance Assn. of America. The 2007 first-half combined ratio of the 22 reinsurers surveyed reflects a 62.8% loss ratio and a 27.2% expense ratio. Total net premiums written were $12.23 billion, a 5.8% decline from the total reported by a comparable group in the first half of 2006. Policyholder surplus totaled $77.29 billion, and the reinsurers reported $2.75 billion in net income.

Attorney Lerach to retire from firm

Lerach Coughlin Stoia Geller Rudman & Robbins L.L.P. said

See **IN BRIEF** page 38

SPOTLIGHT

REINSURANCE: INTERNATIONAL MARKETS



European directive expands ways for reinsurers to meet capital needs; some Lloyd's syndicates prune capacity in soft market; Brazil finally looks set to open reinsurance market to competition. **Page 10**

Buyer wins fight over surge claim

Wind-driven water damage not excluded

By ROBERTO CENICEROS

LOS ANGELES—Wind-driven storm surge losses caused by Hurricane Katrina are covered under an excess property policy that Factory Mutual Insurance Co. sold to Northrop Grumman Corp., a federal court in Los Angeles has ruled.

The Aug. 16 summary judgment in *Northrop Grumman Corp. vs. Factory Mutual Insurance Co.* could be the first time that a court has ruled in a case involving a large, commercial policyholder over whether wind-driven storm surge is covered under a property policy that excludes flood coverage, observers said.

Most Katrina-related lawsuits involving large policyholders are being settled out of court, said Kirk A. Pasich, an attorney at Dickstein Shapiro L.L.P. in Los Angeles, who represented Northrop in the case.

The decision could be significant if it stands, because other policyholders that suffered Hurricane Katrina damage purchased policies with similar language, policyholder attorneys said.

"If this ruling becomes the law of the land, it would have financial implications far beyond the Northrop Grumman case," said Gary Thompson, a partner in the insurance recovery group at Reed Smith L.L.P. in Washington.

Johnston, R.I.-based Factory Mutual, which conducts business as FM Global, is exploring a possible appeal, a spokesman said.

FM Global is encouraged that the court found it is reasonable for the insurer to interpret its excess policy's flood exclusion to include storm surge damage, added the spokesman, who declined further comment.

But the court's 31-page discussion of the matter states that FM Global cannot prove its interpretation of the language is the only reasonable conclusion.

It was reasonable for Northrop to expect coverage and FM's "excess policy failed to clearly exclude loss caused by 'storm surge' or 'wind-driven water,'" the court ruled.

The case involves hurricane damage to Northrop Grumman

See **NORTHROP** page 37



A sign in the Lakeview area of New Orleans advertises a class action lawsuit.

CHRIS GRAYTHEN/GETTY IMAGES

Insurers face wave of Katrina lawsuits

Plaintiffs rush to beat legal time bar

By MARK A. HOFMANN

NEW ORLEANS—Two years after Hurricane Katrina inundated New Orleans and much of the Gulf Coast, another flood—of insurance-related lawsuits—hit Louisiana last week.

That's because Aug. 30 was the last day policyholders could file suits over Hurricane Katrina-related insurance disputes in Louisiana courts.

In the Parish of Orleans Civil District Court, plaintiffs filed 2,489 Katrina-related lawsuits last week as the deadline neared. Meanwhile the U.S. District Court for the Eastern District of Louisiana saw 892 Katrina-related filings, according to the clerk's office.

See **KATRINA** page 37

Ohio sues Marsh, insurers over price fixing

State repeats several allegations outlined in long-settled Spitzer case against brokerage

By RUPAL PAREKH

CLEVELAND—More than two years after Marsh & McLennan Cos. Inc. reached an $850 million settlement of alleged anticompetitive practices, state officials are still going after the broker over those past practices.

Last week, Ohio Attorney General Marc Dann sued Marsh—along with four major insurers—and accused them of conspiring to engage in price-fixing and anticompetitive business practices.

Now, some of the companies are saying, "Enough is enough."

Having previously settled with various states over similar allegations—and having already paid restitution to many Ohio policyholders—Marsh last week vowed to fight the Ohio lawsuit. At least two insurers also plan to fight the charges.

The suit, filed in Cuyahoga County court, names Marsh as well as New York-based American International Group Inc.; Hamilton, Bermuda-based ACE Ltd.; Warren, N.J.-based Chubb Corp.; Hartford, Conn.-based Hartford Financial Services Group Inc.; and nearly 30 of the companies' subsidiaries.

Marsh and the insurers participated in a scheme between 2001 and 2004 "by using false statements, artificially high price quotes and other artifices to feign competition among themselves while raising premiums above competitive levels" to the detriment of Ohio buyers of commercial casualty insurance, the suit charges.

Such agreements among competitors to divide markets or customers represent a violation of Ohio's antitrust law, The Valentine Act, the lawsuit states.

See **OHIO** page 38

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MaxRe — Max Specialty — $150 million
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FM Global — Cascadia II Limited — $300 million
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Securitization of Pacific NW Earthquake Risk
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FEMA policy worries public entities, nonprofits

Lack of commercial flood coverage affects availability of aid

By DAVE LENCKUS

WASHINGTON—Mixed signals that a federal official sent when rescinding a policy that would have drastically cut government financial aid to public entities and nonprofit organizations after natural catastrophes are raising concerns for risk managers with flood exposures.

Despite the about-face by the Federal Emergency Management Agency, public entities and nonprofit organizations still might not receive federal aid for uninsured losses, such as deductibles, if their properties are flooded during a natural catastrophe, observers say.

That is because the lack of adequate commercial flood insurance capacity prevents those organizations from purchasing the amount of coverage that the federal official suggested would be required before federal aid would kick in, they say.

"Some of the things they're asking them to do is not doable these days," said public entity broker Dave Ritch, a Ewing, N.J.-based executive vp with the Willis Pooling Practice at Willis Group Holdings Ltd.

"So many of us are going to be impacted by this," said Ron Hayes, a board director for the Alexandria, Va.-based Public Risk Management Assn.

Nonprofit organizations such as hospitals would be hurt, too, because the loss of federal assistance would mean "they couldn't afford to rebuild" after a flood, said Tom O'Connell, a Chicago-based senior vp with Aon Risk Services of Illinois Inc., a unit of Aon Corp.

Risk managers and brokers became concerned in late August whether public entities and nonprofit organizations would lose important federal financial aid to help cover their uninsured losses from natural catastrophes that are declared national disasters. In a little-noticed June 4 bulletin, FEMA said it no longer would cover uninsured damage for properties that were damaged during previous disasters.

An outcry from risk managers, brokers and some members of Congress convinced FEMA officials to cancel the rule change spelled out in the bulletin and go back to the drawing board, but this time with guidance from insurance buyers (*BI*, Aug. 27).

The controversial bulletin also stated that applicants for FEMA financial aid to cover uninsured flood losses first would have to prove they had flood insurance through the National Flood Insurance Program and commercial insurance "up to the amount of eligible damage," or repair costs and other related charges that FEMA

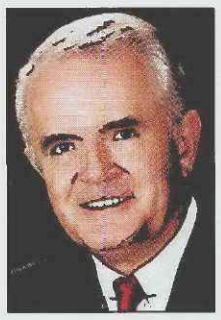
See **FEMA** page 36

UnitedHealth deal faces more scrutiny in Nevada

Competition concerns prompt probe by A.G.

By GLORIA GONZALEZ

CARSON CITY, Nev.—Nevada Gov. Jim Gibbons last week asked the state's attorney general to examine UnitedHealth Group Inc.'s proposed acquisition of Sierra Health Services Inc., a day after the transaction received approval from Nevada's Division of Insurance.



'I am deeply disturbed by some of the potential monopolistic tendencies that can result from this merger.'

Jim Gibbons
Governor of Nevada

Minnetonka, Minn.-based UnitedHealth's proposed $2.6 billion acquisition of Las Vegas-based Sierra—the second-largest health insurer in Nevada—was approved by Nevada Commissioner of Insurance Alice Molasky-Arman last Monday, despite widespread opposition from consumer and provider groups, a union representing health care workers and local politicians.

To secure approval for the merger, the companies agreed to several conditions, including a prohibition on raising premiums or passing along acquisition costs, such as executive bonuses and severance packages, to health care consumers and providers as a result of the acquisition. In addition, benefit plans will not be scaled back as a result of the acquisition, according to the agreement.

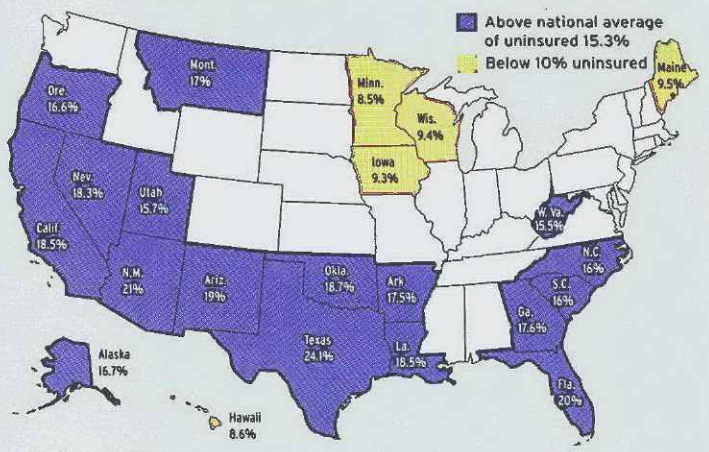
The governor, though, said he remains unconvinced that the agreement goes far enough to ensure competition in Nevada's health care system, according to a statement.

"I am deeply disturbed by some of the potential monopolistic tendencies that can result from this merger and by the constraints in Nevada law that prevented the Insurance Commissioner from acting more forcefully to curb these potential threats," the governor said in the statement.

See **NEVADA** page 34

LACK OF CARE

States with above average percentage of people without health insurance coverage.



Source: U.S. Census bureau

Job-based health cover falls again as costs rise

Percentage of workers covered hits six year low

By SALLY ROBERTS

WASHINGTON—The percentage of U.S. residents covered by employment-based health insurance declined again last year as soaring health care costs continued to erode coverage, a U.S. Census Bureau report shows.

In 2006, 59.7% of the U.S. population received health insurance coverage through an employment-based plan. That is down from 60.2% in 2005 and is the sixth consecutive year of decreases in employment-based coverage. In 2000, 64.2% of the U.S. population had health insurance through an employer, the report shows.

While the Census Bureau revised its previous years' health insurance estimates—showing that more U.S.

See **CENSUS** page 36

1967 - 2007 40TH FORTY YEARS OF BI

ON OCT. 8, 2007, *Business Insurance* will celebrate its 40th anniversary of publication. Each week until then, *BI* will offer a peek at news we reported during the past four decades.

OCT. 9, 2000 Mobile phone maker Ericsson Telecom A.B. files a business interruption claim months after a fire forced a six-week production shutdown at a key supplier's plant. Ericsson said it stood to lose up to 5 billion Swedish kronor ($511 million) in revenue. Sources say the loss will harden the market for business interruption coverage.

OCT. 9, 2000 Two U.S. employers launch programs that give employees control over how their health care dollars are used. The programs, developed by Definity Health, let employers define contributions to spending accounts linked to high-deductible plans. Some question whether the programs' carryover feature violates benefit law.

Judge orders trial for two former comp insurer execs

By ROBERTO CENICEROS

BISMARCK, N.D.—Prosecutors have enough evidence to put on trial two top officials at North Dakota's monopoly workers compensation insurer over charges in a conspiracy case, a judge ruled last week.

Sandy Blunt, chief executive officer of Bismarck-based Workforce Safety & Insurance, and Romi Leingang, investigations manager of the state monopoly workers comp insurer, both have been charged with conspiracy to disclose confidential information, according to the Burleigh County state's attorney's office.

The felony charge stems from allegations the two officials obtained confidential driver's license photos from North Dakota's Department of Transportation as part of an effort to identify an individual who had e-mailed WSI employee pay information to workers at the agency.

Neither Mr. Blunt nor Ms. Leingang could be reached for comment.

Ms. Leingang's attorney, Tim Purdon, a partner in the Bismarck office of the Vogel Law Firm, said his client was disappointed with the ruling. Ms. Leingang acted on direct orders from her superiors and with the advice of WSI's general counsel, Mr. Purdon said.

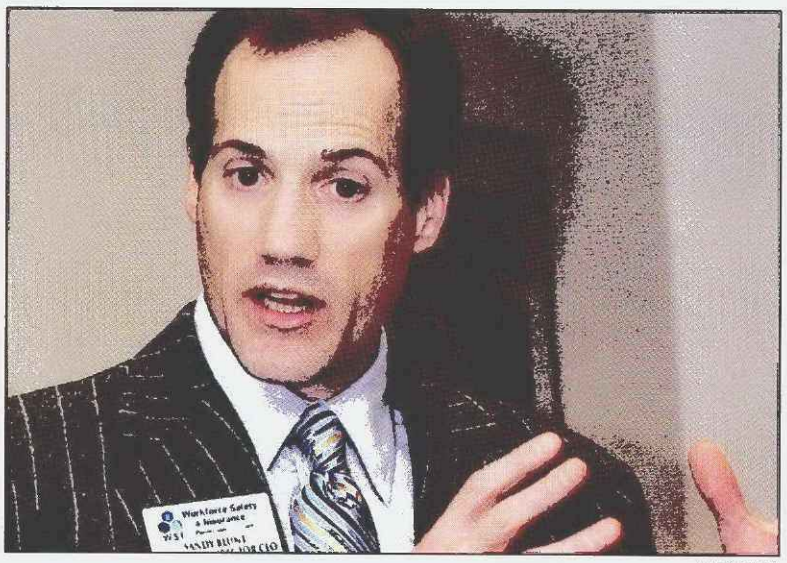
"For that reason, her actions were not criminal," Mr. Purdon added. "If we have to have a trial on this matter, we look forward for the trial and hopefully a judgment of acquittal at the end of the day."

Mr. Blunt's attorney, Michael Hoffman, could not be reached.

When allegations of improprieties first surfaced in April, WSI's board of directors issued a statement saying it had full faith in Mr. Blunt and Ms. Leingang and that the board expected they will be exonerated.

At the time, however, Mr. Blunt and Ms. Leingang were placed on paid administrative leave. A WSI spokesman said last week that the April statement still stands.

Two separate charges against Mr. Blunt, which include an accusation that he misspent agency money on employee gifts, were dismissed earlier.



AP PHOTOS

Sandy Blunt, the Workforce Safety & Insurance CEO who is accused of conspiracy, during March 2005 testimony before a legislative panel in favor of disputed claims legislation.

Ex-insurance official pleads not guilty

Allegations cite three years of fraud, extortion

By MEG FLETCHER

ALBUQUERQUE, N.M.—Joseph Ruiz, a former deputy superintendent of insurance in New Mexico, pleaded not guilty at his arraignment last week to federal charges that he allegedly solicited charitable contributions from insurers as well as insurance service companies in exchange for reducing or eliminating regulatory fines against the companies.

A grand jury last month indicted Mr. Ruiz on 31 counts of mail fraud, wire fraud, corrupt solicitation and extortion stemming from his dealings with 11 different companies, according to a statement issued jointly by agents from the FBI's Albuquerque, N.M., office and the New Mexico attorney general's office.



AP PHOTO

Mr. Ruiz

According to the indictment, between July 2002 and January 2005, Mr. Ruiz sought donations for two nonprofit agencies—Con Alma Health Foundation Inc. and the Southwestern Arts Institution—in which Mr. Ruiz and his supervisor at the time had "a personal interest."

Specifically, former New Mexico Insurance Superintendent Eric Serna helped create Con Alma, which distributed money to health care providers with funds from the sale of Blue Cross & Blue Shield of New Mexico.

Mr. Serna served as board president of Con Alma until shortly before he resigned as the state's insurance superintendent in May 2006 amid allegations of conflict of interest.

The Southwestern Arts Institution primarily received donations for the purchase of bilingual children's books, almost all of which were written by Mr. Ruiz, according to the indictment.

In a typical scenario, Mr. Ruiz told an insurance company that it used adjusters not licensed in New Mexico to process insurance claims from risks in the state.

After seeking and receiving information about the numbers of unlicensed insurance adjusters and the claims they processed, Mr. Ruiz "would usually then advise the company that it faced a large potential maximum fine," according to the indictment.

In ensuing discussions, Mr. Ruiz would tell the insurance company that he would recommend reducing or eliminating the potential fine "if the company would agree to pay money to a private person or organization" that Mr. Ruiz had designated.

"As part of his scheme to defraud, Ruiz acted under the false pretense that he was carrying out his duties as a public official" and thereby deprived people "of the intangible right of honest services," the indictment said.

A call to Mr. Ruiz's home was not returned.

IRS plan would limit lump-sum payments in underfunded DB plans

Well-funded plans would be required to get an actuarial certification

By JUDY GREENWALD

WASHINGTON—Plan sponsors with underfunded defined benefit plans will have limits on their lump-sum distributions under a measure included in a proposed regulation issued by the Internal Revenue Service last week.

"This is a pretty dramatic change in plan administration," Kyle Brown, Arlington, Va.-based retirement counsel for Watson Wyatt Worldwide, said of the proposed regulation, which is scheduled to go into effect in January. "This is going to be something sponsors need to pay quite a bit of attention to," said Mr. Brown. "There are plenty of traps for the unwary here."

The IRS issued the proposal, Benefit Restrictions for Underfunded Pension Plans, on Aug. 28 to provide guidance to employers to help implement a provision in a comprehensive pension funding law enacted last year.

That law, among other things, accelerates the amount of time employers have to fund plan liabilities, creates a new formula for valuing plan liabilities and details whether employers can offset plan contributions by extra contributions they previously made.

A primary impact of the proposed regulation is on defined benefit plans' lump-sum distributions, which are permitted by many smaller plans and in the cash balance plans offered by many large employers, observers say. Under the proposed rules, employers whose plans are not fully funded would face various restrictions on the size of lump-sum distributions that can be made.

Employers with well-funded plans would see no change and would only have to obtain an actuarial certification of their funded status, said Marjorie Martin, vp at Aon Consulting in Somerset, N.J. "If your funding is good, if your assets are in good shape compared to your liabilities, you won't need to put in more money," said Ms. Martin.

But plans that are less than 60% funded cannot make any lump-sum distributions greater than the monthly amount a plan participant would have received under a single-life annuity, under the proposed regulation.

And if a plan is at least 60% but less than 80% funded, the participant can receive only half of the lump-sum distribution to which he would otherwise have been entitled, or the present value of the participant's maximum benefit guaranteed by the Pension Benefit Guaranty Corp., whichever is less.

See **REGS** page 34

Ruling favors 'nonparty' reinsurers

Calif. upholds limits on pretrial discovery during settlement talks

By ROBERTO CENICEROS

SAN FRANCISCO—Victims of alleged child abuse by priests cannot delve into the Catholic Mutual Relief Society's reinsurance arrangements during discovery as part of pretrial settlement negotiations, California's Supreme Court has ruled.

In *Catholic Mutual Relief Society et al. vs. The Superior Court of Los Angeles County*, victims sought to learn whether the nonprofit entity, which administers self-insurance funds for more than 300 archdioceses and other Roman Catholic entities in the United States and Canada, could meet its policy obligation should they enter into a settlement with the Archdiocese of San Diego.

In 2004, a Los Angeles County trial court judge said the victims could seek reinsurance information, but Catholic Mutual objected. A state Court of Appeal vacated the judge's order, ruling that California law authorizing limited discovery of a defendant's insurance coverage does not authorize pretrial discovery of reinsurance agreements with a "nonparty" liability insurer.

Last Monday, the California Supreme Court agreed.

The court ruled that discovery of reinsurance is allowed when a reinsurer's policy functions "in the same way as a liability policy (fronting arrangement), or where the reinsurance agreement is itself the subject matter of the litigation at hand."

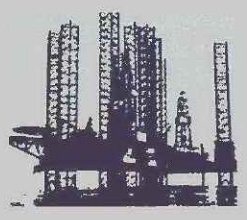
But the case before it lacked those exceptions, the state's high court said.

The case was remanded for further proceedings.

Catholic Mutual Relief Society et al. vs. The Superior Court of Los Angeles County, S134545, Aug. 27, 2007.



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Transfers of pension obligations draw the interest of banks, insurers

Some see U.K. trend among plan sponsors spreading to U.S.

By SUSAN KELLY

If market volatility is giving you a pension fund migraine, consider this option: Transfer the whole thing to a financial institution. That's what some U.K. companies have done in the past few years, and industry players say major banks on the U.S. side of the pond could signal that they're willing to strike such deals before year-end.

"There are a lot of financial services organizations looking at this—investment banks, commercial banks and insurance companies," said Bob Aglira, worldwide partner and head of Mercer Investment Consulting's Financial Strategy Group in Philadelphia. "I would suspect that if the regulatory requirements can be bridged, we're going to see something arise in the United States."



Mr. Aglira said some financial institutions could announce plans to offer pension buyout services in the United States later this year.

Even when fully funded, a pension plan still faces investment, inflation and longevity risk. That gives plan sponsors ample reason to bow out, especially if workers no longer accrue additional benefits in the plan, canceling out its value as a recruiting tool. Meanwhile, financial institutions see a profit opportunity.

U.K. pension buyouts have traditionally been the province of insurance companies, which terminate plans after acquiring them by providing annuities to participants. A number of insurers have entered the market in the past couple of years. There have been fewer U.K. deals than expected, though, and that has been blamed on the price insurers have been asking, tagged at roughly a 30% premium to a plan's liabilities.

See **PENSIONS** page 35

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Commentary

Are still-fuzzy payments a return to status quo?



REGIS COCCIA

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

The world's three largest brokers recently said they have reached agreements with regulators permitting them to accept payments from underwriters related to placing business.

If brokers that agreed not to accept payments from underwriters for placing business on behalf of an insurance buyer are again taking them, Eliot Spitzer's investigations and efforts to eliminate conflicts of interest would appear to have all been for naught.

Three years ago, the then-New York attorney general turned the insurance industry upside down. Accusations of bid rigging and steering business to maximize contingent compensation were shocking, but no one has proved that these egregious acts were done by more than two dozen individuals.

The price the industry paid for the misdeeds of a few almost defies belief. Billions of dollars in market value were lost, billions of dollars in settlements were paid, businesses were restructured and/or jettisoned, and thousands of honest people lost their jobs. All this even though contingent commissions were never illegal—and they still aren't.

As attorney general, Mr. Spitzer required insurers that settled bid-rigging allegations to agree not to pay contingent commissions and to support legislation that would ban such payments. Don't hold your breath until those proposals circulate in state legislatures; it's unlikely that any state will pass legislation banning a longtime insurance industry practice that provides substantial income to agents and brokers.

Today, only the largest brokers have ceased accepting contingent compensation. Most other brokers and virtually all agents still do. A new form of supplemental commissions introduced by a few insurers was approved by state attorneys general and insurance regulators. It's not entirely clear how these payments work, but they generally reward business volume placed in the prior year. Frankly, I can't tell the difference between that and traditional contingent pay or volume overrides.

It didn't take long for brokers with managing general agency operations to strike amended agreements to receive compensation from insurers for those services. And now, attorneys general and insurance commissioners have agreed to permit brokers to receive payments for certain services performed in placing business. How such payments would work is not entirely clear, either, and the two brokers that will accept them say the payments are not contingents and will be fully disclosed to clients.

OK so far. Many industry leaders have touted disclosure of compensation arrangements as the salve for any concerns about conflicts of interest. Disclosure is indeed important, but it no more removes the possibility of conflict than cost-shifting reduces the expense of health care. The underlying problem remains. Complete disclosure to the client of all compensation should be the price of admission, not something for brokers to aspire to achieve.

Where a broker's compensation comes from does matter.

Brokers provide valuable services, and they are key distribution channels for insurers writing both large and midsize accounts. They deserve to be compensated for the value they bring. Those in the brokerage field contend that brokers bring significant value to both underwriters and buyers, and I don't dispute that. Where a broker's compensation comes from, however, does matter. Who is a broker in business to serve, first and foremost? Brokers represent the buyer; agents also serve buyers but represent the underwriter.

During the round of brokerage settlements in 2005, I was puzzled that Mr. Spitzer insisted the major retail brokers dispose of wholesale brokerage operations, yet he saw no problem with their retaining MGA and managing general underwriter units. In my opinion, he got it wrong. He should have allowed the top brokers to keep operations that align their interests with that of the ultimate buyer and required them to spin off or sell units that are closely tied to underwriters. As it is, he and other regulators left the door open for future conflicts of interest.



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Business Insurance OPINIONS

IRS intractable on plan conversion issue

IT ISN'T OFTEN that business groups and labor organizations agree on an employee benefit issue.

So when they do agree, as is the case now with a cash balance pension plan conversion issue, top federal officials should take note and respond.

As we recently reported, employers that years ago converted their traditional pension plans to cash balance plans now are having trouble getting the Internal Revenue Service to OK those conversions. These are employers that did the right thing when they converted their old benefit formula designs to a cash balance design.

Specifically as part of the conversion process, these employers said the benefits that current employees receive would be based on the design that resulted in the biggest benefit—whether through the old plan or the new cash balance plan.

The IRS should consider the formulas' fairness.

We don't think anything could be fairer to employees, but some at the IRS disagree. Regulators have refused to sign off on such conversions, arguing so-called "greater-of-the-two" techniques run afoul of other IRS rules that bar plan designs in which benefit accruals are concentrated during employees' final years of service.

While this isn't the place to go into the technical basis for the IRS stance, we do know that such a position flies in the face of common sense. The IRS should recognize that.

And if there is, in fact, something in federal law that blocks the IRS from approving such conversions, its top officials should go to Congress to get the law changed.

In the meantime, as employer and labor organizations—such as the American Benefits Council, the ERISA Industry Committee and the Service Employees International Union—are urging, the Treasury secretary should stop any IRS actions that could lead to plan disqualification for employers using greater-of-the-two formulas.

We would think that federal regulators would applaud plan conversions that promise the greatest benefit to affected participants. If they can't or won't, it is up to Congress to see that they do.

Lessons to be learned from hurricane claims

HURRICANE CLAIM DISPUTES have been in the news a lot in the past two weeks, providing useful lessons about risk and recovery.

Consider these items: Defense contractor Northrop Grumman Corp. won summary judgment in its coverage dispute over shipyard damage in Mississippi during Hurricane Katrina; insurers lambasted a plaintiffs' attorney group report on Katrina claims, saying it ignored the facts in calling insurers "greedy"; a Louisiana appeals court ruled that a couple who lost their home in Hurricane Rita can recover only for covered perils; plaintiffs' attorney Richard Scruggs was indicted on charges of defying an order to submit evidence in Katrina suits; and the deadline for filing Katrina claims passed.

Now that we've seen the first major hurricane of this season, property owners and their insurers should prepare for the claims that inevitably will come when the next storm strikes the coast.

When that happens is less important than both buyers and insurers communicating clearly about what their contracts cover, what they don't and why. Insurers paid out more than $40 billion for Katrina claims alone, so calling them greedy borders on ridiculous. Although the vast majority of disputed claims were settled, the fact remains that thousands of policyholders had disagreements.

Therein lies an opportunity for the industry to do a better job of educating policyholders, and for buyers to understand their policies and seek ways to finance or avoid the risks they face.



BI beats list

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

Agents/brokers: Sally Roberts.

Benefits–health care and ancillary benefits: Joanne Wojcik.

Benefits–retirement savings/pensions: Jerry Geisel.

Bermuda market: Rupal Parekh.

Canada–risk management and benefits: Gloria Gonzalez.

Claims management: Rupal Parekh.

Employment practices: Judy Greenwald.

Environmental risk management: Sally Roberts.

Federal regulation/ legislation–benefits: Jerry Geisel.

Federal regulation/ legislation–risk management: Mark A. Hofmann.

Health care industry operations: Gloria Gonzalez.

Industry Focus: Rodd Zolkos, Meg Fletcher.

Insurance coverage litigation: Douglas McLeod.

Insurance fraud: Douglas McLeod.

Latin American markets: Roberto Ceniceros.

Property/casualty industry operations: Judy Greenwald.

Professional liability: Dave Lenckus.

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

Regulation of insurance: Meg Fletcher.

Reinsurance: Judy Greenwald.

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Runoffs/receiverships: Douglas McLeod.

Safety/ergonomics: Meg Fletcher.

Surplus lines/wholesalers: Roberto Ceniceros.

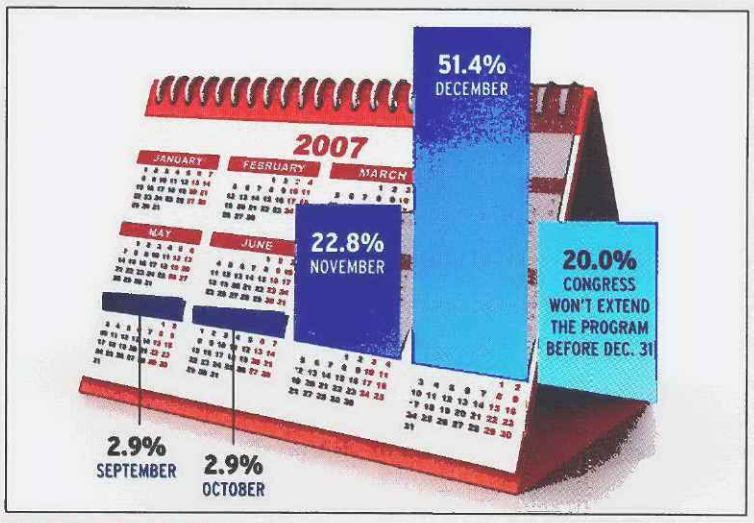
Tort reform: Mark A. Hofmann.

Work/life benefits and EAPs: Sally Roberts.

Workers compensation: Roberto Ceniceros.

Online Poll at www.businessinsurance.com

When will Congress give its final approval to an extension of the terrorism insurance backstop?



NEXT WEEK'S POLL: *Should brokers accept service fees from insurers for placing certain business?*

***BI* Online Poll tool sponsored by Wausau Insurance Cos.**

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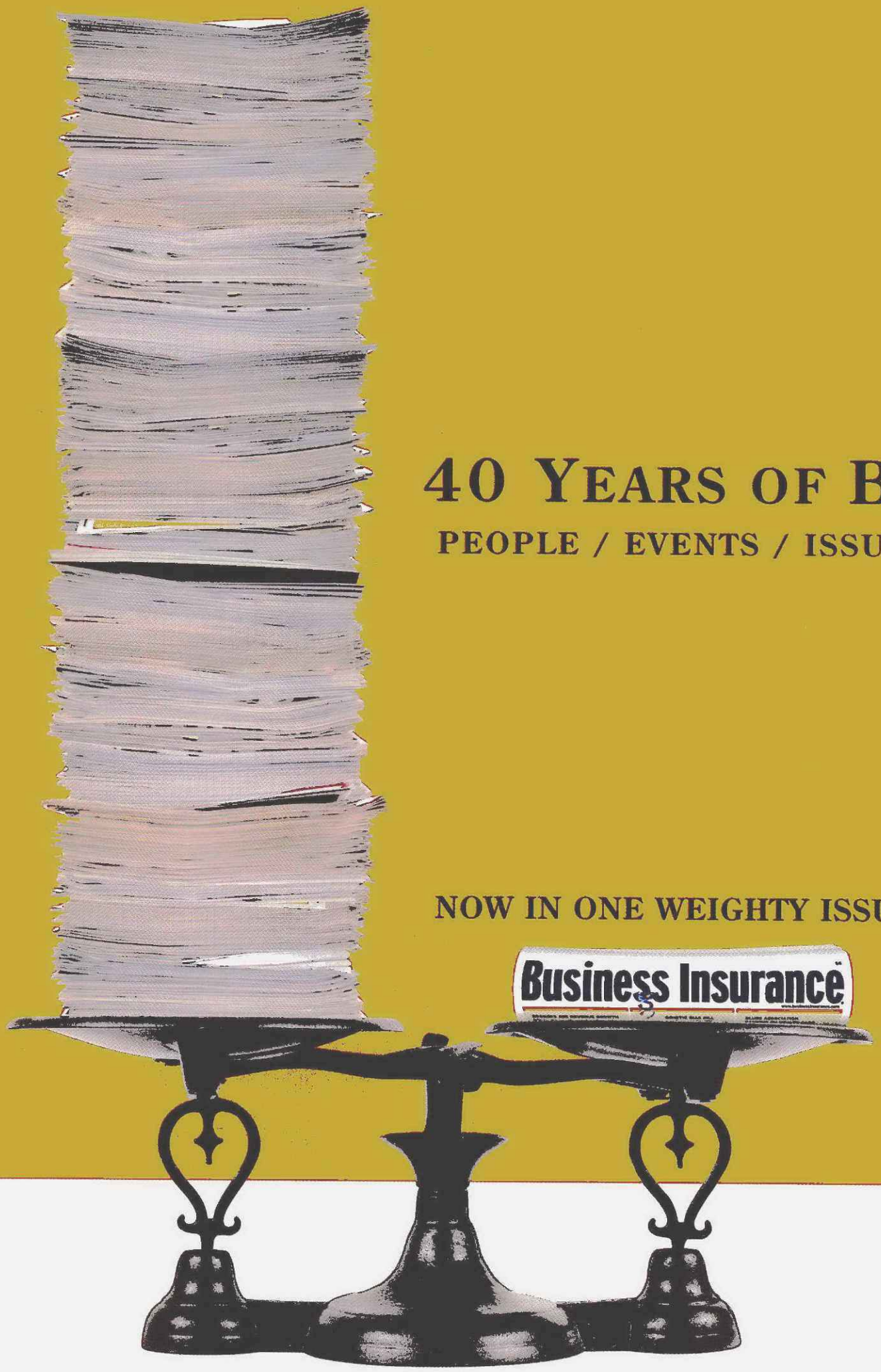
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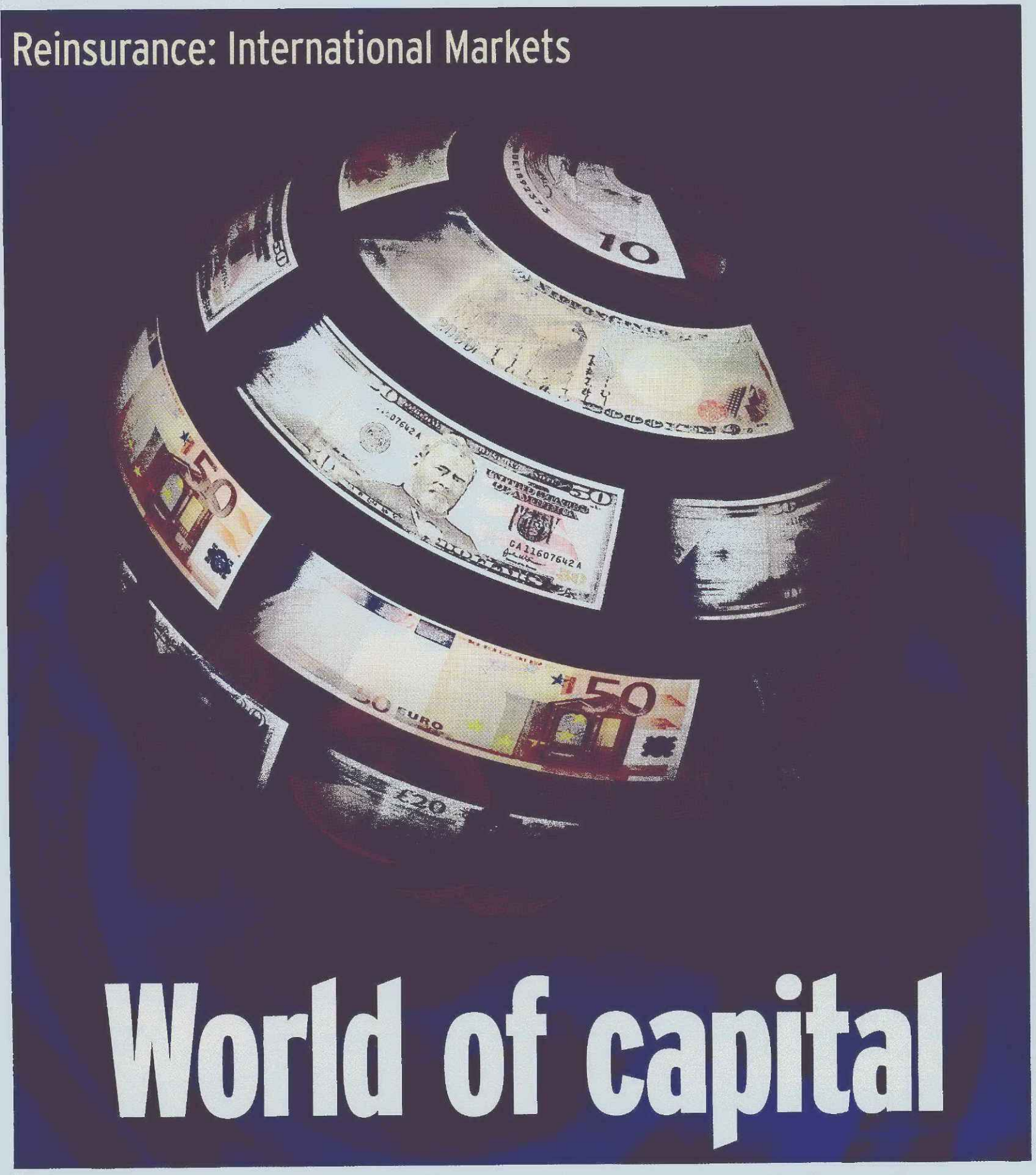
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Reinsurance: International Markets



World of capital

Europe's Solvency II expands resources to meet capital requirements

By MICHAEL BRADFORD

Europe's reworking of insurance regulations under the Solvency II framework directive has raised the profile of securitization as a risk mitigation tool, but that does not mean insurers will abandon traditional reinsurance and flock to the capital markets, experts say.

The Solvency II directive, which is set for implementation in 2012, includes securitization products among an expanded menu of techniques that insurers can use to gain relief from capital requirements under the risk-based capital regime.

Such capital relief is calculated partly according to how insurance risks are backed. Under current European Union regulations established by Solvency I, securitized products such as catastrophe bonds are not given consideration in calculating capital requirements.

The proposed overhaul in July's Solvency II directive allow insurers to use securitization in the same way they use reinsurance to meet their capital requirements.

That has created speculation as to whether insurers will consider securitization over reinsurance as they take advantage of it to meet capital requirements.

What is more likely to happen under Solvency II is that more companies will consider using securitization as the process matures, experts say, though the directive also increases the benefits of traditional reinsurance.

"Solvency II broadens the spectrum of risk mitigation instruments," said Andreas Grünbichler, group chief risk officer of Zurich Financial Services in Switzerland.

Allowing securitization to be included among methods an insurer can use to reduce capital requirements is not likely to shake up the reinsurance market, he noted.

"I still see a strong future for traditional reinsurance," Mr. Grünbichler said.

Complementary tool

There is plenty of room for both approaches, experts say.

"I would not think Solvency II would make a difference there," said Elke Koenig, chief financial officer at Hannover Re Group in Germany. "Solvency II will increase the demand for reinsurance because reinsurance in the Solvency II regime is a very efficient way to manage your capital requirements."

As for securitization, which is more of a one-

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BI RANKING OF 10 LARGEST REINSURERS WORLDWIDE
PAGE 12

SOFT PRICES LEAD LLOYD'S SYNDICATES TO PRUNE CAPACITY
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LONG-AWAITED NEW MARKET IN BRAZIL NEARER TO REALITY
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CATASTROPHE LOSSES COULD STIFFEN EUROPEAN RENEWALS
PAGE 26

OVER AND UNDER

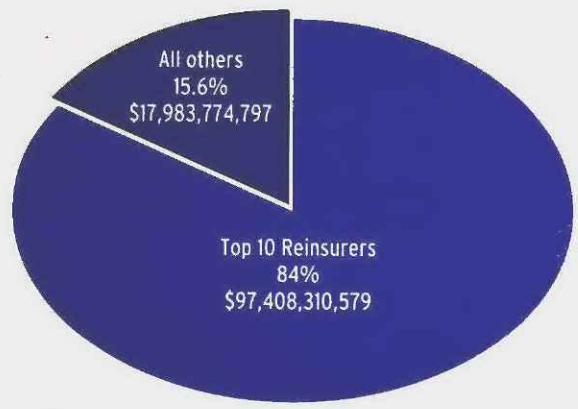
Ranked by combined ratio in 2006

HIGHEST	
American Agricultural Insurance Co.	102.8
Hannover Re Group	100.4
White Mountains Re Group	100.3
Korean Re	97.1
SCOR	96.4
LOWEST	
Flagstone Re	29.5
IPCRe Ltd.	32.1
RenaissanceRe Holdings Ltd.	34.5
Berkshire Hathaway Reinsurance Group	64.8
Greenlight Capital Re Ltd.	75.5

Source: BI survey

SHARE OF MARKET

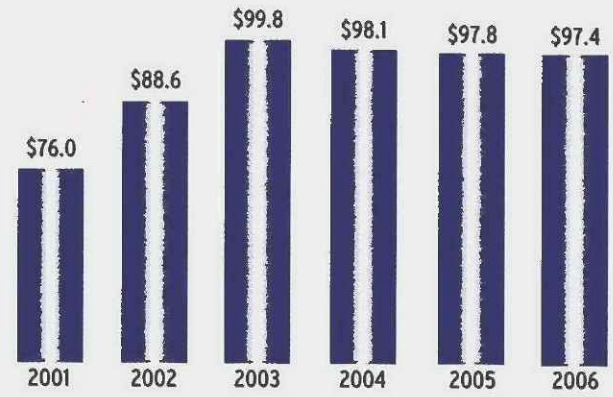
Market share of top 10 reinsurers by net reinsurance premiums written in 2005.



Source: BI survey

PREMIUM GROWTH

Net reinsurance premiums written by the top 10 reinsurers, in billions of dollars.



Source: BI survey

World's largest reinsurers*

Ranked by 2006 net premiums written

Rank	Company/Address	Phone/Fax/Web site	2006 net premiums written	% change	2006 net premiums earned	% change	2006 combined ratio	2006 employees	Principal officer
1	Munich Re Group Koniginstrasse 107, Munich, 80802 Germany	49-89-3891-0 Fax: 49-89-3990-56 *www.munichre.com*	$24,218,951,400 [1]	1.9%	$26,471,497,300 [1]	1.4%	92.6% [2]	6,928	Nikolaus von Bomhard, chairman-board of management
2	Swiss Re Group Mythenquai 50/60, Zurich, 8022 Switzerland	41-43-285-2121 Fax: 41-43-285-2999 *www.swissre.com*	$23,202,134,100 [3]	6.9%	$23,550,018,500 [3]	9.1%	89.6%	10,891	Jacques Aigrain, CEO
3	Berkshire Hathaway/Gen Re Group [4] 100 First Stamford Place, Stamford, Conn. 06902-6745	203-363-5200 Fax: 203-363-5221 *www.berkshirehathaway.com*	$11,577,000,000	15.3%	$11,051,000,000	6.3%	N/A	2,830	Ajit Jain, president-Berkshire Hathaway Reinsurance Group; Joseph P. Brandon, chairman/CEO-Gen Re Group
4	Hannover Re Group Karl-Wiechert-Allee 50, Hanover, 30625 Germany	49-511-5604-0 Fax: 49-511-5604-1188 *www.hannover-re.com*	$8,907,121,773 [1]	-3.1%	$8,909,792,667 [1]	-4.5%	100.4%	2,002	Wilhelm Zeller, chairman
5	Lloyd's of London 1 Lime St., London, EC3M 7HA England	44-207-327-1000 Fax: 44-207-327-2389 *www.lloyds.com*	$7,950,584,200 [5]	14.4%	$7,716,472,400 [5]	13.9%	80.8%	N/A	Richard Ward, CEO
6	SCOR [6] 1 Ave. Charles de Gaulle, Paris La Defense Cedex, 92074 France	33-1-46-98-7000 Fax: 33-1-47-67-0409 *www.scor.com*	$6,948,811,106 [1,7]	131.9%	$6,343,174,100 [1]	109.2%	N/A	1,211 [8]	Denis Kessler, chairman/CEO
7	Everest Re Group Ltd. Wessex House, 45 Reid St., Second Floor, P.O. Box HM 845, Hamilton, HM DX Bermuda	441-295-0006 Fax: 908-604-3412 *www.everestre.com*	$3,875,714,000	-2.4%	$3,853,153,000	-2.8%	89.7%	728	Joseph V. Taranto, chairman/CEO
8	PartnerRe Ltd. 90 Pitts Bay Road, Pembroke, HM 08 Bermuda	441-292-0888 Fax: 441-295-1771 *www.partnerre.com*	$3,689,548,000	2.0%	$3,667,268,000	1.9%	84.6% [2]	935	Patrick Thiele, president/CEO
9	Transatlantic Holdings Inc. 80 Pine St., New York, N.Y. 10005	212-770-2000 Fax: 212-742-9457 *www.transre.com*	$3,633,440,000	4.8%	$3,604,094,000	6.5%	96.0%	515	Robert F. Orlich, president/CEO
10	ACE Tempest Reinsurance Ltd. [9] The ACE Tempest Re Building, 30 Woodbourne Ave., Hamilton, HM 08 Bermuda	441-292-2603 Fax: 441-292-2790 *www.acelimited.com*	$3,405,006,000	19.5%	$3,088,677,000	14.4%	80.3%	48	Andreas Lewin, president/CEO

**Companies that were 100% life reinsurance were not included. 1 Euro=$1.253. 2 Ratio is for nonlife business only. 3 Swiss franc=$0.7979 4 Combined figures of Berkshire Reinsurance Group and General Re Group. 5 British pound=$1.8434 6 Pro forma combined figures to include SCOR, Revios Group and Converium Holdings Ltd. 7 Gross written premiums. 8 Includes SCOR and Revios Group only. 9 Includes all reinsurance business performed by subsidiaries of ACE Ltd. N/A=Not Available*

Source: BI survey

Researched by Kevin Edison and Karen Tucker

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Solvency II: Adds securitization to capital management tools

CONTINUED FROM PAGE 11

time solution, "we will probably find there is room for both," Ms. Koenig said. "Securitization will probably be seen as important in complementing traditional reinsurance."

Michael Steel, London-based chairman of Benfield ReMetrics and head of specialty operations in Benfield Group Ltd.'s international division, agreed that the traditional reinsurance market will remain robust after Solvency II is implemented.

"I think we will see securitization as a complement, not a replacement," Mr. Steel said.

Ms. Koenig noted the directive neither encourages nor discourages the use of securitization. It simply makes it clear that securitization is one of the methods insurers have available to them.

Securitization, though, is expected to become a more frequently used risk transfer instrument as a result of Solvency II, said Frank Achtert, senior vp with Guy Carpenter & Co. L.L.C.'s financial integration team.

The new rules will cause insurers to focus on their significant risks in a "quantifiable and integrated manner," Mr. Achtert said in an e-mail.

"As long as it transfers risk adequately in a quantifiable manner, securitization is expected to become an accepted risk transfer instrument," Mr. Achtert said.

'The challenge is that sometimes there are opposing requirements from regulators and rating agencies.'

Andreas Grünbichler, Zurich Financial

Solvency II does not change the fact that reinsurance holds some advantages over securitization as a method to protect insurers' balance sheets, experts say. In fact, in some ways it becomes more attractive because of changes Solvency II proposes.

Under Solvency I, insurers are allowed to calculate an amount of insurance recoverables and gross claims over previous years, then reduce their capital requirement by a percentage of that amount. The new directive allows insurers to take credit for 100% of the calculation.

Compared with securitization, reinsurance will remain less expensive and time-consuming to arrange, experts say.

The difference in the cost of arranging a securitized transaction and a reinsurance contract is vast, said Richard Baddon, a London-based partner in Deloitte & Touche L.L.P.'s actuarial practice.

Time and cost

While reinsurers may hire some outside help in structuring a program, a securitized transaction involves bankers and lots of paperwork, Mr. Baddon said. The time and cost means securitized transactions are not worth the effort—unless the deals are very large, he said.

Sources said the deals are most cost-efficient when they are larger than $100 million.

"Traditional reinsurance is a very efficient product when it comes to the cost of putting it in place," said Ms. Koenig. Securitization is at a disadvantage in that regard until those deals become more standardized and, therefore, less expensive. It is a time that is not far away, she said.

Although the setup costs make securitized deals significantly more expensive than arranging reinsurance, some of that cost could be offset because regulators under Solvency II will consider the quality of the protection, said Des Potter, London-based member of Benfield Advisory, Benfield Group Ltd.'s specialty corporate finance advisory unit.

Mr. Steel said securitization gains further ground compared with traditional arrangements when securitized vehicles, such as those for funding property catastrophe exposures, allow risks to be fed into the capital markets on a regular basis and avoid repetitive startup expenses.

Securitized deals do have the advantage of generally being structured as multiyear arrangements, Mr. Grünbichler said, whereas reinsurance contracts typically are written for one year.

Securitization may be attractive for companies that find they need more capital than they have on their balance sheets under Solvency II's requirements, Mr. Potter said. They may not have the ability to access capital quickly and may turn to securitized arrangements to help meet capital requirements, he said.

Rating agencies' reactions

Insurers should bear in mind how rating agencies—which use criteria different from regulators in assessing an insurer's financial strength—view securitized deals, Mr. Grünbichler said.

"Rating agencies are generally open to such products," he said. "The challenge is that sometimes there are opposing requirements from regulators and rating agencies."

Even after taking into consideration regulatory and rating agencies' treatment of risk mitigation, the most important factor in choosing mitigation techniques still will be

See **SOLVENCY II** page 16



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Solvency II: Rules not set

CONTINUED FROM PAGE14

economic efficiency, said Mr. Grünbichler.

Insurers would do well to consider rating agencies' view of Solvency II, said Tamsin Abbey, a partner in Deloitte & Touche's actuarial practice in London.

"They are starting to take it very seriously," Ms. Abbey said. "There may be some impetus to do something before 2012," she said of insurers developing the capital adequacy models called for in the draft directive. Rating agencies should look favorably on moves in that direction, she added.

Michael Zboron, managing senior financial analyst with the London office of A.M. Best Co. Inc., pointed out that the Solvency II draft does not provide the final word on securitization. Regulators in various jurisdictions will draw up rules regarding special-purpose vehicles that will be used in securitized transactions, he said.

"The directive does not deal specifically with securitization as such," Mr. Zboron said. "It deals with the special-purpose vehicles; it leaves the option open for regulators to draw up separate regulations" regarding those arrangements.

Catastrophe bonds could reach $6B

Sidecars, however, used far less often so far this year vs. last year

By MICHAEL BRADFORD

Soft reinsurance prices are not tempting enough to cool interest in insurance-linked securitizations, as this year already is a record-setter for catastrophe bonds.

Insurers are expected to make 2007 a "robust" year for the deals even as they find reinsurers willing to offer coverage somewhat cheaper than a year ago, according to a report by Oldwick, N.J.-based A.M. Best Co Inc. After last year's surge of catastrophe bonds and sidecars following heavy losses from the 2004 and 2005 U.S. hurricanes, the rating agency in "Global Reinsurance–2006 Market Review" says the trend is continuing this year.

Catastrophe bonds totaled a record $4.7 billion in 2006, a 135% increase over the amount issued the year before, the report notes. Through late July of this year, cat bonds totaled $4.8 billion and could reach $6 billion by the end of the year, Best predicted.

AIR Worldwide Corp., a Boston-based catastrophe risk modeling firm, provided services for more than $3 billion in insurance-linked securities as of early August, it said. Those transactions provide protection for hurricanes, earthquakes and thunderstorms in the United States as well as earthquakes in Japan, winter storms in Europe and perils in other countries, AIR said.

According to a statement from David Lalonde, senior vp of AIR, issuances have grown significantly since AIR in 1997 modeled the first large-scale cat bond, Residential Re, which provides reinsurance for USAA Group. "Since then, AIR has modeled all 11 Residential Re transactions, including the most recent one in 2007 for $600 million," he said.

The Best report lists a number of large cat bonds issued this year. The biggest is from Bermuda-based Merna Re Ltd., a $1.18 billion issuance sponsored by State Farm Mutual Automobile Insurance Co. and completed in July to cover multiple perils. In May, Travelers Cos. Inc. established Cayman Islands-based Longpoint Re Ltd., which issued a $500 million bond that covers Northeast U.S. hurricane exposures.

In Europe, Paris-based AXA S.A. in July completed its second securitization of motor insurance risk. The €450 million ($330.1 million) bond provides AXA with protection for unusually large claims arising from more than 6 million motor portfolios in Belgium, Germany, Italy and Spain.

Sidecars, which are special-purpose capital market-backed providers of reinsurance used by insurers, have generated around $1.5 billion through July, according to Best. Last year, the vehicles were responsible for $4.5 billion in new capital.

A softer reinsurance market appears to be having more of an impact on the development of sidecars than on cat bonds, Best said.

"Sidecars are playing the role expected—providing capital when markets are hard and returning capital to investors when prices decline," the report stated.

Some of the capital raised in this year's securitizations provides protection for reinsurers, Best said. But as traditional reinsurers continue to access capital markets as a way to mitigate risks and provide additional capacity, direct writers also have looked to insurance-linked securitizations for coverage, according to the report.

"Dislocation of reinsurance capacity, restrictions in terms and conditions, and the desire to have a stable, multiyear reinsurance program have driven direct writers to access the capital markets," Best said in the report.

Entities other than insurers also have entered the cat bond market. The Caribbean Catastrophe Risk Insurance Facility, sponsored by the World Bank, is a $20 million vehicle set up to collateralize a portion of the hurricane and earthquake coverage provided to 16 Caribbean countries, according to the report.





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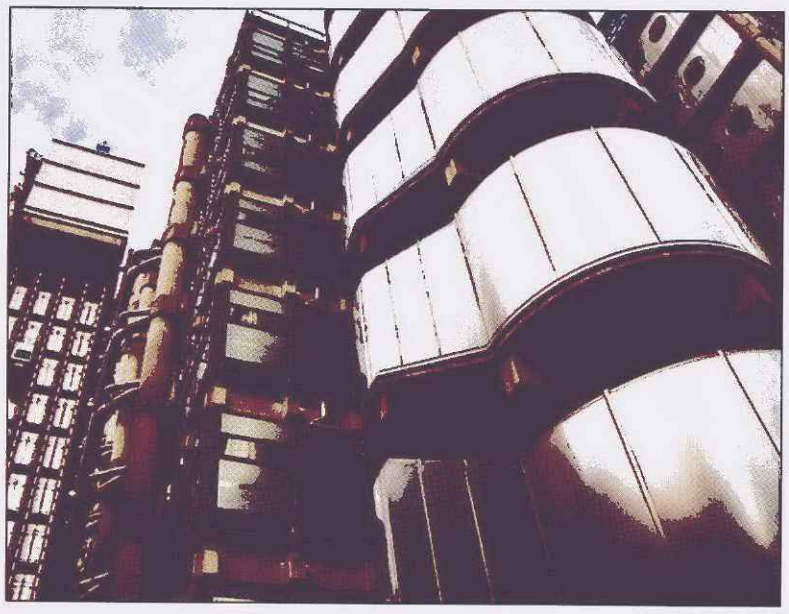
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Lloyd's syndicates trim capacity in response to ongoing soft pricing

Property cat share falls as competition rises in Bermuda, Europe

By STUART COLLINS

Several Lloyd's of London managing agents are cutting back capacity on syndicates they manage as the reinsurance market continues to soften.

Those moves are a sign of underwriting discipline at Lloyd's as well as the opportunistic nature of the market, underwriters and brokers say.

Meanwhile, recent rating upgrades have attracted more business to the market, they say.

Hamilton, Bermuda-based Hiscox Ltd. said it plans to reduce 2008 capacity for syndicate 33 by 20% to £700 million ($1.4 billion) while Chaucer P.L.C. intends to reduce capacity of syndicate 1084 by 8.3% to £445 million ($894.3 million).

"Lloyd's is disciplined and if rates soften in certain sectors, Lloyd's will pull back and market share could shrink," said Damien Smith, treaty property underwriter with the reinsurance team at Hiscox.

Lloyd's syndicates often write more business in times of market turmoil and cut back as rates soften, sources say.

"On pricing, I think that you are starting to see people throttle back in the Lloyd's market and they are more likely to say that there is not enough in this for me," said Chris Harman, London-based deputy chairman of Lloyd's brokerage Harman Wicks & Swayne Ltd.

'London is still around and able to do its stuff, but the real growth in property catastrophe has been in Bermuda.'

David Huckstepp, Kiln P.L.C.

"The Lloyd's market tends to write for margin, so as the market weakens, Lloyd's writes less. There is a greater tendency within Lloyd's to let business pass, and this is especially true in the key catastrophe (prone) areas," Mr. Harman said.

Lloyd's underwriters tend to pull back when rates fall, agreed David Huckstepp, active underwriter for reinsurance at Kiln P.L.C.'s syndicate 510 and active underwriter for Kiln's syndicate 557. "There may be a slight reduction in appetite, but in parts of the United States, rates are at an historic high, so it would be foolish to jump too early," he said.

With more competition from the Bermuda reinsurance market and large European reinsurers, Lloyd's does not enjoy the dominance it once had in property catastrophe excess-of-loss reinsurance, sources say.

Today, said Mr. Huckstepp, the London market typically has about 25% to 30% of a large property cat reinsurance placement, Bermuda has about 30% to 40%, with the rest placed worldwide. Fifteen years ago, London would typically have taken 50%, he said.

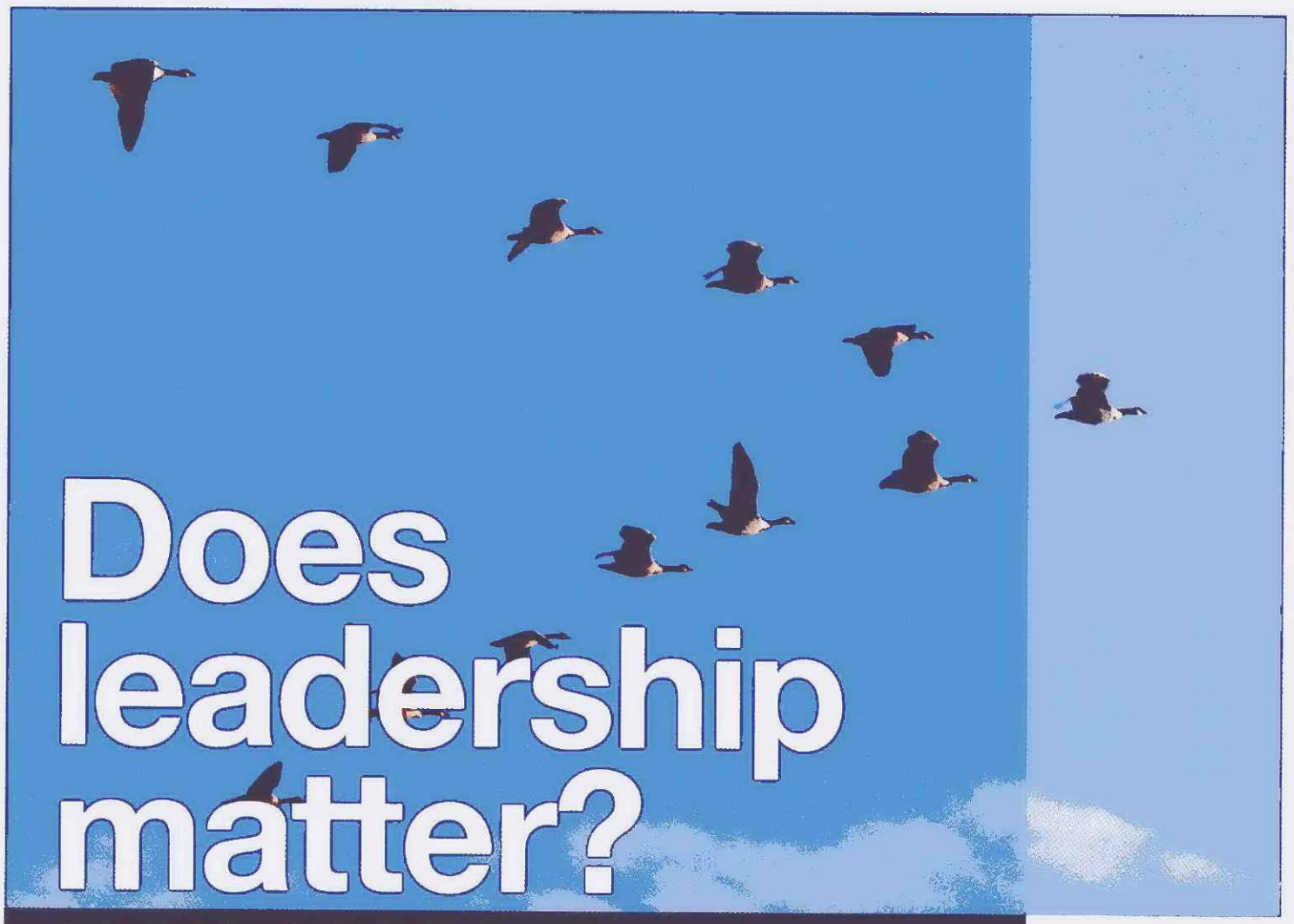
"London is still around and able to do its stuff, but the real growth in property catastrophe has been in Bermuda," Mr. Huckstepp said. "London has grown, but Bermuda has grown faster and from a lower base."

But the Lloyd's market is still a significant source of reinsurance capacity and expertise, brokers and underwriters say.

Lloyd's ranks as the world's fifth-largest reinsurer by 2006 net premiums (see chart, page 12).

In April, New York-based ratings agency Standard & Poor's Corp.

See **LLOYD'S** page 22



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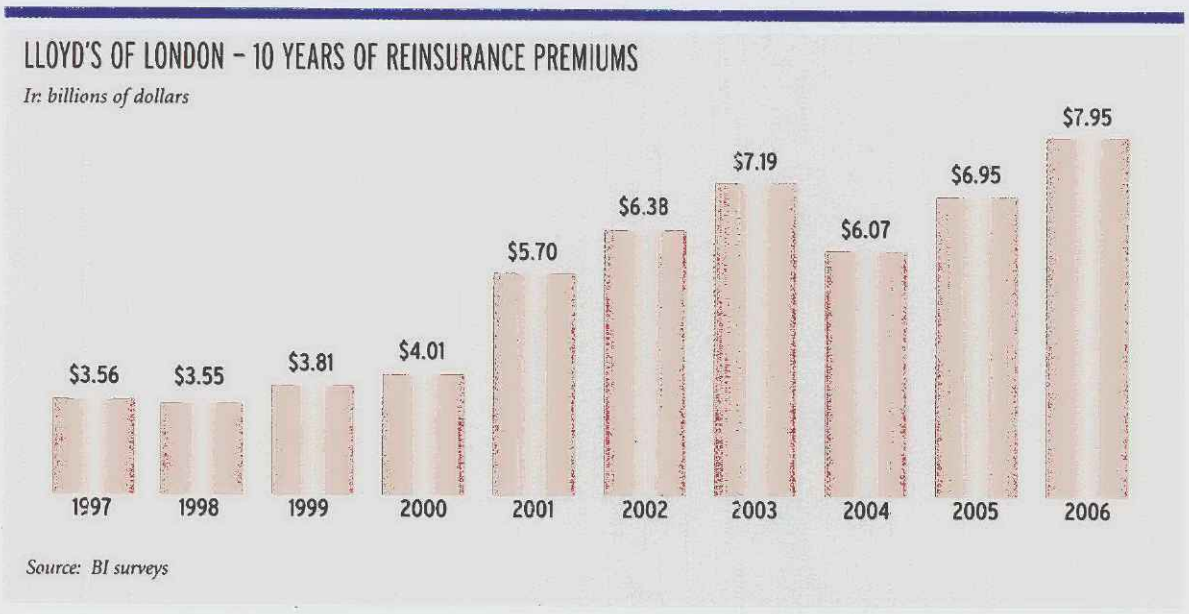


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Lloyd's: Market improves signings with ratings boost

CONTINUED FROM PAGE 18

raised its financial strength rating of the Lloyd's insurance market to A+ from A. The upgrade followed completion of the first part of a deal with National Indemnity Co. to reinsure Equitas Ltd., the runoff reinsurer for the pre-1993 long-tail liabilities of Lloyd's of London syndicates.

The first phase of the deal with National Indemnity, a subsidiary of Omaha, Neb.-based Berkshire Hathaway Inc., provided £3.1 billion ($6.21 billion) in reinsurance of Equitas' liabilities.

Phase two will involve the novation—or termination—of liabilities from Lloyd's members to Equitas and provide another £700 million ($1.4 billion) of reinsurance.

The A+ rating has already been beneficial to Lloyd's, Mr. Harman said. "It has meant better signings on better deals."

The market has seen better signings since the rating upgrade, agreed Hiscox's Mr. Smith. "A+ is now higher than a significant proportion of overseas companies. As a reinsurance buyer, you will favor a reinsurer with the higher rating," Mr. Smith said.

In addition to the rating upgrade and the Equitas deal, Lloyd's enters this renewal period with new financial backers and players in the market.

In May, Hamilton, Bermuda-based reinsurer Validus Holdings Ltd. said it planned to acquire Talbot Holdings Ltd., which manages and provides capital through its subsidiaries for Lloyd's syndicate 1183.

Two months later, Hamilton, Bermuda-based reinsurer Ariel Holdings Ltd. announced it planned to acquire London-based Atrium Underwriting P.L.C., which manages Lloyd's syndicates 570 and 609.

In March, New York-based private equity firm Aquiline Capital Partners L.L.C. said it was backing a new Lloyd's underwriting agency, Ark Syndicate Management Ltd., which will underwrite insurance and reinsurance through Lloyd's syndicate 4020.

In June, Hamilton, Bermuda-based Montpelier Re Holdings received approval to establish syndicate 5151, which will underwrite nonmarine property, engineering and some casualty business.

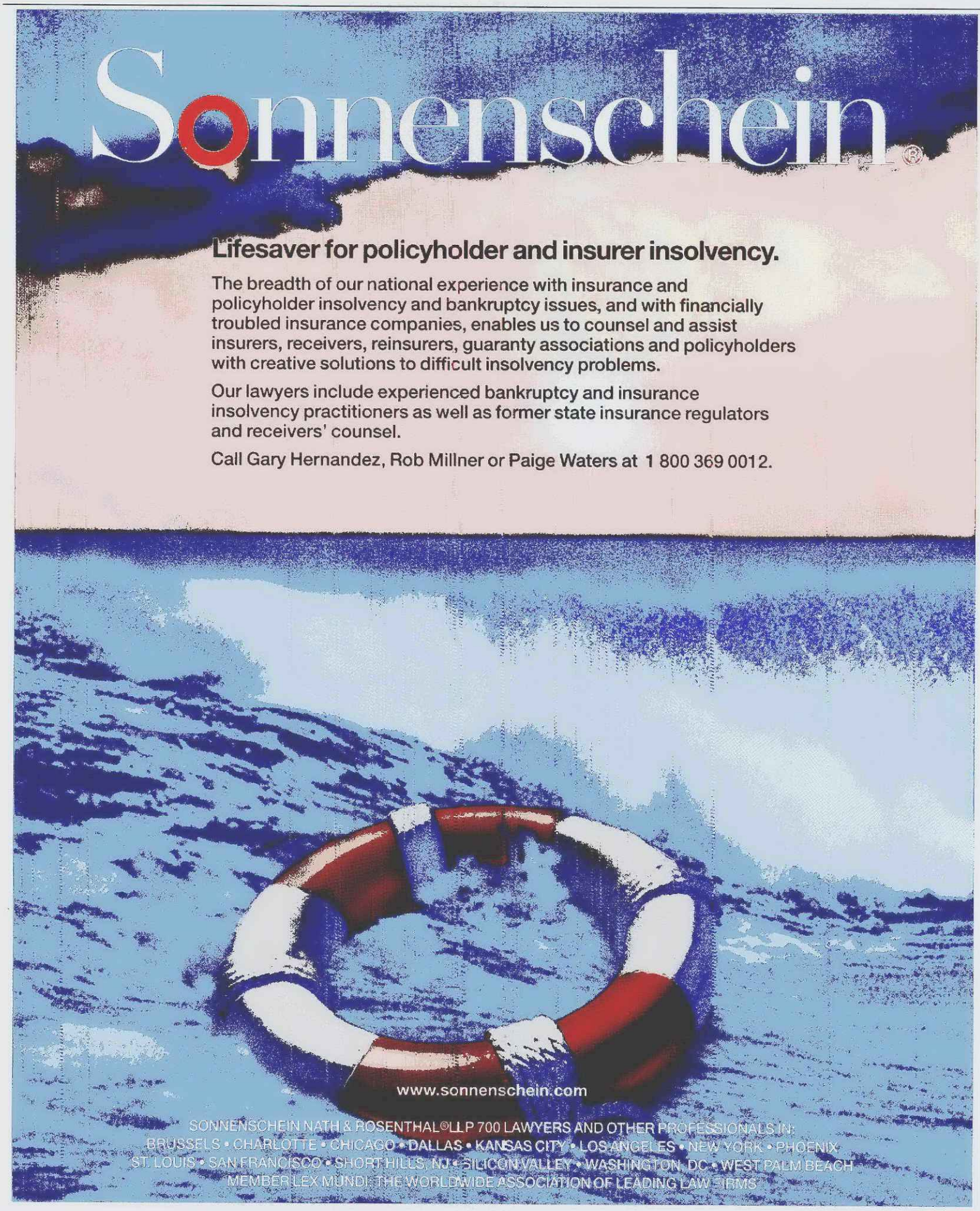
One or two more moves of this kind are likely, according to Best's "Global Reinsurance–2006 Market Review, Reinsurers Turn Cautious as Climate Shifts" published in August. Best also noted in the report that the deals demonstrate the continued attractiveness of Lloyd's with its access to a broad range of business.

The breadth of business written at Lloyd's still makes it an attractive market for brokers and their clients, Mr. Harman said.

"Lloyd's strength is its breadth—it is a genuine market with many people doing different things. There is a huge amount of throughput of business in London that allows a diverse range of business to operate, while Bermuda has a far narrower base," Mr. Harman said.

Lloyd's also is more responsive than some of its competitors, said Kiln's Mr. Huckstepp. "Doing business face-to-face, you can send the broker in and get a response within a day," he said.

"Face-to-face is still an important way of doing business. You can achieve a lot more for your clients and you can promote their interests more effectively," Mr. Harman said.



Brazil slowly opens the door to international reinsurers

Commercial insurance buyers may see improved pricing, broader array of products as competition enters the market

By GAVIN SOUTER

RIO DE JANEIRO, Brazil—With the long-awaited opening of the reinsurance market in Brazil expected next year, commercial insurance buyers in the country will see a more competitive primary market, observers say.

The planned gradual opening of Brazil's reinsurance market, and ending the monopoly of Rio de Janeiro-based IRB-Brasil Resseguros S.A., should drive down commercial insurance rates and increase the number of products available, they say.

But the shape of the market still depends on final regulations that will flesh out the broad framework of reform that was announced earlier this year, they say.

Opening the Brazilian reinsurance market has been a long time coming, but despite previous false starts, international reinsurers and brokers are confident that the market will finally open in 2008 (see story, page 25).

A law enacted this January will gradually allow foreign reinsurers access to the market (see box, page 24). Some transitional regulations were published in July by Superintendência de Seguros Privados, the Brazilian insurance regulator, which took over reinsurance regulation from the IRB earlier this year.

Final regulations are expected this fall and, after a public comment period, foreign reinsurers should have some access to the market next year, observers say.

Developing the final regulations was complicated last month by the resignation of the head of SUSEP, Rene Garcia, but his successor is expected to keep to the informal timetable for implementing the changes.

Still, one of the main concerns for international reinsurers is what form the final regulations will take. In particular, the regulations governing provisions in the law that grant Brazilian reinsurers right of first refusal on 60% of reinsurance business for three years and then 40% of reinsurance business for three years after that to a large extent will determine how international reinsurers can access the market.

"The law has passed for the market to open, but we still don't have the regulatory framework around it," said James H. Veghte, Stamford, Conn.-based chief executive of reinsurance operations at XL Capital Ltd., which has a branch office in Rio de Janeiro.

"One of the biggest issues is the right of first refusal that local reinsurers will have," said William Marcoux, a partner at LeBoeuf, Lamb,

See **BRAZIL** on next page

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Brazil: Opportunities include financial lines, agricultural risks

CONTINUED FROM PREVIOUS PAGE

Greene & MacRae L.L.P. in London, who follows developments in Brazil.

"Does that mean 60% of every risk, or 60% in the aggregate, or per ceding company?" Mr. Marcoux said. "And nobody really knows what right of first refusal means. Does it mean that you take it to a Brazilian company first, or does it mean that you can go to another company for a quote but you then offer it to a Brazilian company? Nobody knows."

In addition, "there's a big issue of adverse selection," where nonlocal reinsurers could be left with the least profitable business, he said.

Still, international reinsurers are eager to enter the market.

There is almost no catastrophe exposure in Brazil, most of the risks are short-tail and the Brazilian non-life market had $13 billion in gross premiums in 2005, Mr. Veghte said.

In addition, Brazil has a stable political environment, its economy is growing and inflation is under control. "From that perspective, it has a lot of potential," Mr. Veghte said.

Since July's transitional regulations, business that has been rejected by the IRB can already be reinsured by international reinsurers.

'Does that mean 60% of every risk, or 60% in the aggregate, or per ceding company? And nobody really knows what right of first refusal means.'

William Marcoux,
LeBoeuf, Lamb, Greene & MacRae L.L.P

Those regulations specify that reinsurers covering Brazilian risks must be rated BBB or above by Standard & Poor's Corp., must have $100 million in capital and must not be based in a tax haven. So far, only one reinsurance contract, which covered surety risks, has been placed outside of the IRB, said Henrique Oliveira, São Paulo-based head of Brazil at Swiss Reinsurance Co.

Further opening of the reinsurance market should benefit commercial insurance buyers, said Anthony Harvey, corporate director at Willis Corretores de Seguros S.A. in São Paulo.

Commercial buyers should see broader terms, lower rates and have access to more products, he said. "On average, the rates in Brazil are higher than in other markets," Mr. Harvey said. And "most products in Brazil are similar because they are all reinsured by the IRB."

An increase in the number of reinsurers will increase competitive pressure in the country, Mr. Veghte said. "When you open up a market like that you are going to see more competition—both at the reinsurance level and on the primary side," he said.

Coverage for agricultural products in particular should develop in Brazil, said Mr. Oliveira. Large agricultural products companies have a presence in Brazil and the opening of the reinsurance market likely would enable them to more easily coordinate coverage for exposures in Brazil with the rest of their global coverage, he said.

Interest in directors and officers liability coverage also is growing as foreign investments in Brazil increase, he said.

Demand for more financial lines coverage and agricultural coverage is expected to grow, agreed Mr. Harvey of Willis.

"We shall be able to bring to Brazil more products and lines of business that have not been explored much in Brazil," Mr. Oliveira said.

In addition, Brazil has traditionally been a proportional reinsurance market, Mr. Oliveira said. "We know that we can be more efficient with our capital with non-proportional business."

Although Brazil has not been exposed to severe windstorm risks, climate change could increase the likelihood of hurricanes striking the region and international reinsurers' expertise in underwriting catastrophe coverage will be valuable, he said.

END OF A MONOPOLY

Brazil's Complementary Law No. 126, which was approved in January, outlines plans to open the nation's reinsurance market that has been controlled by monopoly reinsurer IRB-Brasil Resseguros S.A. since 1939. Some regulations clarifying how the market will operate were issued in the summer and final regulations are expected late this year. The changes are expected to be implemented early next year.
Under the law, three types of reinsurers would be allowed in Brazil:

- **Local reinsurers, which will be capitalized in Brazil and will have right of first refusal on 60% of reinsurance business in Brazil for three years, after which they will have first refusal on 40% of business for the next three years.**
- **Admitted reinsurers, which will have offices in Brazil but be capitalized elsewhere.**
- **Occasional reinsurers, which will be able to reinsure Brazilian insurers but not have offices in the country. Reinsurers based in nations with an income tax rate of less than 20% and/or those that do not disclose information on shareholding structures will not be permitted to write business in Brazil.**



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False starts preceded opening of Brazilian reinsurance market

By GAVIN SOUTER

RIO DE JANEIRO, Brazil—Of all the qualities that international reinsurers interested in accessing the Brazilian market have had to show during the past 15 years, patience has perhaps been the most important.

Since serious discussions about opening up South America's largest country to foreign reinsurers began in the early 1990s, there have been a series of false starts that have raised and then dashed the hopes of reinsurers eyeing Brazil.

Speculation that the country's monopoly reinsurer, IRB-Brasil Resseguros S.A., would lose its complete control of the market gained momentum after a pro-business president, Fernando Henrique Cardoso, assumed office in 1995. Although plans to free up the reinsurance market had been drawn up before the election, it was Mr. Cardoso's declared policy of speeding up privatization throughout the Brazilian economy that raised the hopes of international reinsurers (*BI*, Nov. 7, 1994).

While several state-owned industries were privatized over the next decade, the IRB, which was formed in 1939, has retained its status as Brazil's monopoly reinsurer.

Since 1995, there have been several attempts to change the system, including a constitutional amendment that Brazil's congress approved in 1996 to allow privatizing the IRB, which also was the market's reinsurance regulator. Formal plans took years to draw up. By 1999, detailed plans to auction the IRB to the highest bidder were in place (*BI*, July 26, 1999).

The auction, however, was postponed at the 11th hour after concerns were raised about whether all necessary legal procedures had been completed (*BI*, Oct. 4, 1999). In 2000, another planned auction was postponed following disagreements about the value of the minimum allowable bid (*BI*, April 24, 2000).

Another auction date was fixed for that July, but it, too, was scuttled when a Supreme Court judge ruled in favor of a political party that argued Congress had passed the wrong type of law to permit the privatization.

That prompted some international reinsurers that had set up operations in Brazil in anticipation of change to shut down or scale back their operations.

At the beginning of this year, however, President Luiz Inacio Lula da Silva signed a measure that will gradually open the Brazilian reinsurance market (see box).

Final regulations are pending, but despite the false starts, international reinsurers are optimistic the market will be opened to them this time around.

Ten years ago, the plans to open the market were part of a much wider economic policy seeking to privatize major parts of the Brazilian economy, and the government was more concerned with opening up large public sectors, such as telecommunications and transportation, than with the relatively small reinsurance sector, said Henrique Oliveira, São Paulo-based head of Brazil for Swiss Reinsurance Co.

It was easier to find congressional support for the more modest proposal of slowly opening the market without selling IRB, he said.

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REUTERS

The first half of 2007 was a busy loss period for European insurers and reinsurers, with Windstorm Kyrill causing heavy damage in Austria and Germany.

Reinsurers vow to maintain rates after catastrophes strike Europe

Further softening not justified despite first-half profits, executives say

By ADRIAN LADBURY

Healthy profits for large European reinsurers in the first half of 2007 may not translate in to broader and cheaper coverage for reinsurance buyers at year-end renewals, reinsurance executives say.

Although global reinsurance markets have softened over the past year, further softening may be stifled as reinsurers seek to hold the line on rates in the wake of recent catastrophe losses in Europe.

In addition, reinsurers are restructuring their books of business in some areas to take advantage of higher prices and cutting back their capacity in less profitable sectors, they say.

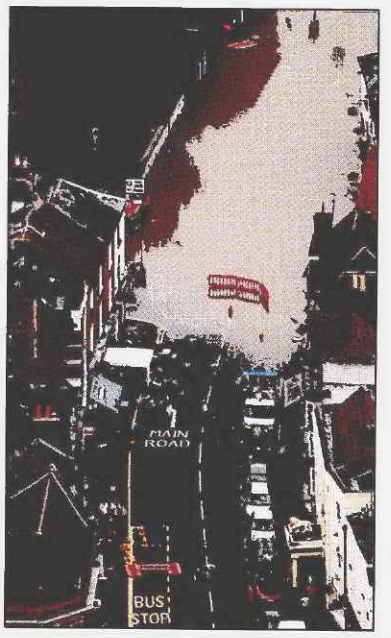
Nevertheless, European cedents are expecting a buyers' market to continue during the first round of renewal discussions that take place at the Rendez-Vous de Septembre in Monte Carlo, Monaco, this month.

Christian Hinsch, head of the operating board of German industrial insurance group HDI Industrie Versicherung A.G., said he expects a decent Monte Carlo for buyers.

"Since the reinsurers have had some good results ceded to them, I expect a favorable environment for direct insurers," said Hanover-based Mr. Hinsch.

In addition to profitable results, reinsurers also have seen some relief from rating agency pressure.

New York-based Standard & Poor's Corp. will now give explicit credit for diversification within its core capital model, albeit at more conservative levels than generally observed within the market.



REUTERS

Losses from flooding in the United Kingdom in late June were easily absorbed by reinsurers.

This long-awaited move theoretically should boost the rated capital levels held by the companies, without the need to tap the debt or equity markets for more cash. Some reinsurance executives, though, play down the significance of the change.

There are other pressures in the market, however, that may stem significant additional softening, reinsurers say.

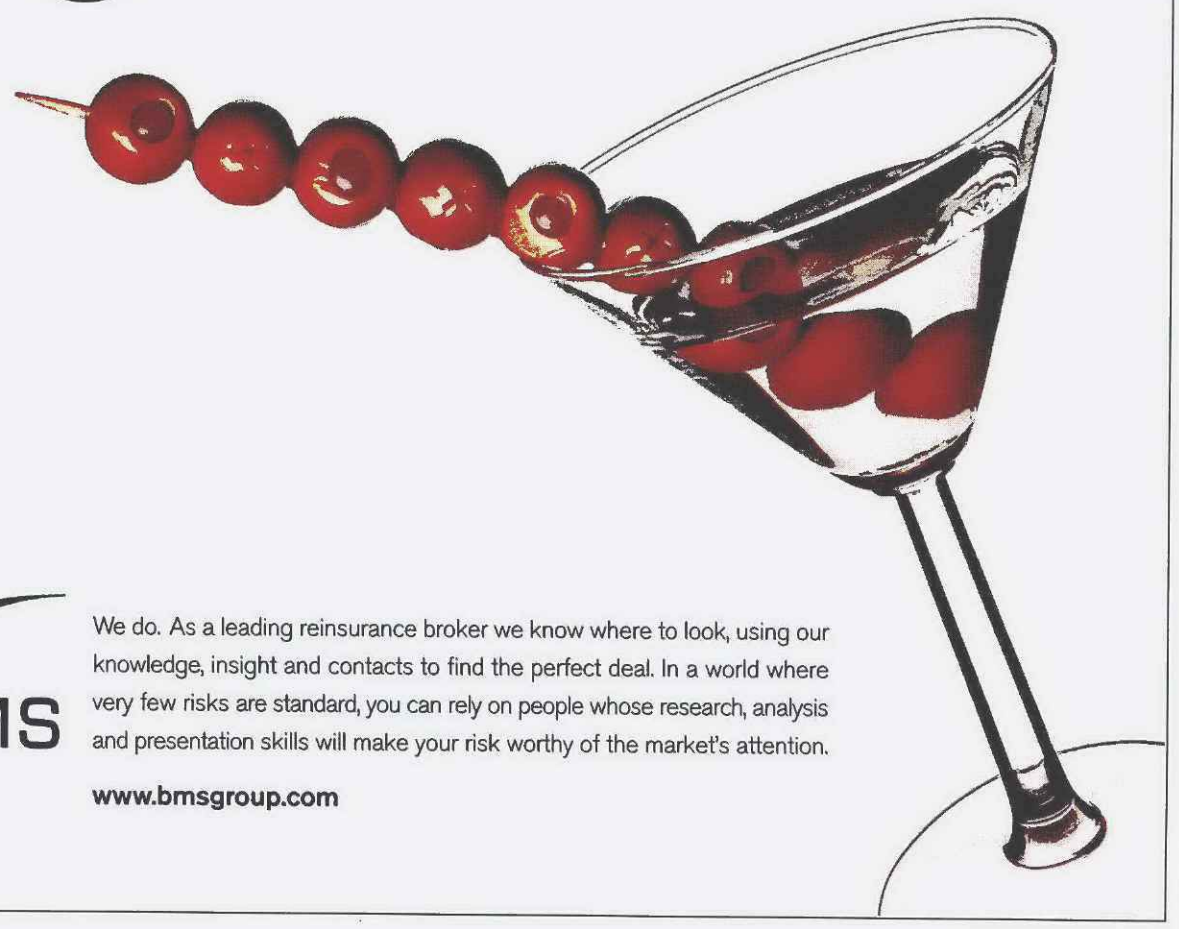
The first half of this year has been a relatively busy loss period for European insurers.

Windstorm Kyrill in Germany and floods in the United Kingdom, in particular, showed again that catastrophes do occur in Europe, as well as the United States, even though the losses were relatively easily absorbed by reinsurers.

Indeed, capital is so abundant

Continued on next page

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that many reinsurance companies have distributed healthy dividends and engaged in share buybacks.

Riskier lines of coverage still attract historically high premium levels and some catastrophe-prone markets are still hardening, according to experts.

This has enabled the large European reinsurers to practice active capital management.

"One could assume that it is not possible to write new business with price erosion and a competitive market," said Torsten Jeworrek, member of the board of management at Munich Reinsurance Co., during the German reinsurer's first-half results analyst conference call.

"We used our catastrophe capacity and saw a better price for the whole book, as new business and that which was canceled were balanced. We canceled specific treaty business and used the capacity deployed at the top layers. This brought us into positive" growth, Mr. Jeworrek said.

The larger reinsurers have reported flat or falling gross premiums but higher net premiums as they continued their shift from proportional lines to higher-priced excess-of-loss treaties.

"This is most pronounced in the United States, where there is a clear detachment (between) the primary and reinsurance level," said Wilhelm Zeller, chairman of the management board of Hannover Re Group in Hanover, Germany, discussing the company's results with analysts.

"This is nothing new," Mr. Zeller said. "What does this mean for reinsurers? Simply, exit proportional business and you are, therefore, not exposed at the primary level and focus more on the nonproportional level where the softening is much slower."

There is also fresh competition in Europe, largely because the arrival of new capacity, mainly from Bermuda.

But most analysts agree that the new capacity is insufficient to overwhelm the discipline reportedly exerted by the large European reinsurers in their core home markets.

Moreover, Zurich-based Swiss Reinsurance Co. still is absorbing the reinsurance business of U.S. conglomerate General Electric Co., and France's leading reinsurance company, SCOR S.E., has just completed its acquisition of most of the share capital of Zug, Switzerland-based reinsurance company Converium Holding Ltd.

Major acquisitions take a lot of time and effort to execute, and most analysts agree that such deals tend to restrain rather than free up capacity.

Swiss Re posted a 19% increase in standard property/casualty premium volume in the first half of 2007, which was boosted by the GE acquisition, but Swiss Re says it maintains a conservative strategy. At its July 1 renewals, the company reported a reduction in premium volume of about 9% to 3 billion Swiss francs ($2.49 billion).

"We are pleased with the results for the second quarter, as we continued to generate economic profit growth through careful cycle management and efficient capital allocation," said Jacques Aigrain, Swiss Re's chief executive officer, when he commented on the latest results.

Munich Re also announced profits for the second quarter and increased its profit targets for the year from €3.5 billion to €3.8 billion ($4.79 billion to $5.20 billion), but it also reported claims for the first six months of this year that were well above comparable periods in the previous four years.

The company reported total losses of from large claims (above €5billion) of €677 million ($926.1 million) compared with €418 million for the first half of 2006.

Munich Re also pointed out that its nonlife business had missed all of its targets for the period, which posted a combined ratio of 98.4% compared with 91.6% in the same period last year.

Brokers, though, say some reinsurers' relative pessimism and tough talk is simply the normal grandstanding.

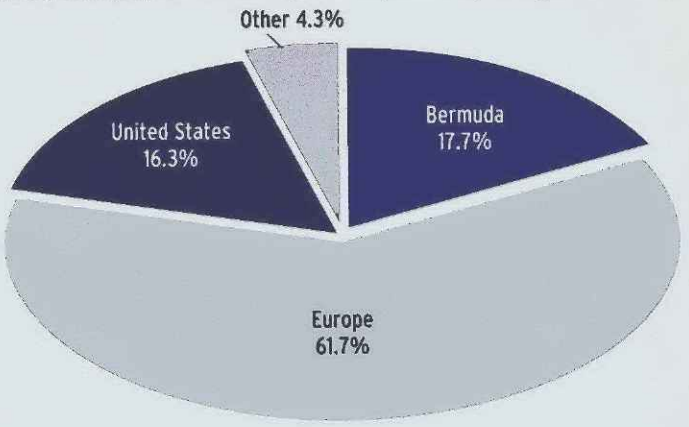
Most analysts agree.

Every year, reinsurance companies point out why the glass is half-empty as they simultaneously try not to panic their existing and potential investors.

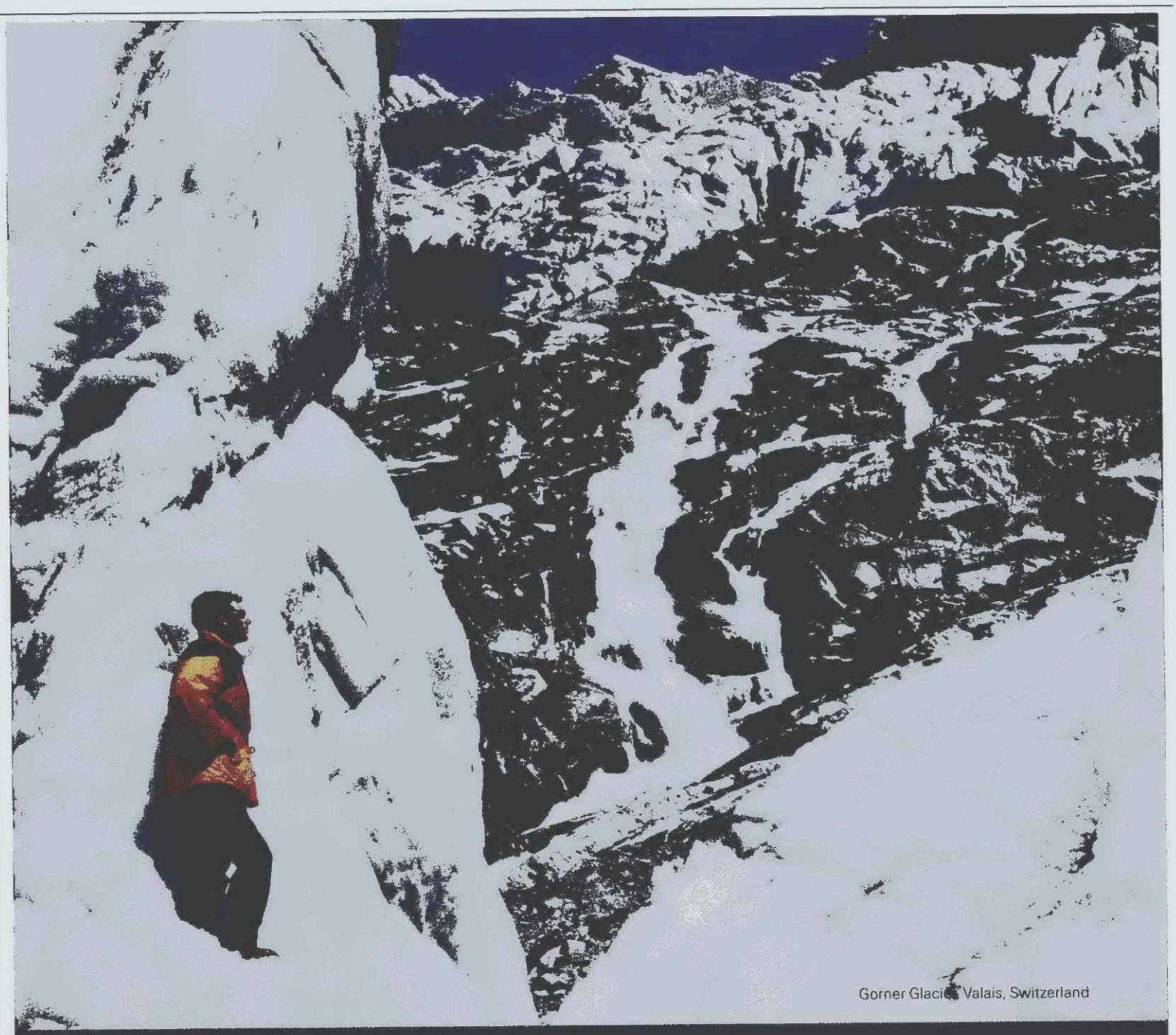
Brokers and buyers, meanwhile, spend time explaining why the glass is half-full as they try not to jeopardize their commissions and overdo corporate expectations in the process.

EUROPEAN-BASED REINSURERS LEAD WORLD MARKET

Based on percentage of total net written premiums from surveyed companies.



Source: BI survey



Ivo Menzinger, Sustainability Expert, Swiss Re

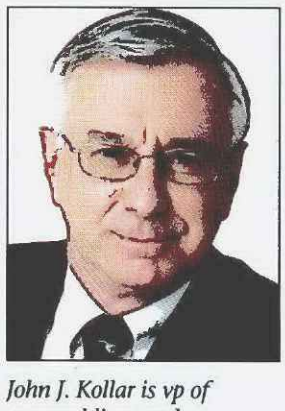
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Business Insurance
PERSPECTIVE

Conduct a thorough risk assessment

Holistic approach essential for insurers to judge profit potential and set sustainable rates



John J. Kollar is vp of personal lines and increased limits at Insurance Services Office Inc. in Jersey City, N.J.

By John J. Kollar

Insurance company risk managers are confronted today with the challenges of identifying, assessing, prioritizing, controlling, financing and monitoring risks across their enterprise. These include natural hazards, shareholder lawsuits and the theft or destruction of critical data, to name but a few. To tackle the complex issues associated with an evolving enterprise risk management program at an insurance company, risk managers need to adopt a holistic strategy for both risks and opportunities.

While it is possible for an insurer's risk management executive to implement an ERM program without first quantifying the company's risks, the program's benefits will be limited until the insurer has completed a thorough and accurate risk assessment. If an insurer's risk assessment data is only partially credible, industry information should be included as a supplement, allowing for a more accurate measure of risk management success.

A thorough assessment of risks and risk management strategies allows the insurance company's risk manager to perform robust analyses that support strategic decisions, such as the development of sound loss reserving principles. To understand its risk, an insurer must quantify the uncertainties in its loss reserves. As uncertainty varies by line of insurance, so too must the provision for it. The insurer may have reinsurance to reduce the uncertainty in its losses; however, it must appreciate the credit risk involved in the reinsurance transaction—the probability of not collecting reinsurance recoverables.

An insurance company risk manager also should take the following into account: Has the company changed its marketing program? Is it trying to attract policyholders similar to those in its current portfolio? In a similar fashion, has the company changed its underwriting guidelines? Is it accepting the same types of risk? Have underwriting guidelines become more stringent or liberal? The answers to those questions will determine the range of the possible losses.

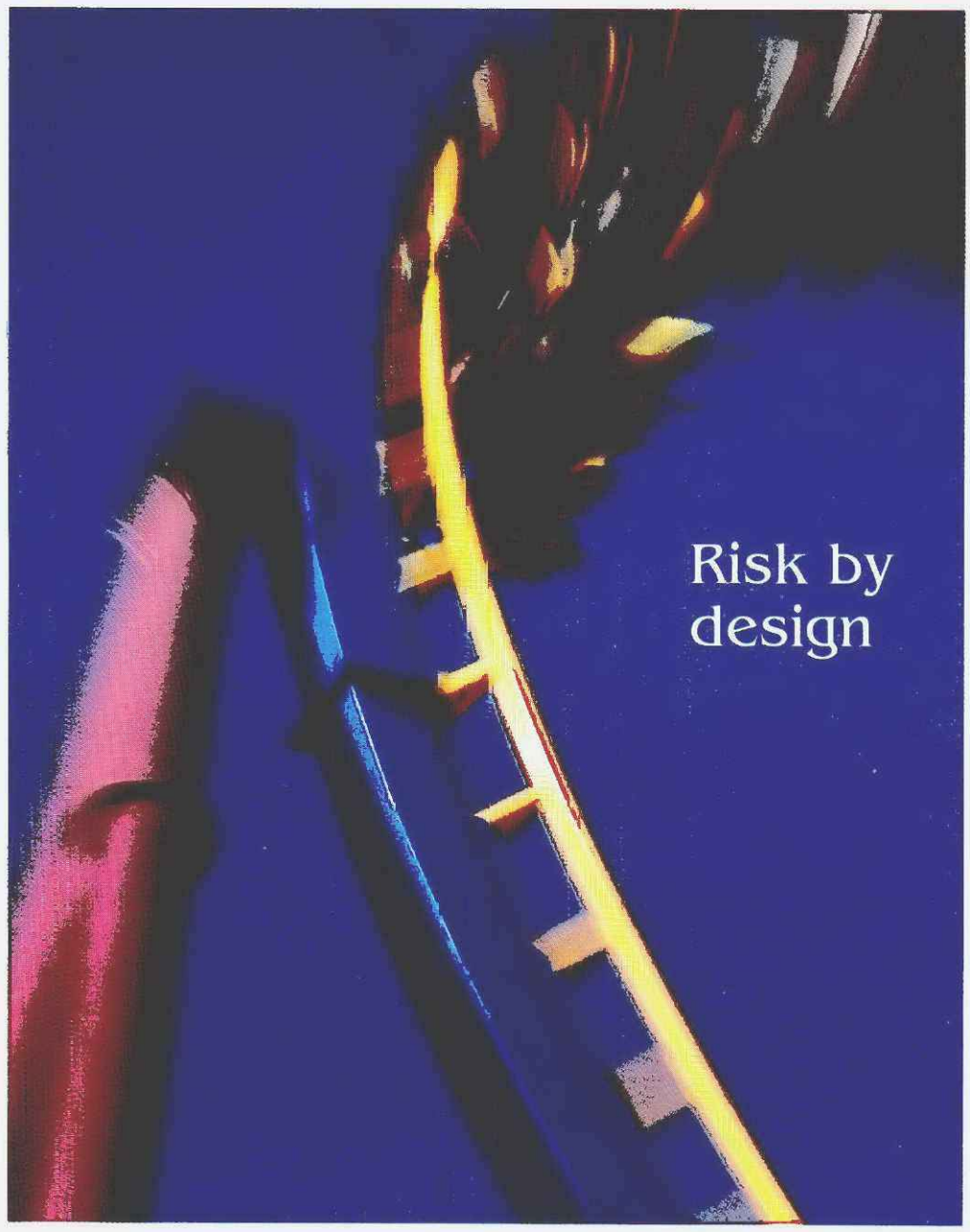
The above considerations—risk allocation by line, reinsurance costs, marketing costs and underwriting guidelines—also apply to ratemaking. Additionally, the cost of capital by line must be incorporated into the ratemaking analysis. A holistic risk treatment strategy suggests that a provision for operational risks be incorporated into the ratemaking analysis as well.

While the developed rates may be appropriate, the marketplace may not allow an insurer to charge those rates without adversely altering the insurer's book of business. An insurer may modi-

Continued on next page

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CONTINUED FROM PREVIOUS PAGE

fy rates to reflect softening prices with the intent of retaining its customers. It may also modify the terms and conditions in the policy, the size of deductibles, or the amounts of insurance, effectively increasing risk. This marketplace-inflicted increase should be incorporated into the insurer's overall risk profile.

Predictive modeling

Predictive modeling could reduce the uncertainty in pricing individual risks. But how accurate is the insurer's modeling? If the insurer does not have a model or its model is less accurate than its competitors', the company may be subject to adverse selection, the increased probability of reduced profitability or even loss from its book of business.

No one person can perform the ERM function. An enterprisewide risk management team approach is the only way to have a successful program.

As an insurer plans growth into new lines of business or new markets, it increases its risk in exchange for pursuing opportunity. Will the insurer be able to attract profitable business, or will it attract more mobile but less profitable policyholders who eventually have to be re-underwritten? The increased risk from these new policyholders must be incorporated into the insurer's overall risk profile. The growth could actually generate a diversification benefit that results in a reduced overall risk profile. The overall risk profile translates into the company's required capital.

The old risk management paradigm of simply purchasing reinsurance to reduce an insurer's risk is being replaced by the more complicated challenge of assessing, controlling, financing and monitoring a much broader array of risks and opportunities. Risk management may also include the application of an economic capital model to determine the appropriateness of the insurer's capital. The cost of capital can be allocated to individual lines of business or profit centers and then incorporated into an insurer's objectives and compensation programs, as well as its rates. The pervasiveness, complexity and completeness of an insurer's risk management program require high-quality, sufficiently detailed and consistent information for the program to be fully effective.

Obviously, no one person can perform the ERM function. An enterprisewide risk management team approach is the only way to have a successful program—and it will take years to achieve. But improved and more consistent financial results will make the effort worthwhile.

How to submit an article for *BI*'s Perspective section

Business Insurance accepts articles from experts in commercial insurance, risk management and employee benefits management for publication in its Perspectives section.

The section is intended to be a forum for readers' opinions and a forum for the discussion of technical topics that do not lend themselves to a news story. Therefore, Perspectives articles should take a point of view, offer advice and/or explain a technical subject. They should not present case studies or promotional information.

All articles for the Perspectives page should address the concerns of the corporate buyer of insurance; i.e., the risk management or employee benefits manager. Material written for only the concerns of brokers or underwriters is not appropriate.

To submit an article for the Perspective section:

- Send us a letter describing the topic you would like to address. You might want to suggest alternative topics. For each topic, briefly describe what you want to say and accomplish in the article.
- You will receive from us an acceptance or declination of your article idea.
- If accepted, we will respond with comments and request the full article, which generally should be 800-900 words in length.
- All articles are to be accompanied by color photograph of the author and a brief biography.
- We will notify you of any questions we have about your article or any substantial editing we think is necessary.

All authors must assign the copyright on the article to *Business Insurance*.

Because of the volume of Perspective submissions we receive, we cannot guarantee a date in which an article will appear. For the same reason, we will not run more than one article in a calendar year from the same author.

To submit a Perspective article query or for more information, send a note to *biweb@crain.com*.

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Call for Nominations

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

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

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

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For nominating forms and instructions, call 312-649-5274 or e-mail: rcoccia@BusinessInsurance.com or visit **BusinessInsurance.com/RMOY**

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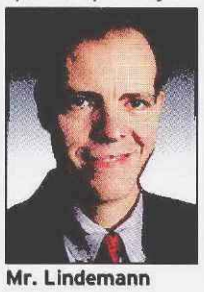
Risk Manager of the Year® and Risk Management Honor Roll® are Registered Trademarks of *Business Insurance* and Crain Communications Inc.

Comings & Goings

INSURERS:

Ann Haugh has been named chief operating officer of Zurich Financial Services Group's global corporate unit in North America. Ms. Haugh, who will be based in New York, most recently was executive vp of Zurich's mergers and acquisitions unit.

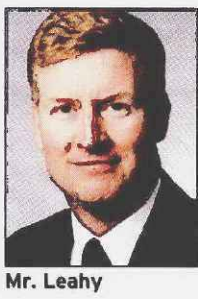
Schaumburg, Ill.-based Zurich North America has named **Kenneth Kovar** head of U.S. domestic energy casualty in Houston. Before his promotion, he was a primary casualty manager.


Mr. Lindemann

Also at Zurich, **Robert Lindemann** has been named COO of the commercial markets business unit. Formerly, he was president of its Zurich North America commercial's middle markets business.

Hamilton, Bermuda-based XL Capital Ltd. has appointed **Brian W. Nocco** executive vp and chief financial officer. Before joining XL, Mr. Nocco was chief risk officer of Nationwide Insurance Group.

Hartford Financial Services Group Inc. in Simsbury, Conn., has promoted **Robert Reiff** to senior vp and director of distribution and field service for its group benefits division. Previously, he was a vp.

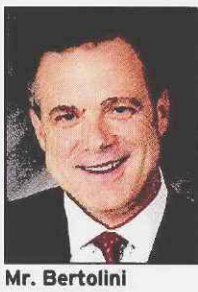

Mr. Leahy

Hanover Insurance Group Inc. has named **John J. Leahy** executive vp and CFO. Before joining the Worcester, Mass.-based insurer, he was executive vp and CFO of Keane Inc.

New York-based Assurant Inc. has promoted **Christopher J. Pagano** to executive vp and treasurer. He will retain his role as president and chief investment officer of Assurant Asset Management.

Also at Assurant, **Miles B. Yakre** has moved to Assurant Employee Benefits as senior vp and chief actuary. Previously, he was senior vp, corporate actuary and treasurer for Assurant.

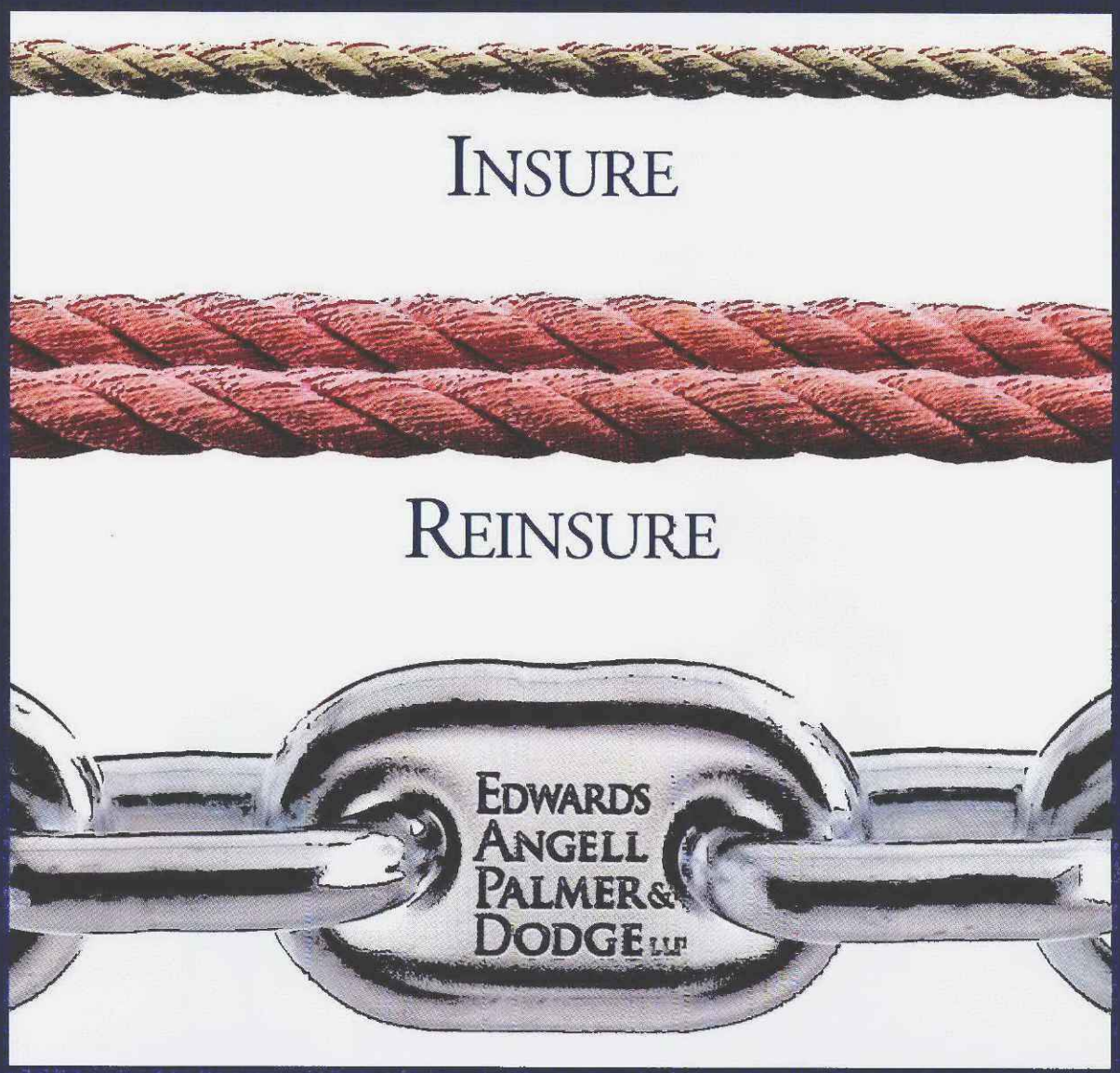
Shelby Hollister has been named vp and chief life underwriter for the U.S. insurance group of Springfield, Mass.-based Massachusetts Mutual Life Insurance Co. Previously, she was underwriting director at Hartford Life.


Mr. Bertolini

MANAGED CARE:

Mark Bertolini has

See **COMINGS & GOINGS** page 32



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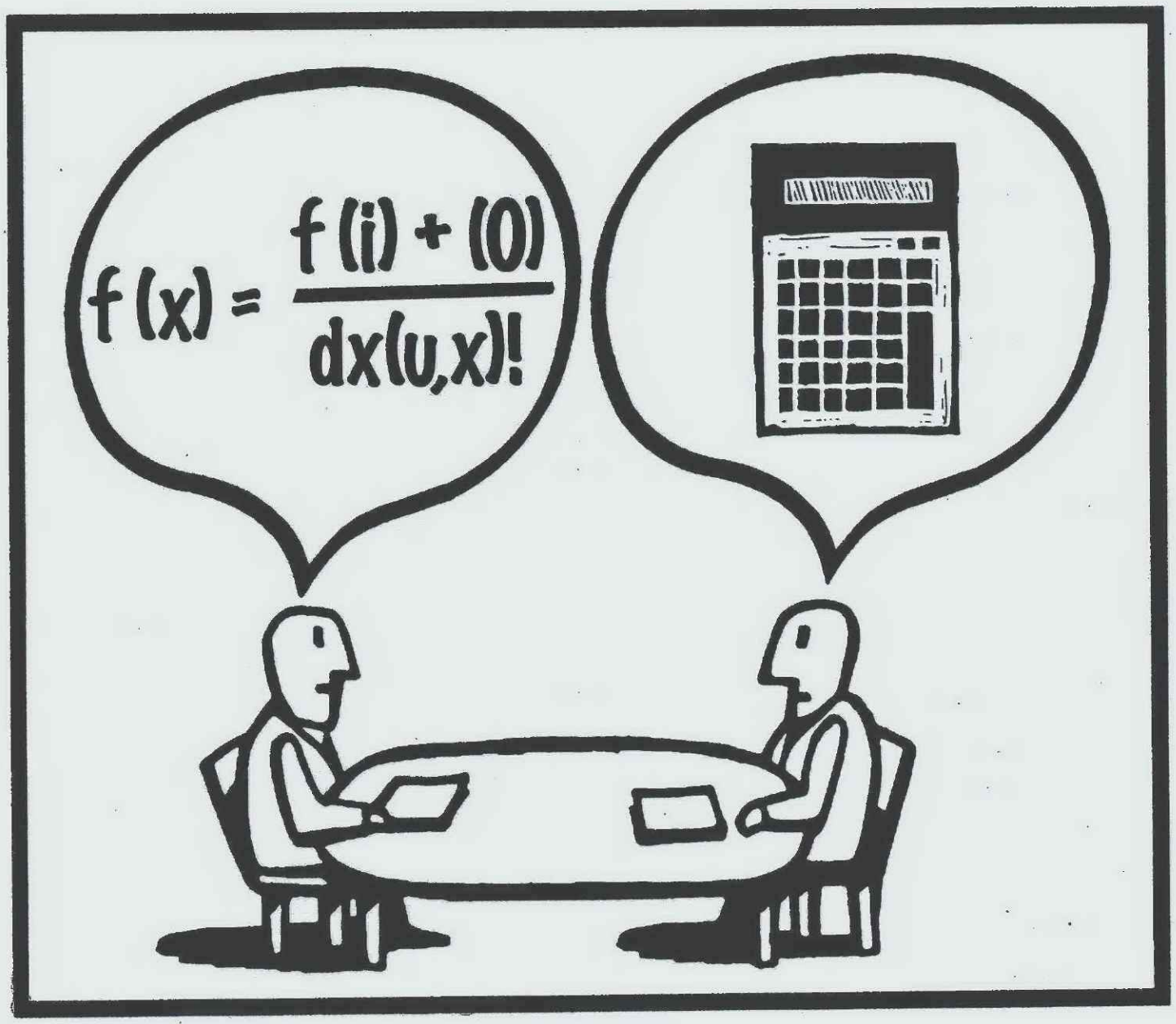
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Panelists

Jim Gault
President and COO, Arthur J. Gallagher & Co., Brokerage Services Division

Don Kramer
Chairman and CEO, Ariel Reinsurance Company Ltd.

Claudia Temple
Assistant Treasurer, Global Risk Management and Insurance, Kraft Foods Inc.

Mark Willis
Executive Vice President, American International Group

Moderator

Millicent Workman
Director of Training and Education, International Risk Management Institute Inc.

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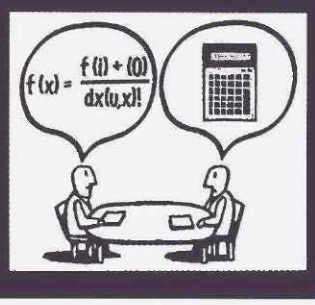
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UP CLOSE

Frank Hernandez



NEW JOB TITLE: Senior vp, marine and energy team, at BMS Intermediaries Inc. in Philadelphia.

START DATE: July 23

PREVIOUS POSITION: Executive vp, global marine and energy, at Towers Perrin.

REASON FOR THE SWITCH: The BMS philosophy of senior brokers who have the market weight to deliver, but who still offer a high level of personal attention, is very compelling in today's market. BMS has a growing team in the U.S. with a platform that will allow me to be successful in meeting client needs and expectations. BMS' commitment to providing expertise and solutions for customers in all classes is impressive. Their strong corporate commitment to and understanding of the marine and energy market was very important to me.

GOALS FOR NEW POSITION: Grow BMS in the U.S. in marine and nonmarine business.

FIRST TIME IN THE JOB MARKET: My first job was in London working for Sedgwick Payne Re as a London market marine reinsurance broker. I spent three years working in the Lloyd's and London market environment.

VITAL STATISTICS: I was a member of the Bucknell University class of 1979, with a degree in business administration. Before Towers Perrin, I was a manager with Guy Carpenter marine from 1992 to 2003.

TOP ADVICE: Look after the customer and the commission will look after itself.

OUTSIDE THE INDUSTRY, A DREAM JOB: I would like to be a wine buyer or anything to do with wine.

Comings & Goings

CONTINUED FROM PAGE 30

been promoted to president of Hartford, Conn.-based Aetna Inc. from his prior post as executive vp and head of business operations. He takes over the duties of president from Ronald Williams, Aetna's chairman and CEO.

King of Prussia, Pa.-based Devon Health Services Inc. has promoted **Brian D. Atkinson** to COO. Previously, he was vp of sales.

REINSURANCE:

New York-based Swiss Re Capital Management & Advisory has named **Jamshid Ehsani** managing director, head of life assets. Previously, he was president and chief risk officer of InsCap Management L.L.C.

George Zippel has been named president and global CEO of Hamilton, Bermuda-based Scottish Re Group Ltd. Mr. Zippel most recently was president and CEO of a unit of Richmond, Va.-based Genworth Financial Inc.


Mr. Zippel

OTHER PROVIDERS:

Washington-based Dickstein Shapiro L.L.P. has named **James R. Murray** as partner in the firm's insurance coverage practice. He joins the firm from Gordon Murray Tilden L.L.P., where he was a founding partner.

Al Phelps has joined Buck Consultants L.L.C.'s Chicago office as principal. Previously, he was principal at Mercer Human Resources Consulting.

Also at New York-based Buck, **James Clark** has been named director in the Seacaucus, N.J. office. Previously, he was vp and consulting actuary at Segal Co.

Engle Martin Claims Administrative Services, a division of Atlanta-based claims administration and adjusting firm Engle Martin & Associates Inc., has named **Stephen A. Saybolt** director of claims. Previously, he was a claims manager for Caronia Corp., a division of Sedgwick Claims Management Services Inc.

APEX Management Group, a division of Gallagher Benefit Services Inc. in Princeton, N.J., has named **Shane Byrne** director of health care informatics. Mr. Byrne, who will be based in Las Vegas, previously was director of analytics with HealthDataInsights and DataXCorp.

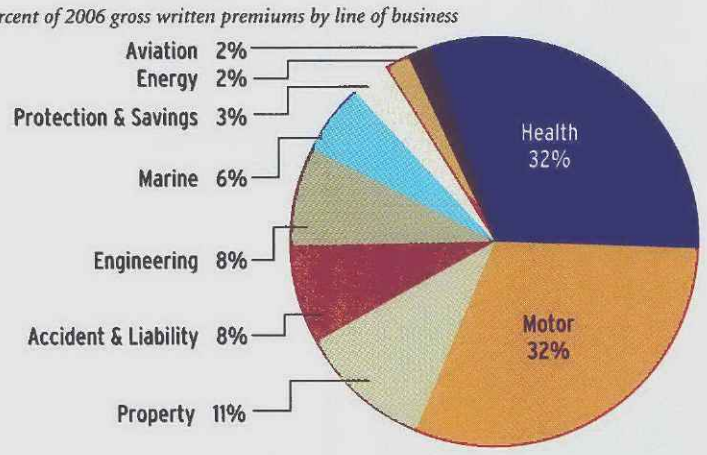
TO SUBMIT ITEMS

***Business Insurance* would like to report on senior-level changes at commercial insurance companies and service providers. Please send news of recently promoted, hired or appointed senior-level executives to: Joe Walker, Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; jwalker@businessinsurance.com. Photos should be sent to: Kathy Barnes 360 N. Michigan Ave., Chicago, Ill. 60601-3806; kbarnes@businessinsurance.com.**

International NEWS

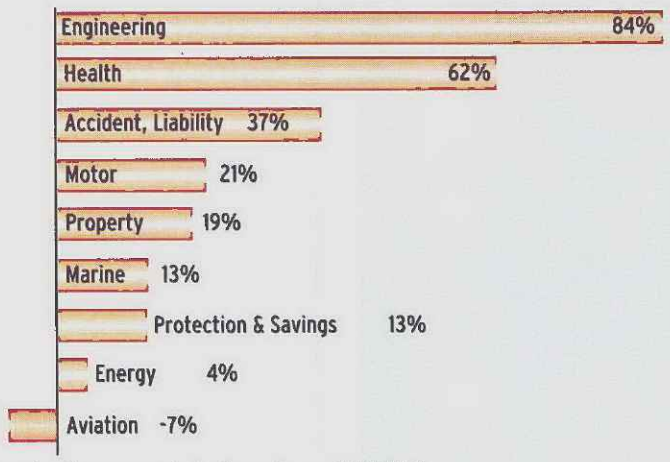
SAUDI INSURANCE MARKET

Percent of 2006 gross written premiums by line of business



GROWTH IN GROSS WRITTEN PREMIUMS

By line of business in 2006 vs. 2005 premium volume



Source: Saudi Insurance Market Survey Report (2005-2006)

Mandatory coverage aids Saudi market jump

By MICHAEL BRADFORD

RIYADH, Saudi Arabia—Saudi Arabia's insurance market saw significant growth in 2006 as gross premiums surged 35% to 6.9 billion riyals ($1.84 billion).

Favorable economic conditions, along with the introduction of compulsory motor and health insurance, were the primary drivers of the growth, according to a report by the Saudi Arabian Monetary Agency's Insurance Supervision Department.

Property/casualty insurance premiums, which represent 65% of the market, jumped 25% to 4.5 billion riyals ($1.19 billion), according to the report. Health insurance premiums—32% of the market—rose by 62% to 2.2 billion riyals ($586.5 million).

Insurance penetration—defined as gross written premium volume as a percentage of gross domestic product—rose to 0.53% in 2006, up from 0.44% in 2005, according to the report.

The report, "The Saudi Insurance Market Survey Report: 2005-2006," is available at *www.sama.gov.sa*.

Australia motor sports authority revamping risk management rules

By MICHAEL BRADFORD

CAUFIELD EAST, Australia—Motor sports risk management is set for an overhaul in Australia.

The Confederation of Australian Motor Sport said frustration over the organization's risk management requirements has brought complaints from competitors, officials, contractors and others in the sport.

CAMS, the country's national authority for motor sports, is responding by "pulling apart the risk management program and putting it back together again," the Caufield East, Victoria-based organization said in a statement.

Among the complaints, organizers of some events said the risk management requirements were far too complex for the level of risk associated with their activities.

"This holistic review will take some time," CAMS said, and elements of the risk management reworking will be rolled out from time to time for consultation or implementation.

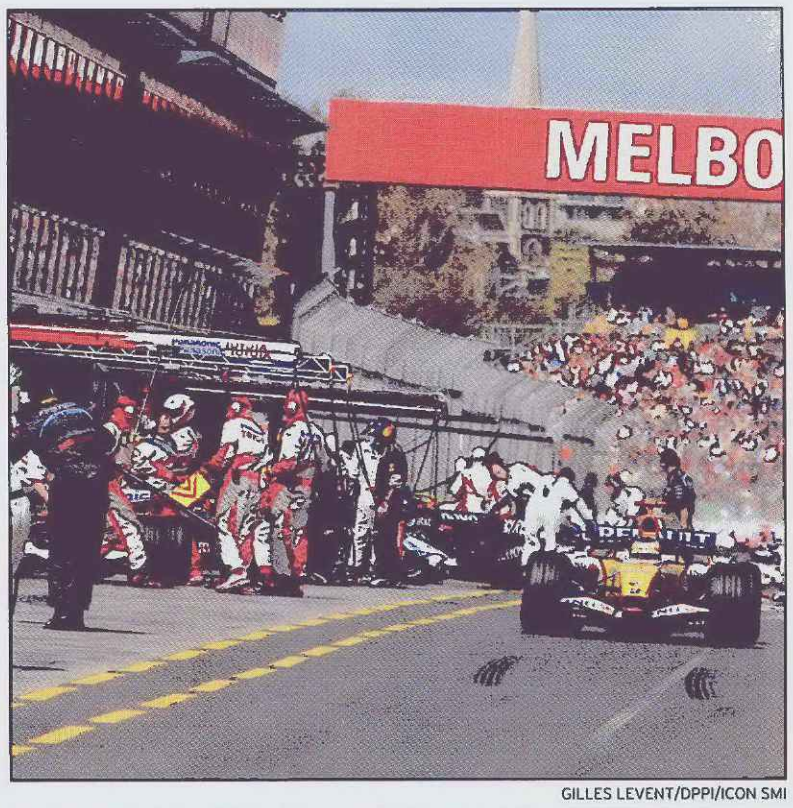
As part of the restructuring, CAMS has established "state risk management working groups" in each state to help event organizers and clubs implement risk management processes.

In its statement, CAMS said: "In order to reflect and reinforce the benefits of a good risk management system, it is beneficial to look back on our risk management aims," noting that the organization had implemented a systematic process to manage risks by using he methodology of AS/NZS 4360:2004, a risk management standard that sets out a framework for companies to implement a risk management process, outlines procedures for identifying and analyzing risks.

KEY OBJECTIVES

The Confederation of Australian Motor Sport said that its risk management effort has four key objectives. They are:

- Providing a tool to reduce the likelihood of significant incidents.
- Providing a demonstration of logical systematic decision making.
- Providing documentation as supporting evidence.
- Ensuring CAMS takes a leadership position to avoid outside parties imposing inappropriate regulations or legislation.



GILLES LEVENT/DPPI/ICON SMI

The Confederation of Motor Sport, which oversees all motor sports in Australia including the Australian Grand Prix, is responding to complaints and is revising the requirements of its risk management program.

APRA bans former executive

By SARAH VEYSEY

SYDNEY, Australia—The Australian Prudential Regulation Authority has disqualified Paul Williams from being a director or senior manager of a general insurer.

Mr. Williams was deputy managing director of New Cap Reinsurance Australia between October 1996 and May 1999.

As part of its investigation into alternative reinsurance transactions entered into by General Reinsurance Australia, APRA found that Mr. Williams led negotiations with General Cologne Re, the company's parent, to put into place a financial reinsurance arrangement that allowed NCRA to improve its reported profit for 1998 by $5.7 million.

APRA found that Mr. Williams failed to disclose the true purpose of the arrangement to NCRA's auditors, external actuaries, bank and APRA.

The regulator also found that Mr. Williams was aware that the arrangement was not properly accounted for in NCRA's accounts.

APRA has now disqualified several executives from various companies in connection with financial reinsurance transactions.

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Nevada: Governor questions purchase of Sierra Health

CONTINUED FROM PAGE 3

The combined entity would have a 94% share of Nevada's Las Vegas-Paradise health maintenance organization market, according to statistics compiled by Chicago-based American Medical Assn.

The governor's office hopes to work with the state attorney general "to take any and all legal steps to prevent adverse outcomes" as a result of the transaction, according to the statement. The governor also asked the U.S. Department of Justice, which is currently reviewing the deal, to "closely examine the monopolistic potential" in its review.

Nevada officials can file either a state or federal lawsuit to stop the merger if the attorney general determines that such action is warranted, a spokeswoman for the attorney general said.

A decision will likely come during the next 30 days, before the insurance commissioner's decision becomes final, the spokeswoman said.

Regs: IRS seeks underfunded plan limits

CONTINUED FROM PAGE 4

The proposed regulation calls for a "very, very high level of diligence" on the part of plans and plan actuaries, said Mr. Brown.

Plan sponsors start with the presumption that their plans are funded at whatever percentage they had been the previous year, said Mr. Brown. "Then by April 1, you've either got to have a certification, or your presumption changes."

Plans that do not obtain the actuarial certification lose 10 percentage points on their presumed funding, said Mr. Brown. If for instance, the actuary for a plan that had a presumed funding of 85% discovers on March 31 there is something wrong with his or her data and does not grant the certification, the fund is presumed to be funded at 75% as of April 1. This means the sponsor can basically pay plan participants only half of the lump sum they may have been entitled to just the previous day, Mr. Brown said.

"Depending upon the plan's funded status, the plan may not be able to pay benefits that it has been communicating and otherwise paying for years," said Mr. Brown.

Interested parties must submit written or electronic comments by Nov. 28. Submissions can be sent to: CC:AP:LPD:PR(REG-113891-07) room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, D.C. 20044.

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Pensions: Transfer of obligations draws interest of U.S. plan sponsors

CONTINUED FROM PAGE 6

But the U.K. picture changed earlier this month when Citigroup announced a deal that employed a new model, one that observers say could change the cost structure for offloading pension plans and trigger renewed interest among companies in the United Kingdom and United States.

Citigroup assumed responsibility for the Thomson Regional Newspapers pension fund, which had about £200 million ($401.6 million) of assets. And rather than using the plan's assets to buy annuities, Citigroup said it will continue to run the fund.

The Citi transaction "is a transfer not in the insurance regime; this is an employer-to-employer transfer," said Andrew Reid, London-based senior consultant for Watson Wyatt Worldwide. "The transferring company set up a shell company and put its pension scheme into that, and Citi bought the shell company."

"Citi makes it more likely that people will look at other ways of doing things," Mr. Reid added.

Other institutions interested

Observers say they expect Citi to use its asset management and risk management capabilities to earn a better return on the plan's assets.

Neither Citi nor the Thomson fund would provide details, but consultants say it's likely that Citi paid less than an insurer would, in part because it will face less onerous regulation than an insurer would.

By operating under pension regulations rather than insurance regulations, companies avoid the U.K. insurance regulators' capital requirements and enjoy somewhat more freedom in investment choices, said Sandy MacKenzie, managing director of pension solutions at Nomura Group in London.

"To the extent that that doesn't require holding risk capital within the insurance (regulatory) framework, there is flexibility to be more aggressive in the pricing of liabilities so as to generate savings for the ceding corporate relative to buyout quotes," he said.

Among financial firms rumored to be contemplating getting into the pension buyout business in the United States are Citi, JPMorgan Chase & Co., Morgan Stanley & Co. and Goldman Sachs Group Inc, which recently started a U.K. insurance company to do such buyouts. "We certainly see a potential market in the U.S. and are closely monitoring developments," said a spokesman for J.P. Morgan.

A Citi spokeswoman said the bank is continuing "to explore further opportunities in the U.S. and the U.K. as many sponsors are quite interested in similar structures."

The other firms had no comment.

Mr. Aglira said financial institutions looking at this business in the United States are not planning to take a pension plan's risks onto their own balance sheet, as Citi appears to have done in the Thomson transaction, but are talking about setting up private equity firms to do the deals.

Observers say they expect Citigroup to use its asset management and risk management capabilities to earn a better return on the £200 million of assets in the Thomson Regional Newspapers pension fund.

Offloading a pension plan to a financial institution is likely to be cheaper than doing so with an insurer, Mr. Aglira said, estimating that a company might need to pay a premium of 25% to 30% to an insurer vs. a 10% to 15% premium to a financial institution.

PBGC approval needed

But he said the Pension Benefit Guaranty Corp., the federal agency that insures pension plans, would have to approve transactions of the sort Citi did with the Thomson fund, and predicted that the PBGC would probably give approval on a case-by-case basis.

PBGC regulators "need to give strong signals to these new businesses that there's a much better than 50% chance that they would approve," Mr. Aglira added.

A spokesman for the PBGC confirmed the agency has the authority to negotiate financial protection with a plan sponsor if a proposed corporate transaction would increase risks for the pension plan.

Carl Hess, New York-based North American practice director for investment consulting at Watson Wyatt Worldwide, sees regulatory challenges to transfers that involve certain types of financial institutions.

The Employee Retirement Income Security Act requires companies that want to terminate a plan to either pay off participants or buy them annuities, he said, "which means that, effectively, insurers have a monopoly."

If a company shed its pension plan by transferring it to a financial institution, the deal's fate might rest on the facts of the situation, Mr. Hess said. If the transaction shifted the plan from a company with shaky finances to a deep-pocketed financial institution, "so much the better," he said, but he predicted that policymakers would interfere if a pension plan ended up in less sound hands.

"Maybe the i-bank lobby will be better than the insurers lobby and they'll be able to pull it off," Mr. Hess said. "But maybe they won't."

Meanwhile, though, the financial markets' subprime convulsions threaten to erode the improved funding of pension plans, a development that was expected to increase demand for buyouts by making them more affordable for plan sponsors.

"Whether this period of renewed volatility is sufficient to scare finance directors, where they suddenly think the price is worth paying because 'I really don't like this volatility,' or they take the view that 'It's going to cost me even more than before,' " Mr. MacKenzie said, "is an unanswered question."

Susan Kelly is a reporter at Financial Week, a sister publication of Business Insurance.

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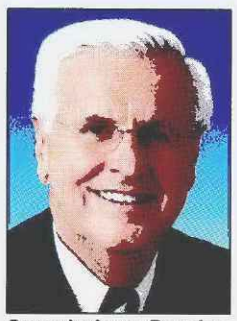
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Louisiana develops waiver

Risk managers in Louisiana may not have as big a problem in obtaining financial assistance after a flood from the Federal Emergency Management Agency as risk managers elsewhere in the United States.

Because of the limited flood insurance market in the state, the Louisiana insurance commissioner in early August developed a waiver process through which buyers of National Flood Insurance Program coverage can prequalify for federal aid—even if they do not meet the federal government's commercial flood insurance requirements.


Commissioner Donelon

Under the process, each insurance buyer would have to apply individually for a waiver.

The state insurance department began developing the process before finding out about a FEMA bulletin that would have reduced government assistance to public entities and nonprofit organizations after a natural catastrophe, said Warren Byrd, executive counsel. But Louisiana Commissioner James J. Donelon was aware of the bulletin when he sent an Aug. 10 letter describing the insurance department's waiver process to President Bush.

FEMA rescinded its bulletin on Aug. 23, but an official has indicated that government aid would be at risk if public entities and nonprofits have inadequate commercial insurance.

Mr. Byrd last week said the department had not heard back from FEMA officials about whether they agree that Mr. Donelon has authority under the Robert T. Stafford Disaster Relief and Emergency Assistance Act to unilaterally implement the process.

Mr. Byrd said the department is proceeding as though it has that authority.

A FEMA official did not return calls seeking comment.

For risk managers of public entities and nonprofit organizations in Louisiana, "I think their only answer now is the waiver," said Nancy Sylvester, a Baton Rouge, La.-based managing director in the Public Entity & Scholastic Division at Gallagher Risk Management Services Inc., a unit of Arthur J. Gallagher & Co.

Observers said Mr. Donelon's step was unique and that they are unaware of any other regulator taking similar measures.

—By Dave Lenckus

200 years of disaster aid

The Federal Emergency Management Agency and the financial assistance it provides can be traced back to 1803, when Congress passed what is thought to be the first federal disaster legislation. The act provided financial assistance to a New Hampshire town devastated by a fire.

During the 1930s, Congress expanded the authority of various federal agencies to loan funds to public entities to repair certain facilities and infrastructure damaged in disasters.

By the late 1970s, more than 100 federal agencies were responsible in some way for responding to a disaster, and many of their programs and policies were duplicated at the state and local levels. The resulting problems in coordinating disaster response prompted the National Governors Assn. to seek a centralized federal emergency response plan.

A 1979 executive order by President Carter merged many of the government's disaster-response functions into the newly created FEMA. Among the agencies moved into FEMA was the Federal Insurance Administration, established in 1968 within the U.S. Department of Housing and Urban Development to administer federal flood, riot and crime insurance programs.

In 2000, the Robert T. Stafford Disaster Relief and Emergency Assistance Act was enacted to further ensure orderly federal assistance to state and local governments after a disaster and to promote disaster preparedness nationwide. Among other things, the Stafford Act broadened the scope of existing disaster relief programs; provided federal assistance programs that would respond to both public- and private-sector losses sustained in disasters; and encouraged states, local governments and individuals to obtain insurance that would supplement or replace governmental assistance.

According to FEMA, there have been an average of 53.1 presidentially declared disasters annually from 1998 through 2006, and 122 governmental entities on average have sought financial assistance after each event.

—By Dave Lenckus

FEMA: Policy sends confusing signals

CONTINUED FROM PAGE 3

determines are reasonable.

The language was unnerving for public entities in catastrophe-prone regions, because they are only halfway through this year's hurricane season, and commercial flood insurance capacity for them is paltry.

While confirming that FEMA had withdrawn the bulletin in its entirety, Gil H. Jamieson, associate deputy administrator for the agency's Gulf Coast Recovery effort, said on Aug. 24 that the agency still wants public entities and nonprofits to purchase excess commercial flood insurance that would fully cover their buildings in order to collect government aid to defray uninsured losses.

NFIP's maximum coverage of $500,000 usually does not satisfy commercial insurance deductibles, which can amount to 5% of location values, said Mike Hudson, a managing director with Marsh Inc. in Los Angeles. Locations often consist of several buildings.

Mr. Jamieson was noncommittal after he was asked how FEMA would respond now to requests for aid after a flood if the applicants did not purchase flood insurance that fully covered their property.

"We don't want to scare business," but they have to be "responsible" and purchase insurance, Mr. Jamieson said.

"The whole subject of insurance has received and will receive close scrutiny," Mr. Jamieson added.

Mr. Jamieson did not return calls seeking elaboration last week.

Representatives of organizations representing public entities last week said they were unsure what FEMA's position is and what that means for public entities.

"We're looking at that very closely to see whether we need to come out with some position on a national level," said Mr. Hayes of PRIMA.

The Washington-based National League of Cities is attempting to sort out the issue with FEMA but so far is "just opening the lines of communication" with the agency, said Christina F. Loftus, principal legislative counsel.

Brokers and some risk managers say what is clear is that only the smallest risks can purchase enough flood insurance to fully cover their property.

"That beast doesn't exist for us," said Mr. Hayes, risk manager for the Calcasieu Parish School Board in Lake Charles, La., about 50 miles from the Gulf Coast.

The school district has about $687 million of property, Mr. Hayes said. Beyond the separate $500,000 limits the NFIP offers to cover buildings and contents, the commercial market offered the district $5 million of flood limits per loss and as an annual aggregate, he said. And Mr. Hayes' broker had to access the London market to find that coverage, he said.

At a cost of $250,000, such limited coverage "doesn't even make sense," said Nancy Sylvester, who is Mr. Hayes' broker. Ms. Sylvester is a Baton Rouge, La.-based managing director in the Public Entity & Scholastic Division at Gallagher Risk Management Services Inc., a unit of Arthur J. Gallagher & Co.

Mr. Hayes' plight is typical, according to other brokers.

In coastal areas that have flooded in the past, flood insurance is difficult to find or would cost an "astronomical amount," said Willis' Mr. Ritch. Since the 2004 and 2005 hurricane seasons, insurers charge four times the premium for one-fifth of the flood limits they previously provided, he said.

Pools provide limited help

Public entities involved in pools can get excess flood insurance easier than can individual entities, but only $5 million to $50 million of limits are available, and pool members would have to share that, he said.

In low-risk regions of the country, much greater flood insurance coverage typically is available as a sublimit within property insurance policies, brokers said. But those sublimits usually range from $25 million to $100 million per loss per location, depending on the flood zone, they said. As a result, risk managers in even low-risk regions could not purchase enough flood insurance to fully cover their property, brokers said.

Even if they could, "that seems like a terrible waste of money," because flood losses typically amount to only a portion of a building's value, Aon's Mr. O'Connell said.

Census: Health cover falls

CONTINUED FROM PAGE 3

residents have health insurance coverage than previously reported—the trend remains the same.

Rising health care costs are to blame, experts say.

"I think we have two things going on," said Helen Darling, president of the National Business Group on Health, a Washington-based consortium of large employers. In some cases the high cost of health insurance is forcing employers to provide less coverage. In others, covered employees who can't afford cost sharing are going without health insurance, she said.

"I'm not surprised" by the findings, Ms. Darling said. "And the thing that is so madding is we know how to control health care costs much better than we're doing."

"I think we are moving from an era where having a job gives you the financial security for any type of risk to an era where nothing is given," said Kirby Bosley, West division practice leader for Watson Wyatt Worldwide in Los Angeles. "We never used to talk about the employed uninsured."

Mike Brewer, president of Lockton Benefit Group in Kansas City, Mo., said while employment-based insurance continues to erode, "there will be some dramatic and sweeping change in the health care delivery system" before it gets too bad. "When the (health care cost) increases become more intolerable than the thought of a radical change to the health care system...a radical change will happen."

Overall, the Census Bureau estimates 47 million people, or 15.8% of the population, lacked health insurance in 2006, up from 44.8 million, or 15.3% of the population, the previous year.

The three-year average uninsured rate varied by state. Texas had the highest uninsured rate at 24.1%, followed by New Mexico at 21.0% and Florida at 20.3%. Minnesota had the lowest three-year average uninsured rate at 8.5%, followed by Hawaii at 8.6% and Iowa at 9.3%.

Other survey findings include:

- Of individuals 18 through 64 years old who worked full-time during 2006, 18.7% were uninsured; 22.9% who worked part-time lacked health insurance.
- Individuals between the ages of 18 and 24 were most likely to be uninsured, with 29.3% lacking health care coverage in 2006. In contrast, only 1.5% of individuals 65 and older, who generally are eligible for Medicare, were uninsured.
- Geographically, Southern states had the highest uninsured rate last year at 19.0%, followed by Western states at 17.9%. The Midwest had the lowest rate at 11.4%, followed by the Northeast at 12.3%.
- Those with annual household incomes under $25,000 had the highest uninsured rate at 24.9%, while only 8.5% of those with $75,000 or more in household income lacked health insurance.

The U.S. Census Bureau report, "Income, Poverty, and Health Insurance Coverage in the United States: 2006," is available at *www.census.gov*.

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Katrina: Most claims have been settled

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Despite the last-minute deluge of lawsuits, the insurance industry says that most claims have been settled. According to the Insurance Information Institute, Hurricane Katrina gave rise to about $40.6 billion in insured damage, with a total throughout the affected region of 1.7 million claims for damage to homes, businesses and vehicles in various states.

Louisiana policyholders received $25.3 billion for Hurricane Katrina claims, while those in Mississippi received $13.6 billion, the III said. The industry-supported organization estimates that fewer than 2% of the Katrina-related homeowners claims in those two states were disputed.

HURRICANE TOLL

The top two U.S. hurricanes in claims and losses

KATRINA
AUGUST 2005

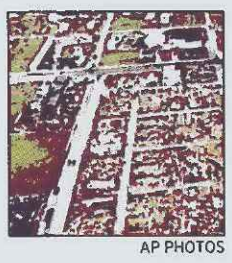


LANDOV

1.7 million claims

$40.60 billion in insured damage

ANDREW
AUGUST 1992



AP PHOTOS

790,000 claims

$15.50 billion in insured damage

Source: Insurance Information Institute

The state-sponsored mediation program in Mississippi had settled ,034 of 3,687 cases in the program s of last week, according to III. III lso noted that 537 out of more han 1,000 lawsuits filed in federal ourt in Louisiana remained on the ocket by the middle of last week, lthough that did not count last-inute filings.

Mixed rulings

Among the disputes that have one to court are several high-profile decisions, which have gone oth ways.

A federal judge ruled last November in *In re: Katrina Canal Breaches Consolidated Litigation* that there was a difference between manmade and natural flooding, and that policyholders could pursue coverage from their insurers for damage caused by the failure of manmade levees (*BI*, Dec. 4, 2006).

But a three-judge panel of the U.S. 5th Circuit Court of Appeals reversed that decision in August, upholding the flood exclusions in the homeowners and commercial policies in question (*BI*, Aug. 6)

Also in 2006, while a federal district judge in Mississippi upheld the flood exclusion in his decision in *Paul & Julie Leonard vs. Nationwide Mutual Insurance Co.*, he left open the possibility that "ambiguous" policy language might bar coverage where it should apply (*BI*, Aug. 21, 2006).

However, late last week, the 5th U.S. Circuit Court of Appeals, while affirming the district court's decision, ruled that the judge's reasoning was erroneous and that the policy's "anticoncurrent-causation clause" was not ambiguous. That clause excludes damages from the "synergistic action of a covered peril, e.g., wind, and an excluded peril, e.g., water," the decision states.

And last month, a federal district court in California ruled in *Northrop Grumman Corp. vs. Factory Mutual Insurance Co.* that the flood exclusion in a commercial property policy did not exclude coverage for damage caused by storm surge (see story, page 1).

An attorney who represents policyholders says that if the facts of a coverage dispute are presented to a court, the policyholder usually comes out on top.

In addition, if the case "gets to a jury, the policyholder wins," said Gary Thompson, a partner with law firm Reed Smith L.L.P in Washington.

Mr. Thompson said that while that's typically the case in any sort of insurance dispute, juries have been even more inclined to hold for policyholders in Katrina-related cases. "The closer things get to real people, the more trouble insurers have," he said.

"I think the recent trend in the state courts has been very positive for policyholders" in Louisiana, said John Ellison, a shareholder in Anderson Kill & Olick P.C.'s Philadelphia office.

"I think generally, as a forum, Louisiana has been a relatively good one for policyholders," said Mr. Ellison, who has represented both commercial and personal lines policyholders.

But an attorney who represents insurers also found reason to like coverage rulings in Louisiana, at least at the appellate level.

"I think that insurers are quite pleased with the results to date in Louisiana," said Laura Foggan, a partner with Wiley Rein L.L.P. in Washington. "The 5th Circuit in *Katrina Canal Breaches* has upheld the flood exclusion, refusing to endorse this effort to circumvent (the exclusion) with speculative arguments about natural vs. manmade floods in the context of the levee break.

"I think that's an indicator of the willingness of courts to adhere to policy language in what are obviously very difficult circumstances," said Ms. Foggan, who has been involved Katrina litigation at the appellate level.

"I think in Louisiana there's an appearance of a trend that's not really there across the board," said Kirk Pasich, a partner in Dickstein Shapiro L.L.P.'s Los Angeles office.

"Most people say the policyholders are losing frequently—I don't think that's true," he said.

"There have been some very high-profile cases involving flood vs. wind that policyholders have lost. But those tend to be individuals who had an option to purchase flood insurance," said Mr. Pasich, who represents policyholders.

"The reality for corporate policyholders is their policy language often is substantially different," he said. "They have been winning or receiving settlements on a wide range of issues."

"What you're not hearing about is a multitude of claims where companies and individuals were able to obtain very favorable" results, said Linda Kornfeld, managing partner in the Dickstein Shapiro Los Angeles office.

"While we've been in litigation for a number of corporations, many of those claims have been settled, and some have been settled without even filing a lawsuit," said Mr. Pasich.

In Mississippi, policyholders often did quite well, said an attorney who represents insurers but who has not been directly involved in Katrina litigation.

"If you look at the individual Mississippi cases, the policyholders did extremely well," said Randy J. Maniloff, a partner in the Philadelphia law firm White & Williams L.L.P.

The threat of punitive damages "really drove carriers to the settlement table" where confidential settlements were worked out, Mr. Maniloff said.

Roberto Ceniceros contributed to this report.



RON ELIAS, NORTHROP GRUMMAN, SEPT. 3, 2005

Northrop Grumman Corp. says damage to its shipyard in Pascagoula, Miss., totaled more than $1 billion, including business interruption losses.

Northrop: Storm surge losses covered, court says

CONTINUED FROM PAGE 1

Ship Systems' ship-building facility in Pascagoula, Miss. Damage there totaled more than $1 billion, including business interruption losses for which FM Global denied a significant amount of coverage under its excess policy.

The insurer sold Los Angeles-based Northrop an all-risk excess policy for 2005–2006 coverage with $19.8 billion in blanket limits above $500 million, court records show. FM Global's policy form included boiler and machinery coverage but excluded losses from earthquake and flood damage.

When placing the excess coverage, Aon Risk Services of Southern California proposed that Northrop would pay $950,000 for the insurance, records indicate.

FM Global was the only insurer on the excess layer. The company, with about 30 other insurers, also participated in Northrop's primary all-risk property insurance. The primary layer—including boiler and machinery, earthquake and flood coverage—was written on a form Aon drafted.

FM Global did pay Northrop $15 million for its share of the first $100 million of primary coverage for Katrina damage, court records show

Northrop's primary coverage had a $400 million flood sublimit. Aon's proposal for the primary coverage, with $500 million in limits, said that Northrop would pay $12.7 million for the insurance.

Northrop and FM Global's dispute pertains only to the excess policy. But the U.S. District Court for the Central District of California weighed the interdependency of primary and excess policy language as well as statements by Aon brokers and Northrop risk managers.

FM Global argued that the ordinary meaning of flood or storm surge is an inundation of water on normally dry land. It also argued that terms such as "rising water" and "the rising, overflowing or breaking of boundaries of natural or manmade bodies of water," which were contained in its excess policy's definition of flood, describe storm surge.

Additionally, the insurer argued its excess policy should be interpreted without considering language in its primary policy, which the court found "illogical."

Northrop argued that primary policy definitions should control excess policy coverage. It also noted that the excess policy—unlike the primary policy—omitted the phrase, "whether driven by wind or not."

The court found that neither side was clear about the breadth of the flood exclusion contained in the excess policy. Without clarifying wording such as "whether driven by wind or not," the excess policy's flood exclusion is ambiguous, the court said.

Therefore, the court said it had to rule against the party that caused the ambiguity and entered a summary judgment in favor of Northrop.

Apart from a possible appeal, a court would also still have to decide on monetary damages and Northrop allegations of bad faith.

Northrop Grumman Corp. vs. Factory Mutual Insurance Co., U.S. District Court Central District of Calif., Aug. 16, CV 05-08444 DDP

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News In Brief

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that partner William S. Lerach has decided to retire. The firm noted in a statement that for several years, Mr. Lerach's "name has been associated with an ongoing investigation by the United States Attorney's Office into allegations of improper payments to clients by the Milberg Weiss law firm," where Mr. Lerach practiced law previously. Mr. Lerach "noted that stepping aside from the daily practice of law will allow him to focus his time and energy on this matter, and allow the firm to move forward with its work," the San Diego-based firm said.

Bankruptcy judge OKs Travelers, ACandS pact

A U.S. bankruptcy judge has approved a $449 million settlement agreement between Travelers Cos. Inc. and ACandS Inc. in connection with the insulation contractor's asbestos-related claims against the insurer. Under terms of the settlement, St. Paul, Minn.-based Travelers will pay the $449 million into an escrow account, according to Gilbert Randolph L.L.P., the Washington law firm representing ACandS. In a statement last week, Gilbert Randolph said the settlement paves the way for the Lancaster, Pa.-based company to emerge from bankruptcy protection, and that the settlement will be paid out along with any investment income at the conclusion of the bankruptcy reorganization. In July when the settlement was announced, Travelers said it expected to obtain $84 million from its reinsurers and fund the remaining $365 million from existing reserves.

Judge OKs class suit over drug pricing

A federal judge in Boston last week certified a class-action lawsuit against McKesson Corp. on behalf of consumers and third-party payers alleging the prescription drug wholesaler artificially inflated the reported average wholesale price of thousands of drugs. The certified class of consumers—who are eligible for liability and damages—include individuals who made copayments on certain brand name drugs between Aug. 1, 2001, and March 15, 2005. Judge Patti Saris deferred a ruling on whether a class of third-party payers would be certified for damages. A McKesson spokesman declined to comment.

Accident Fund buys Calif. comp insurer

Accident Fund Insurance Co. of America, a unit of Blue Cross Blue Shield of Michigan, has agreed to purchase CWI Holdings Inc., the parent company of San Francisco-based CompWest Insurance Co. Accident Fund, which provides workers compensation insurance and services to small and midsize employers, operates in 43 states. Its 2006 financial report shows it had nearly $608 million in net premiums earned that year. CompWest was founded in 2004 and now has more than 2,000 customers with more than $113 million in premiums in force. Terms of the purchase were not disclosed.

Ohio: Brokers, insurers vow to fight state's lawsuit

CONTINUED FROM PAGE 1

Mr. Dann suit's—which follows a three-year antitrust investigation by the Ohio Department of Insurance and the Ohio Attorney General's Office—seeks to enjoin the defendants from engaging in anticompetitive business practices in the future. In addition, it seeks disgorgement of ill-gotten profits, as well as damages of $500 per day for each day a defendant is found to have engaged in the alleged conspiracy.

Schaumburg, Ill.-based Zurich American Insurance Co., the U.S. arm of Zurich Financial Services Group Inc., was once targeted as part of the Ohio attorney general's probes, but it ended allegations of anticompetitive behavior and finite reinsurance abuse with a $7 million settlement last October (*BI*, Oct. 30, 2006).

Zurich, along with other insurers not named by the attorney general's office, has been cooperating with Ohio officials to hold companies that allegedly took part in the anticompetitive conspiracy accountable for their actions, according to a statement from Mr. Dann's office.

"Our investigation has produced evidence of blatant violations of the antitrust laws that have cost Ohio businesses millions of dollars," Mr. Dann said in the statement.

Fighting back

Marsh and at least two of the insurers sued last week said they will fight the allegations contained in the Ohio suit.

According to a Marsh spokesman, Mr. Dann's suit serves to merely "rehash old allegations" that were largely resolved with Ohio policyholders as part of its $850 million settlement reached in 2005 with then-New York Attorney General Eliot Spitzer (*BI*, Feb. 7, 2005) Marsh also agreed to change certain business practices in that pact.

Thirty-three states, along with the District of Columbia and Guam, participated in that settlement; Ohio did not. Of the $850 million, nearly $35 million has been paid or is in the process of being paid to Ohio policyholders, the Marsh spokesman said.

The terms of that settlement did not preclude policyholders in nonparticipating states from joining Marsh's settlement, the spokesman explained. As a result, 99 of Marsh's largest 100 clients in Ohio accepted their restitution offers and 75% of its public entities in the state accepted their offers, thereby releasing Marsh from further claims, the spokesman noted.

Marsh has "cooperated fully" with the Ohio investigation, the spokesman said, and is "going to defend this claim vigorously."



'Our investigation has produced evidence of blatant violations of the antitrust laws that have cost Ohio businesses millions of dollars.'

Marc Dann
Ohio Attorney General

A spokesman for Mr. Dann said: "The attorney general in Ohio wears two hats: lawyer for the state and its agencies, and the chief enforcer for the state's antitrust laws. Just because many of the public entities (in Ohio) settled their damages claims with Marsh doesn't mean the attorney general should walk away from his enforcement duties."

Chubb and Hartford promised a vigorous defense.

"We are still in the process of reviewing the complaint, but are very disappointed that the Ohio AG decided to include Chubb in this suit," a Chubb spokesman said in an e-mailed statement. "Chubb has cooperated fully with all regulatory investigations of insurance market practices including Ohio's" and intends to "vigorously contest the allegations against Chubb in the Ohio AG's complaint."

"The Hartford categorically denies the allegations and is disappointed that the Ohio Attorney General's office never discussed any of these allegations with The Hartford or solicited The Hartford's view of the facts before filing its complaint, despite The Hartford having cooperated fully throughout this investigation," a spokesman said in an e-mailed statement. "The Hartford will defend itself vigorously against this lawsuit."

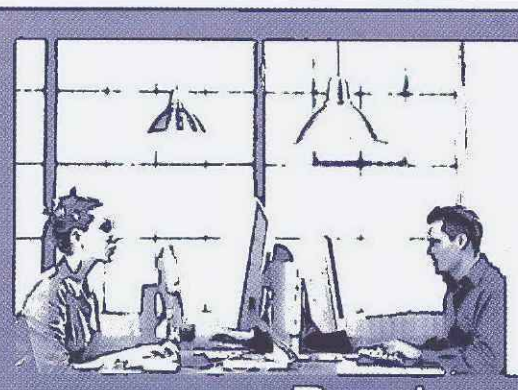
Spokesmen for AIG and ACE declined to comment.

While the Ohio suit is unusual, it is not unprecedented. In March 2006, then-Florida Attorney General Charles J. Crist—in a joint action with Tom Gallagher, then-chief financial officer of the Florida Department of Financial Services—sued Marsh in a Tallahassee, Fla. court, alleging the brokerage and certain of its subsidiaries breached the state's racketeering and antitrust laws (*BI*, March 20, 2006). That suit is still pending.

Commenting on the recent action, Marc S. Mayerson, a partner with Spriggs & Hollingsworth in Washington, said the Ohio case left him "a little puzzled."

"It's hard to see that ultimately they'll be able to prove any real damages against Marsh, or AIG or Chubb or the like," Mr. Mayerson said. "I doubt sincerely that this is going to go anywhere."

"I really wouldn't be surprised to see very significant litigation activity from the defense over the next year," including motions to dismiss the suit, Mr. Mayerson said.



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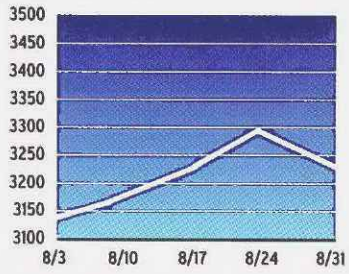
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Stock Index

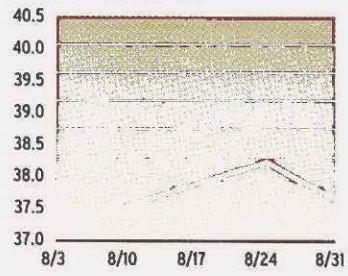
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Up-to-the-minute data for all 82 companies that comprise the BI *Stock Index can be found at www.BusinessInsurance.com.*

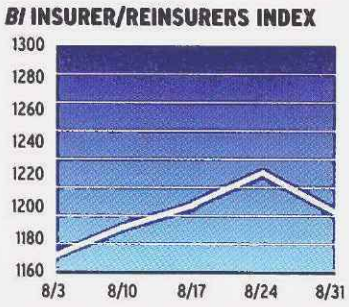
BI STOCK INDEX



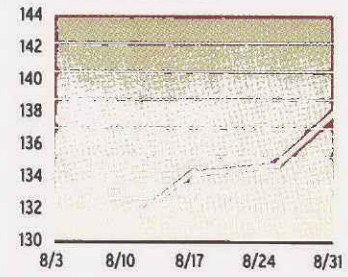
BI BROKERS INDEX



BI INSURER/REINSURERS INDEX



BI MANAGED CARE ORGANIZATIONS INDEX



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

BI STOCK INDEX	3243.50	-1.43%
DOW JONES	13357.74	-0.16%
S&P 500	1473.99	-0.36%

LARGEST GAINS

Gainsco Inc.	11.84%
UNICO American Corp.	8.37%
WellPoint Health Networks	3.08%
Navigators Group Inc.	2.85%
Health Net Inc.	2.35%

LARGEST LOSSES

SCPIE Holdings Inc.	-12.32%
American Financial Group	-5.50%
United Fire & Casualty	-5.38%
CNA Financial Corp.	-4.31%
HCC Insurance Holdings	-4.13%

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

Business Insurance END PAGE

Contributing: Roberto Ceniceros, Louise Esola, Dave Lenckus

Insurer confesses to spying on churchgoers

While troubled souls in Stockbridge, Ga., bared details about their personal lives, two participants in a Southside Christian Fellowship Church support group should have confessed that they were actually private investigators hired by an insurance company seeking incriminating evidence against two claimants.

Madison, Wis.-based Progressive Northern Insurance Co. allegedly hired the investigators to seek—and tape-record—any information that would discredit group members Bill and Leandra Pitts in a claim stemming from a traffic accident in 2004.

The situation was first reported by the Atlanta Journal-Constitution on Aug. 22 in a story about a lawsuit filed by the Pitts in a Fulton County State Court against the insurance company and the investigators. A day later, the chief executive officer of the insurer's parent, Progressive Corp., issued a statement apologizing for the incident.

"Yesterday a story appeared in the Atlanta Journal-Constitution about an investigation authorized by Progressive people in August 2005," Progressive President and Chief Executive Officer Glenn Renwick said in the statement. "When I read that story I was appalled and, frankly, didn't believe that it could possibly be accurate. I have since learned that the essential facts in the story are correct. What the investigators and Progressive people involved in that case did was wrong—period. I personally want to apologize to anyone who was affected by this incident."

The Pitts' lawsuit isn't the only trouble the company faces. Georgia Insurance Commissioner John Oxendine reportedly has said he is appalled at the company's actions and wants to ensure Progressive Northern Insurance is investigated and possibly punished.



AP

High school baseball players in New York will have to make do with wooden bats after a judge upheld a ban on metal bats last week.

Metal-enhanced hits banned in N.Y. schools

If sports equipment manufacturers and high school baseball players didn't see this hit coming, perhaps the judge was swinging a metal gavel.

A federal judge last week upheld a New York ordinance that bars metal bats in all high school baseball games in the city. Players and coaches like metal bats because their design helps weak as well as strong hitters improve their offense.

But that greater offensive production creates a higher risk of injury and death to infielders who cannot react in time to batted balls, according to testimony that the city council began hearing in 2002. Among the witnesses was former New York Mets hurler John Franco. He complained that, while pitching batting practice to high school teams, hit balls smashed into his protective screen as soon as he released his pitches.

A couple of equipment makers, parents of several high school players and an amateur sports organization argued that the ordinance violates their constitutional rights of equal protection and due process, because the city council had no scientific evidence that baseballs jump off metal bats faster than they do off wood bats.

In his Aug. 28 ruling, U.S. District Court Judge John G. Koeltl dismissed that argument as "wrong." He ruled the council "had a rational basis"—ensuring public safety—for enacting an ordinance that establishes different classifications of a product and bans one of them. The greater amount of offense the bats produce increases the risk of injury to players, the judge said.

Judge Koeltl declined to evaluate the council's other stated purpose for the ordinance: protecting the "traditions and integrity" of the game.

Tourist finds convenience of iPhone comes with steep price

A New York man who unexpectedly logged $2,000 in iPhone data roaming charges during a week in Mexico is suing the trendy phone's manufacturer.

The man reportedly filed a lawsuit requesting class-action status and seeking to bar Apple Inc. from selling its iPhone with a lock on the device so it exclusively operates with AT&T Inc. subscriber identity module—or SIM—cards. AT&T currently is the exclusive provider of phone and Internet services for iPhone users.

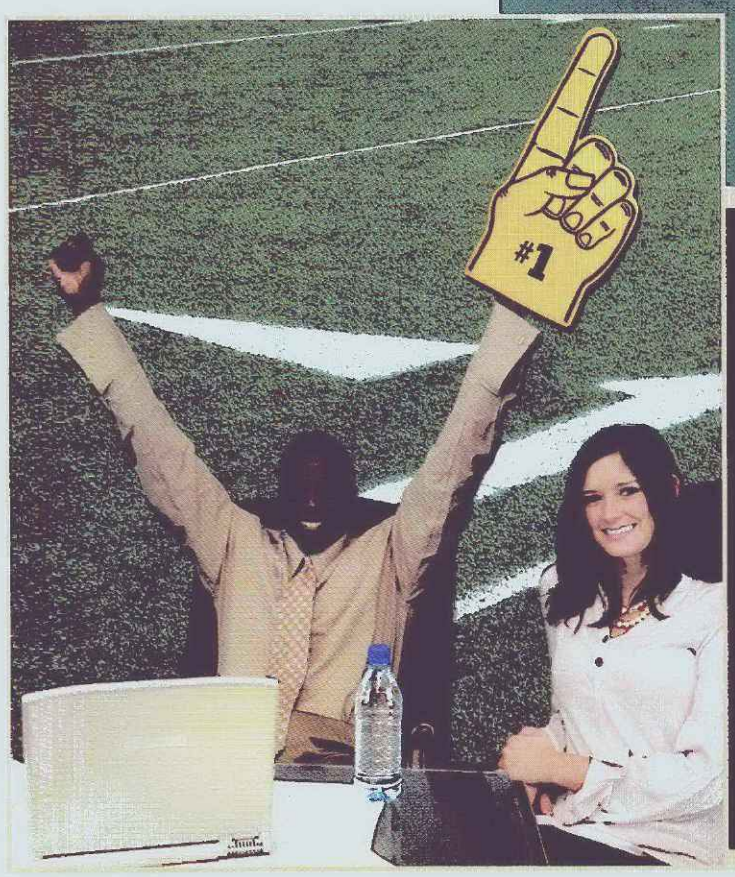


He also wants the company to provide iPhone purchasers with unlock codes that would allow them to use the phones with other providers.

Had he been able to use a foreign phone service while in Mexico, he would not have incurred the $2,000 charge for e-mailing and navigating the Internet on his handset, the lawsuit reportedly claims.

The plaintiff also wants Apple to disclose to customers all fees charged while using iPhone's data services while traveling internationally. He charges that Cupertino, Calif.-based Apple is being deceptive by allegedly stating that iPhone users can browse the Internet as often as they desire, without additional charges.

Apple could not be reached.



Gridiron fantasies hurt employers

Corporate America is in fantasy-land—literally—if employers believe their workers are keeping to their tasks for the entire workday—especially during football season, according to a new study.

Chicago-based workplace consultant Challenger, Gray & Christmas Inc. estimates that U.S. employers will pay as much as $7.4 billion for unproductive workers during National Football League's 17-week season that starts Sept. 6.

The culprit? Fantasy football.

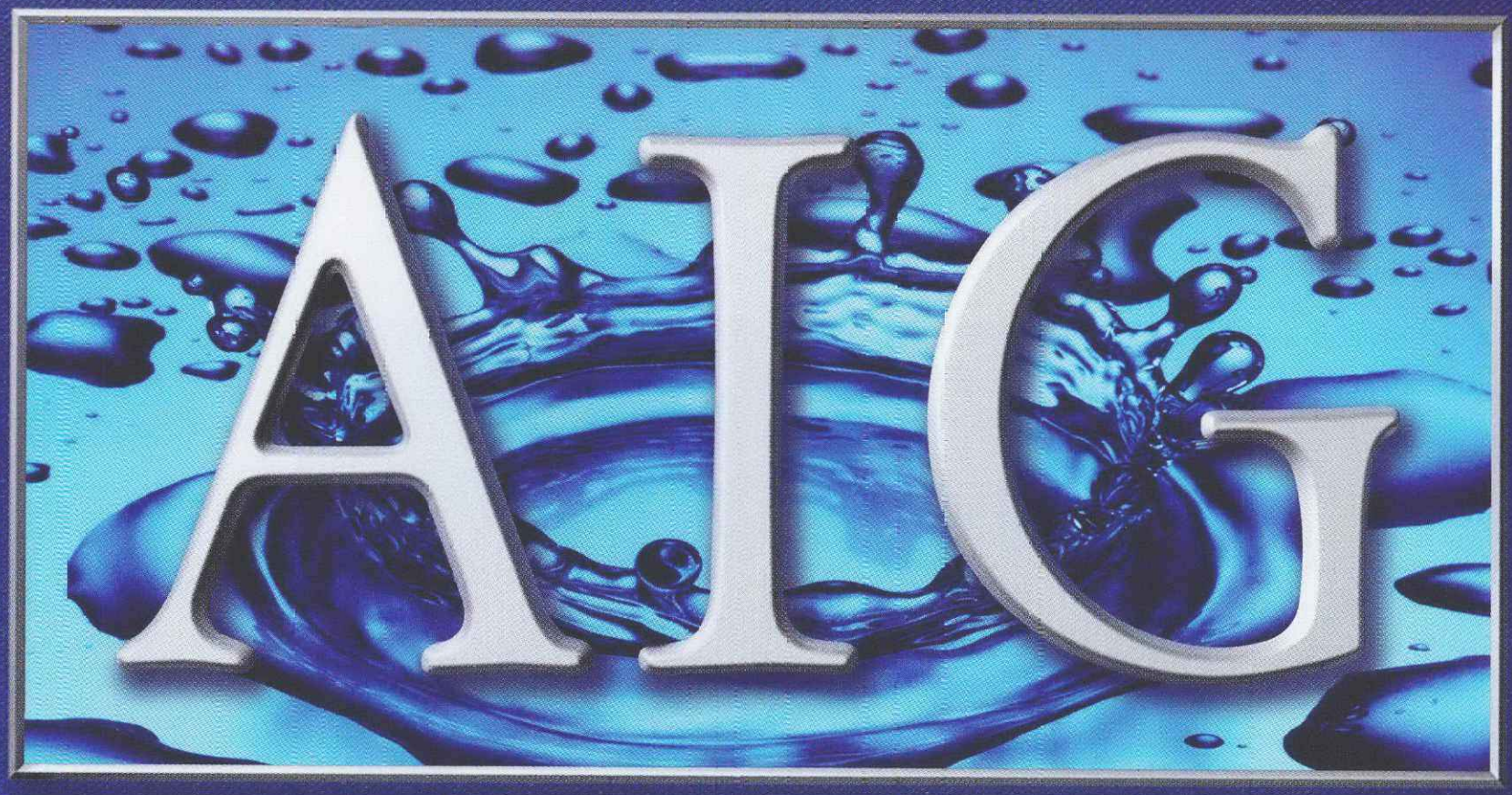
According to the report, enthusiasts spend nearly two hours each day thinking about their teams and managing their rosters.

"There are some people who probably wait until the workday is over to strategize, make trades and manage their teams, but many are probably doing at least some of their team tasks from the office," John A. Challenger, chief executive officer of the consulting firm, said in a statement.

The estimated cost to businesses was based on the estimated number of fantasy football fanatics—13.6 million—and their average earnings every 10 minutes, which is $6.40. Challenger estimates the weekly cost to business ranges from $275 million to $435 million.

The solution? Play ball!

"The potential damage to morale and loyalty resulting from a fantasy football ban could be far worse than the loss of productivity caused by 10 minutes of online team management," Mr. Challenger said.



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