

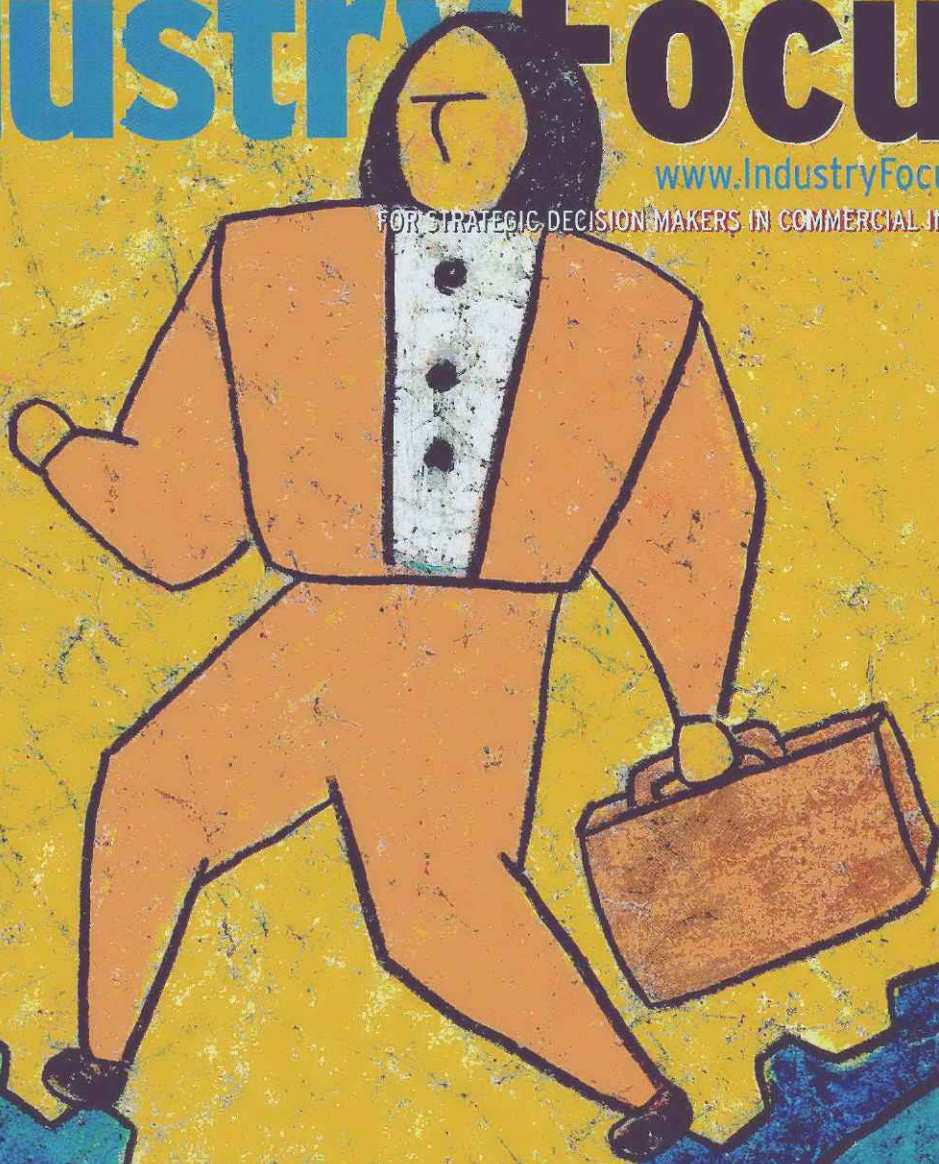
A SUPPLEMENT TO **Business Insurance**

Industry Focus

SEPTEMBER 2007

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FOR STRATEGIC DECISION MAKERS IN COMMERCIAL INSURANCE



THE MECHANICS OF MODERNIZATION

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MOST PRODUCTIVE BROKERS PAGE 22

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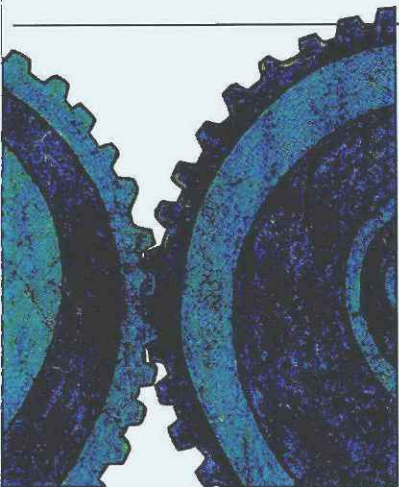
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Modernized mechanics

A look at legislative and regulatory developments in Washington and the states, including efforts to modernize insurance industry regulation. **Page 8**

Integrity gap, 20 years later

The saga of Integrity Insurance Co., which was declared insolvent 20 years ago through its liquidation lives on...and on. **Page 12**

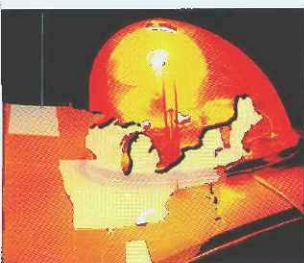
The E.U.'s song of solvency

The European Union's new Solvency II regulatory regime emphasizes insurers' risk management efforts in determining capital requirements and could provide competitive advantages to E.U.-based insurers. **Page 16**

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Discipline by design

Insurers' risk management programs were a frequent subject of conversation at this year's International Insurance Society seminar in Berlin. **Page 18**



To serve and protect and bill

Some municipalities are charging insurers for the services of police or fire/rescue personnel responding to emergencies. **Page 20**

Most productive brokers

The annual Industry Focus ranking of the most productive intermediaries, comparing their 2006 performance with their 2005 results. **Page 22**

Dare to think differently

Wendy Gibson of Skywire Software suggests viewing problems from different levels in looking to use technology as a tool for innovation. **Page 23**



THREE QUESTIONS

Mario Vitale of Zurich Global Corporate discusses the company's new mergers and acquisitions unit.

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Good governance from bad press

You may not have gone out of your way to mark the occasion, but a significant milestone passed for American business this summer, the fifth anniversary of the Sarbanes-Oxley Act.

No doubt you remember the act, more properly known as the Public Company Accounting Reform and Investor Protection Act of 2002, or simply SarbOx or SOX.

SOX makes the whole thing sound a lot more cuddly than a lot of executives have actually found the measure, signed into law on July 30, 2002, by President George W. Bush as part of a federal effort to ensure sound corporate governance at American businesses and restore investor trust in accounting and reporting practices following the scandals at Enron, Tyco, WorldCom and elsewhere.

At the time SOX was enacted, a lot of companies' CFOs figured that complying with its requirements would be challenging. Now, with five years having passed since it became law, many are questioning whether the costs of complying with Sarbanes-Oxley exceed its benefits.

Evidence of that opinion can be found in a report released last month by the Tillinghast business of Towers Perrin, providing the latest details from Tillinghast's 2007 Life Insurance CFO Survey. That survey of CFOs of North American life companies found that 82% of those responding believe the cost of complying with SOX outweighs the benefits, with 53% of CFO respondents saying the cost "significantly" exceeds any benefit.

While Tillinghast suggests those findings indicate that the time companies are spending on SOX compliance might be diminishing "time that can be spent focusing on larger business issues and challenges," the consultant notes that nearly three-quarters of the CFOs surveyed did acknowledge that external reporting has improved since the implementation of SOX, though only 8% think the improvement has been significant.

If federal regulation doesn't do it for you, however, there are, evidently, other ways of drawing attention to corporate governance.

I read an interesting piece this summer on the Knowledge@Wharton Web site of the Wharton School of the University of Pennsylvania discussing the positive effect that negative publicity about a company can

have on its corporate governance.

The piece, "For Corporate Governance, Humiliation Pays Off," was based largely on the research of Alexander Dyck, professor of finance and business economics at the University of Toronto, and some of his academic colleagues.

It detailed the experience of Bill Browder, manager of the Hermitage Fund, a hedge fund focusing on Russian investments. Mr. Browder, it turns out, shared evidence of shady dealings at Russian oil company Gazprom with journalists in hopes of drawing attention to the misdeeds of the company's top managers. His efforts worked, leading to the firing of Gazprom's CEO, business reforms at the company and a tenfold increase in the value of his fund's Gazprom investment.

It seems, according to the article, that damaging publicity can have a positive impact on governance by forcing regulators to address problems that might have been ignored had the press not brought them to

IN THE FUTURE we can tell executives complaining about negative stories that in fact we're simply doing them a good turn.

the public's attention. Of course the article also indicated that Mr. Browder is now considered an enemy of the state in Russia and cannot enter the country. He now manages his investments there from afar.

The Knowledge@Wharton piece conceded that the news media's potential impact on corporate governance is likely more limited in developed economies than in developing ones, as target companies in developed countries often can fight back with sophisticated public relations campaigns, with the business often enjoying greater resources than the news organization reporting on it.

Still, I think journalists should welcome Professor Dyck's findings. In the future, we can tell executives complaining about negative stories that, in fact, we're simply doing them a good turn, just helping improve their corporate governance.

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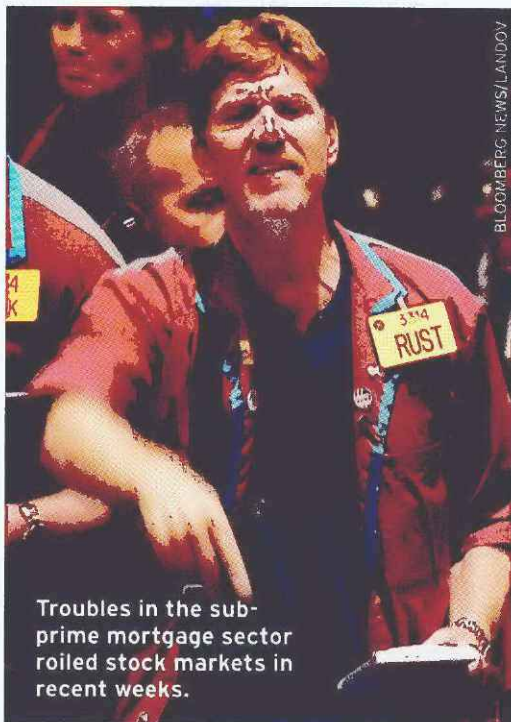
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Troubles in the subprime mortgage sector roiled stock markets in recent weeks.

Most P/C insurers avoid subprime volatility: Moody's

NEW YORK—U.S. property/casualty insurers have only limited exposure to the troubled subprime mortgage sector, according to a report from Moody's Investors Service Inc.

New York-based Moody's said the "vast majority" of U.S. insurers have no exposure or an extremely limited exposure to the subprime mortgage sector. Moody's based its analysis on a survey of companies and a review of insurers' statutory financial statements.

Among individual companies, Moody's said the total subprime mortgage exposure varied from none at most companies to about 15% of total shareholder equity.

Moody's estimated the total U.S. property/casualty insurer exposure to subprime mortgage-related investments as less than \$15 billion.

The rating agency noted, however, that its estimate applies specifically to the U.S. property/casualty insurance and reinsurance sectors, excluding the subprime exposure of the non-P/C operations of diversified financial services companies. ■

Insurance industry drill to simulate flu pandemic

WASHINGTON—Insurance industry businesses around the country are expected to join other financial services companies in participating in an exercise aimed at evaluating U.S. financial services companies' readiness to deal with the effects of a flu pandemic.

Officials say the exercise, to be conducted over a three-week period beginning Sept. 24, will be the first of its scale ever undertaken in the United States. Its objectives are to enhance understanding of the systemic risks facing the financial sector from a flu pandemic, advance financial services companies' preparedness for dealing with a pandemic and to examine "ripple effects" that might occur in other business sectors.

The exercise, designed to simulate a global influenza outbreak, is being sponsored by the U.S. Department of the Treasury and major financial services trade organizations. Additional information is available at www.fspan-fluexercise.com.

information is available at www.fspan-fluexercise.com.

The exercise has been designed to attract participation of companies of various sizes from all areas of the financial services industry and all regions of the country.

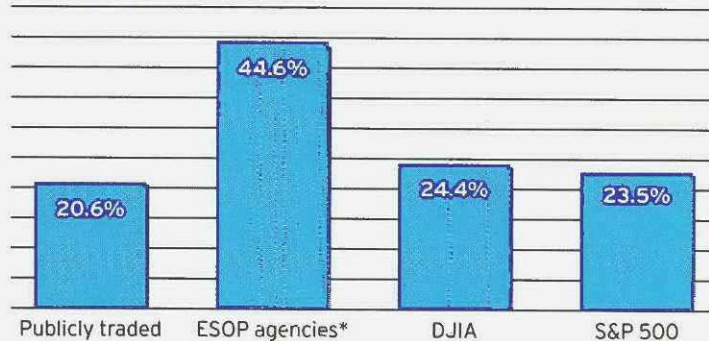
Participating at their own locations, companies involved in the simulation will use a secure Web site to respond to such scenarios as transportation, communications and telecommunications disruptions. Their involvement in the exercise will give them an opportunity to test their pandemic plans against realistic scenarios.

In addition to the Treasury Department, the exercise is being sponsored by the Financial and Banking Information Infrastructure Services Sector Coordinating Council for Critical Infrastructure Protection and Homeland Security, and the Securities Industry and Financial Management Assn. ■

BY THE NUMBERS

Employee-owned insurance agencies provide a handsome return on investment, according to Marsh, Berry & Co. Inc., which regularly compares an index of employee stock ownership plan agencies with an index of public traded brokers, the Dow Jones Industrial Average and the Standard & Poor's 500 Index.

FIVE-YEAR RETURN ON INVESTMENT



*MarshBerry indices
Source: Marsh, Berry & Co. Inc.



Zurich Financial Services Inc. recently launched a mergers and acquisitions unit to help companies deal with risks associated with M&A transactions. The unit's New York-based office is up and running, expansion of the unit's services into Europe is expected later this year and expansion into Asia is being contemplated. Mario Vitale, chief executive officer, Zurich Global Corporate in North America—who less than a year ago joined Zurich from broker Willis Group Holdings Ltd.—discussed the new unit with Industry Focus.

What led Zurich to want to tap into the mergers and acquisitions market?

Mergers and acquisitions, which are

increasingly becoming a bigger part of the way businesses are formed, were missing a piece of the puzzle in structuring insurance deals.

Over time, the private equity firms and the companies going through M&As went to the table with strategic partners, and those partners included everything from advisers, bankers, accounting firms and law firms that specialize in M&A. They even eventually brought to the table insurance brokers that would help advise them on the transactions, and in fact I started the unit at Willis that did exactly that.

There were no insurance companies that had an equal seat at that table and yet insurance companies were the ones taking the risk out of the transaction and transferring it over to their balance sheets.

What are some new M&A-related risks that companies face today that perhaps they didn't five or 10 years ago?

The deals are a lot different. When a company is buying another company today, they are not only buying another organization, but they are buying one that's often so big it's hard to get your arms around the risks that those companies have.

Companies are so diversified today.... Both the breadth and scope of what the acquiring company has to do in the due diligence process is real-

ly a lot more extensive.

The speed by which we are being asked to close on these transactions is breathtaking in and of itself. The pressure on the combined organizations to perform and meet earning expectations almost immediately is immense. So, there is a lot more pressure on companies to make sure they are doing everything to meet those expectations, including taking risk out of the equation.

What are your predictions for M&A-related activity this year?

Last year there was \$4 trillion in M&A activity. What we've seen so far this year is that it's 40% above that level. While there's a lot of predictions that the bubble might burst in M&A, the truth is, it's still very big—large transactions and a high number of them.

The good part about the unit is that it has been set up to not only help in mergers; some might say if the market ever turns, the next stage of this would be paring down and divestitures. The unit would still be geared up to do the same thing on the other side of the coin and help the companies with their divestitures.

From our perspective, whatever happens with this economy and with this particular trend, Zurich is providing not only a real value-added (service), but in any economic condition. ■

Adjusters meet to address skills shortage

MADISON, Wis.—Some 62 claims adjusters from 26 insurance companies participated in a recent casualty claims seminar intended to help address a projected shortage of experienced claims adjusters.

Held this summer in Madison, Wis., the event was presented by Munich Reinsurance America Inc. in conjunction with the University of Wisconsin's School of Business and the law firm of Coughlin Duffy L.L.P.

In a statement, John Rodgers, chief claims officer and senior vp of Princeton, N.J.-based Munich Reinsurance

America, said, "The loss of experienced adjusters due to retirements and the difficulty in attracting and retaining new claims talent is one of our industry's greatest challenges. We wanted to help meet this challenge by offering a very practical, hands-on program about fundamental processes in claims management."

The seminar, which targeted casualty claims adjusters with three to five years experience, was intended to increase the general level of expertise and skill in primary insurers' claims departments.

Seminar organizers said such an increase in expertise would improve insurer loss experience, enhance claims processing efficiency and ultimately benefit insurance buyers.

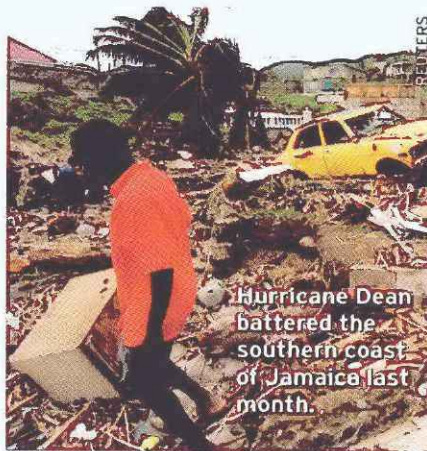
Mr. Rodgers noted that, with evolution in the claims process, the claims function now requires more technical skills and the ability to coordinate diverse and complex information systems. Because of changing demographics and shrinking training budgets, most insurers are projecting a growing need for experienced claims adjusters. ■

RMS, Insight forge services partnership

NEWARK, Calif.—Property/casualty risk management and underwriting services firm Insight Catastrophe Solutions L.L.C. and risk modeling firm Risk Management Solutions Inc. have entered into a partnership to provide underwriting support to managing general agents, retail agents and brokers and other risk consultants.

The service will offer clients direct access to the output of catastrophe models from Newark, Calif.-based RMS and analytical tools developed by New York-based Insight that can help clients analyze and underwrite U.S. property exposures.

Insight's analytical tools will be used to bring RMS modeling information on



Hurricane Dean battered the southern coast of Jamaica last month.

potential losses from earthquake, hurricane and tornado/hail events, which

are used extensively by the insurance and reinsurance market for pricing and portfolio management, into an underwriting context by generating financial metrics such as profitability, capital requirements and accurate pricing levels for various risks.

The platform offers real-time, Web-based access to the underwriting information it provides.

The companies said the expanded capability their partnership provides reduces clients' need to have in-house modeling expertise by providing them with direct input into catastrophe analysis and underwriting decisions, and should help them improve rate accuracy and risk selection. **IF**

THE QUOTE

'IN TERMS OF a level playing field, regulation has a real impact on competition.'

HELMUT PERLET

CHIEF FINANCIAL OFFICER, ALLIANZ S.E.

Allianz inks multiyear pact for tech support with IBM

NOVATO, Calif.—Allianz of America, the parent company of Fireman's Fund Insurance Co. and Allianz Life Insurance Co. of North America, has signed a multiyear outsourcing agreement with IBM Corp.

The \$330 million, 7½-year deal is expected to save Allianz of America approximately 20% in annual information technology infrastructure expenses, and is part of an effort by Allianz of America to reduce operational costs by \$150 million over three years.

The arrangement between the insurer and IBM provides flexible capacity and a scaleable platform that can support future growth.

Negotiating a single contract for both Fireman's Fund and Allianz Life enabled Allianz of America to achieve benefits of scale.

IBM will provide the Allianz of America companies a single service management framework including data center services, storage management, backup and recovery, and system software support. IBM also will provide "desk-side" services such as e-mail and support, printing and finishing, process management, security monitoring and cross-functional support.

Fireman's Fund previously outsourced some of those functions to IBM individually. **IF**

City of Hope council awards Chubb COO Spirit of Life

LOS ANGELES—Thomas F. Motamed, Chubb Corp.'s vice chairman and chief operating officer, has been named the recipient of this year's Spirit of Life award by members of City of Hope's National Insurance Industry Council.

Mr. Motamed will be honored at a Nov. 10 dinner at the Regent Beverly Wilshire hotel in Beverly Hills, Calif., which is expected to draw more than 1,000 insurance industry leaders.

The Spirit of Life Award is City of Hope's most prestigious honor and recognizes outstanding philanthropic commitment.

Located in Duarte, Calif., City of Hope is a leading research and treatment center for cancer, diabetes and other life-threatening diseases.

The City of Hope's National Insurance Industry Council was formed in 1978 by a group of insurance industry executives who were inspired by the City of Hope's innovative medical research, quality patient care and humanitarian principles. The industry has raised more than \$17 million for the facility through its fundraising efforts. For more information, visit www.cityofhope.org/insurance. **IF**



Mr. Motamed

Theodore A. Mathas has been named president of New York Life Insurance Co. Mr. Mathas will also continue in his prior capacity as chief operating officer of the New York-based company. As president, he replaces Frederick J. Sievert, who retired.

The Property Casualty Insurers Assn. of America has chosen **David A.**

Sampson as the association's president and chief executive officer. Mr. Sampson previously served as deputy secretary of the U.S. Department of Commerce.



Mr. Sampson

June Holmes, who has been serving as the PCI's interim executive director, will return to her position as COO.

Anthony J. Kuczinski will succeed John P. Phelan as CEO of Princeton, N.J.-based Munich Reinsurance America Inc. when Mr. Phelan retires Dec. 31. Mr. Kuczinski is currently president of Munich Re America's specialty markets division.

Ted T. Devine has been named CEO of Aon Re Global, Chicago-based Aon Corp.'s reinsurance intermediary unit. As CEO, Mr. Devine succeeds Michael D. O'Halleran, who was named executive chairman of the unit. Mr. Devine previously was COO of Aon Risk Services Americas and head of global strategy for Aon.

George Zippel has been named president and global CEO of Hamilton, Bermu-

da-based Scottish Re Group Ltd. Mr. Zippel most recently was president and CEO of a unit of Richmond, Va.-based Genworth Financial Inc.

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.

Springfield, Mass.-based Massachusetts Mutual Life Insurance Co. has named two executives co-**COO. Roger W.**

Crandall, executive vp and chief investment officer of MassMutual and chairman, president and CEO of Babson Capital Management L.L.C., and **William F. Glavin Jr.**, executive vp of MassMutual's U.S. Insurance Group, will maintain their prior responsibilities in addition to their new ones as co-**COO.**

Ann Haugh has been named COO 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.

Mark Bertolini has been promoted to president of Hartford, Conn.-based Aetna Inc. from his prior post as executive vp and head of business operations. In his new position,

he takes over the president's duties from Ronald Williams, Aetna's chairman and CEO.

Securian Financial Group Inc. has named **Randy F. Wallake** president. Mr. Wallake previously was executive vp of the St. Paul, Minn.-based company. Robert L. Senkler will remain chairman and CEO of the company.

Hans-Joachim Guenther will join Endurance Worldwide Insurance Ltd. in London as chief underwriting officer, reinsurance, and head of reinsurance in Europe. Mr. Guenther most recently was chief underwriting officer for Europe at Converium A.G. Endurance Worldwide is a unit of Pembroke, Bermuda-based Endurance Specialty Holdings Ltd.

The Washington-based Council of Insurance Agents & Brokers has named **James A. Rodda** CFO. Mr. Rodda previously was at Resources Global Professionals, a provider of professional accounting services to large corporations.

New York-based Marsh Inc. has named **Mark Feuer** to the newly created post of CEO of U.S. business. In addition to his new responsibilities, Mr. Feuer will continue to lead Marsh's U.S. middle-market and small commercial segment.

Norwood, Mass.-based Mercer HR Services, the human resources outsourcing unit of Mercer Human Resource Consulting, has

named **Michael Sternklar** COO and head of Americas. Mr. Sternklar, who most recently was executive vp at Fidelity Investments' human resources and outsourcing division, replaces Paul Zurlo, who resigned to pursue an opportunity in private equity.

Larry A. Frakes has been named president and CEO of Georgetown, Cayman Islands-based United America Indemnity Ltd. Mr. Frakes previously was president and COO of the specialty and excess and surplus lines company. Mr. Frakes replaces Saul A. Fox as CEO, with Mr. Fox remaining chairman of UAI's board.

John J. Healy has been named CEO of the Falls Church, Va.-based National Assn. of Insurance and Financial Advisors. Mr. Healy most recently was president and CEO of the American Machine Tool Distributors Assn. Mr. Healy succeeds David F. Woods, who stepped down as NAIFA CEO but remains president of the Life and Health Insurance Foundation for Education.

Kerry R. Martin has joined the Buffalo Grove, Ill.-based Plexus Groupe Inc. as COO. He most recently was senior vp for Aon Corp. in its financial services group.

MarketScout, the Dallas-based online insurance exchange, has named **Jay Chase** chief underwriting officer and senior vp. Previously, he was vp of Argonaut Insurance Co. ■

THE MECHANICS OF MODERNIZATION

By Meg Fletcher

Federal and state lawmakers are considering wide-ranging proposals that would change the marketplace for insurers and producers, industry experts say.

"Insurance is becoming more and more relevant at the national level," as Congress continues to grapple with how best to protect the economy against future catastrophic hurricane damage as well as terrorism, said Charles E. Symington Jr., senior vp for government affairs and federal regulation for the Alexandria, Va.-based Independent Insurance Agents & Brokers of America Inc.

There is "overwhelming support" from the industry for Congress to pass proposals to extend the federal terrorism insurance backstop and to streamline the regulation of surplus lines insurance and reinsurance.

Also, insurance groups "are on the same page...to prevent a repeal of McCarran-Ferguson" that gives U.S. insurers limited antitrust immunity, Mr. Symington said.

There is less unanimity among industry groups on other legislation, sources said. Included in that category are proposals that would give insurers the option of being federally regulated and

improving the federal response to hurricane-related catastrophes, including revamping the federal flood insurance program.

Congress also has faced numerous health-related issues, with a special focus on meeting the needs of both the young and old with government-sponsored programs, including one that would encourage the elderly to purchase voluntary long-term care insurance.

For agents and brokers with multi-state business, however, such policy deliberations are overshadowed by "duplicative and cumbersome" licensing requirements imposed by states where producers do not live but want to do business, said Wes Bissett, senior vp for government affairs and state relations for the IIABA.

CATASTROPHES

The insurance industry is carefully monitoring the progress Congress is making to extend the federal terrorism insurance backstop, which expires at the end of this year. Policymakers are giving serious consideration to the industry's needs as demonstrated by a House panel that approved a proposal last month to extend the backstop by 15 years.

In addition, life insurers are pleased

that the House has added group life insurance as one of the perils covered in the Terrorism Risk Insurance Revision and Extension Act, said Kimberly Olson Dorgan, executive vp-federal relations for the Washington-based American Council of Life Insurers. She said the latest version of the bill creates a separate pool for group life risks, which would eliminate the possibility that property/casualty risks would subsidize group life risks, as some P/C opponents feared.

To help the nation better cope with natural catastrophes, Congress is considering several proposals, including establishing a commission to evaluate options, which include state catastrophe funding facilities, and allowing insurers and homeowners to establish tax-favored reserves to pay future losses. A proposal to include wind losses in the U.S. National Flood Insurance Program may doom the bill's chances in the Senate because it would broaden the program's potential for losses, said Ben McKay, senior vp-federal government relations for the Des Plaines, Ill.-based Property Casualty Insurers Assn. of America.

In addition, several states have adopted laws related to coastal property risks, said John Lobert, the PCI's senior vp-state government relations. For exam-



ple, Mississippi has required that some insurers undergo assessments by the state's windstorm underwriting association. However, the state has revised the law to allow insurers to pass such costs to policyholders through the state's rate-making process. Also, South Carolina adopted a package of "creative" tax credits that benefit insurers as well as property owners interested in mitigating their risk, he said.

Florida, however, "is a disaster that continues to develop," Mr. Lobert said. Despite providing insurers with inexpensive reinsurance, lawmakers have taken steps to expand the state's share of the marketplace, keeping premiums artificially low and passing the risk on to future taxpayers, he said.

REGULATORY MODERNIZATION

Supporters of measures to allow insurers and producers to choose federal—rather than state—regulation are pleased that near-identical bills have been introduced in both houses of Congress.

The newest bill, which was introduced in late July in the House, calls for creation of an independent Office of National Insurance within the Treasury Department to oversee a system of federal insurance regulation. Insurers and producers could choose to be regulated by that office rather than state authorities. Federally chartered property/casualty and life insurers would not be subject to state rate and form regulation. National insurers would be required to pay state premium taxes, however.

The bill has divided the industry's insurance, financial services and risk management groups, with most in favor of it. Among the opponents, however, are the IIABA, the National Assn. of Mutual Insurance Cos. and the National Assn. of Professional Insur-

ance Agents. The PCI has not taken a position on the current bill.

On the state level, ACLI is concerned about a slowing in the number of states adopting legislation to join an interstate compact, which speeds the approval of new life and disability-related products by giving insurers a centralized place for filing and review, said Bruce Ferguson, ACLI's vp-state relations. Thus far this year, only Tennessee has approved joining the group of about 30 states that are already compact members, he said.

AGENT/BROKER LICENSING

Agent licensing problems are the key frustration for members of the IIABA. The process is getting "more cumbersome and expensive," Mr. Bissett said.

For example, some nondomiciliary states require duplicative licensing requirements, such as requiring that an agency—not just an agent—be licensed as both an insurance entity and registered as a foreign corporation, he said.

That is very different from the promise of reciprocity and uniformity in the National Assn. of Insurance Commissioners Producer Licensing Model Act. More than 40 states adopted this several years ago to pre-empt the 1999 Gramm-Leach-Bliley Act from creating the National Assn. of Registered Agents and Brokers, a federally imposed clearinghouse that would have streamlined licensing and reduced states' authority.

Under those laws, Mr. Bissett said a nondomiciliary state can require only that an agent have a home state license, fill out a uniform application form and pay a fee.

"What we need is implementation and enforcement of the laws that are on the books," Mr. Bissett said. To resolve the problem, "we are exploring all avenues, including working with the

NAIC and Congress as well as considering litigation."

According to NAIC Vp Roger Sevigny, who also is the New Hampshire insurance commissioner: "The NAIC is serious about ensuring that reciprocity and uniformity requirements are met," and a group is addressing the issue.

HEALTH CARE ACCESS

Legislators in more than two dozen states began their recent sessions by discussing "sweeping" health care reform proposals, but they narrowed their sights when drafting the bills, said Mohit Ghose, the spokesman for the Washington-based America's Health Insurance Plans. The trade association represents nearly 1,300 companies that provide health insurance coverage to about 200 million U.S. residents.

The largest single group of bills seek to expand consumers' access to health care through a variety of federal and state programs, Mr. Ghose said.

A key topic of discussion is Congress' reauthorization of the State Children's Health Insurance Program, which Congress created to cover children whose parents earned too much to qualify for Medicaid but not enough to purchase their own insurance. Proposals in both the House and Senate would broaden eligibility requirements so more children and adults could receive benefits, including those with incomes that exceed the annual federal poverty limit of \$10,210 for an individual and \$20,650 for a family of four.

"There will be a reauthorization after lots of negotiation," Mr. Ghose predicted.

Health insurers also are concerned about a federal proposal that would outlaw discrimination on the basis of genetic information in health insurance and employment. The proposals



in both chambers would extend medical privacy and confidentiality rules to the disclosure of genetic information. While insurer and producer groups generally endorse the goals of the legislation, there is a difference of opinion about how to achieve them without opening the door to unintended consequences, observers say.

Supporters say the law is needed to allay people's fears about genetic information being used against them at work or when they seek insurance. Only with new protections in place will people participate in medical trials, they say. Opponents, though, say the legislation is overly broad, doesn't address inconsistent state laws and fear it would require employers to offer health plans covering all treatments for genetic-related diseases.

In addition, health insurers are concerned about some state lawmakers attempting to expand access to health care for dependent children, especially for those who are in school or college.

The extent to which states' mandate benefits for group or individual policies impacts the demand for coverage and its availability, Mr. Ghose said.

Although the number of new bills mandating insurance benefits continues to drop, some state legislatures adopted new requirements during recent sessions, he said. For example, lawmakers in Nebraska, Oregon, South Carolina and Texas required some insurance coverage for autism.

Also, legislators in Alabama and Nevada adopted diagnostic screenings for prostate disease, while those in New Mexico and Washington mandated that insurers pay for colorectal screenings. Several states also expanded or extended mental health benefits in a variety of ways, including Colorado, Kansas, Tennessee, Washington and

West Virginia.

AHIP generally opposes benefit mandates because they reduce flexibility for employers and employees to directly target services, Mr. Ghose said. The organization recommends that the competitive market determine which benefits employers offer and at what price. In addition to increasing access, health care plans nationally also are concerned about improving the quality of services consumers receive, Mr. Ghose said.

"We want to enhance the value of every health care dollar spent in the system," he said. There is much work to be done, especially since a U.S. study by the Santa Monica, Calif.-based Rand Corp. found that only 55% of all care is in accordance with best practices, leaving 45% of all care to be of lesser quality, he said.

To help meet the health care needs of aging baby boomers, at least 11 states adopted legislation to establish a Long-Term Care Partnership in their respective states.

The program encourages state residents to purchase long-term care insurance by providing asset coverage equal to the benefits paid by the policy.

For example, a person whose qualifying policy paid for \$100,000 of care would be entitled to keep \$100,000 in assets if they need to apply for medical assistance in the future, according to the office of Pennsylvania Gov. Edward G. Rendell.

Without such a partnership, many people either spend or give away their assets to become eligible for Medicaid, observers say.

States that have adopted such legislation this year include Arkansas, Colorado, Idaho, Maine, Maryland, Missouri, Montana, Oregon, Pennsylvania, South Dakota and Texas.

OTHER COVERAGES

To expand access to life and disability income coverages, ACLI is encouraging states to relax their laws so employees would pay the total cost of those employer-negotiated coverages, Mr. Ferguson said.

Such changes should provide "the advantage of group purchasing, which typically lowers costs," and "help those who might not be eligible for coverage individually," he said.

Thus far this year, nine states have made such changes, bringing to 34 the number of states offering that option, Mr. Ferguson said. The remainder is targeted for next year.

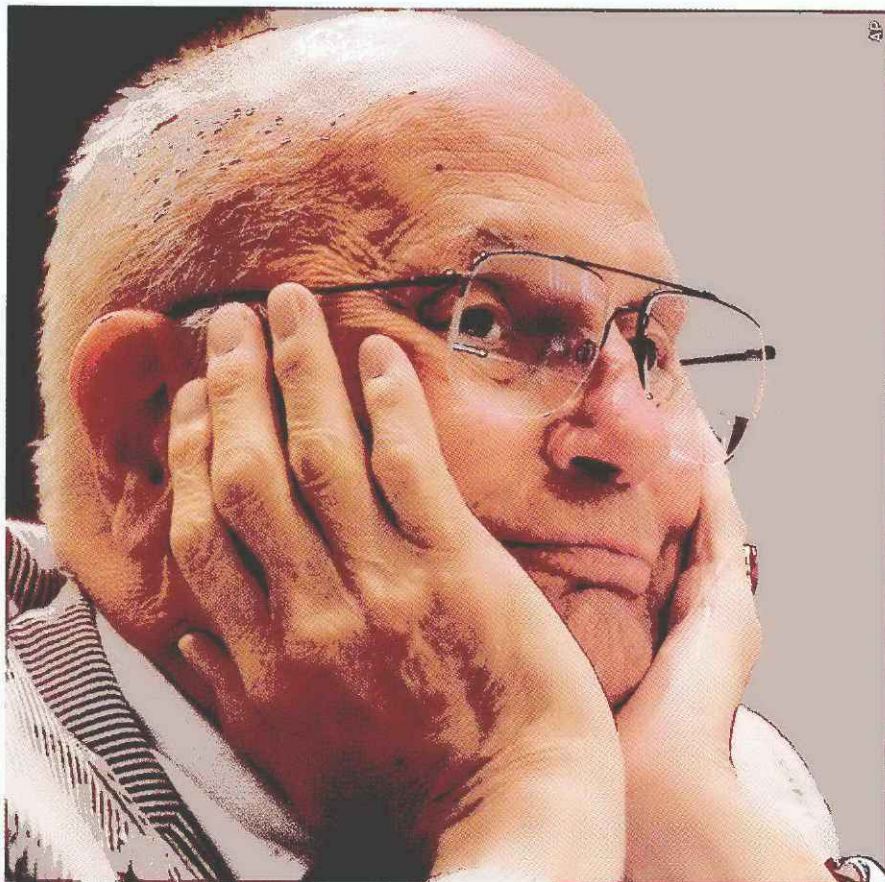
In addition, state policymakers will continue debating how long stranger-originated life insurance policies, in which a third-party pays the premium primarily as an investment, must be held before they can be sold.

The NAIC adopted a model act earlier this year specifying a five-year waiting period, which ACLI prefers.

The National Conference of Insurance Legislators, however, indicated recently that it prefers a two-year waiting period with other unspecified restrictions to control inappropriate investments. "The jury is still out on what NCOIL will do," Mr. Ferguson said.

On another issue, Mr. Lobert is of the opinion that Democratic majorities in some state legislatures have triggered efforts to further the "trial lawyer agenda." For example, he cited bills in several states to allow bad faith causes of action against insurers.

Washington State also approved a measure that could trigger punitive as well as treble damages bad-faith awards against insurers. A referendum seeks to repeal it, but "it's an expensive way to deal with the problem," he added. ■



Integrity Insurance Co.'s insolvency was detailed in a 1990 report issued by a U.S. House committee chaired by Rep. John Dingell, D-Mich. Today, the insurer's liquidation drags on, while Mr. Dingell again chairs the Energy and Commerce Committee.

By Meg Fletcher

20 years and counting

Liquidation drags on through 'Failed Promises' and lessons learned

The 20-year saga of the Integrity Insurance Co. liquidation continues this fall when the New Jersey Supreme Court considers the legality of a distribution plan for policyholders with contingent claims.

It will be the third time the state's highest court considers some aspect of the case and could result in a decisive ruling that will end various disputes over the rights of policyholders, as represented by the liquidator, and Integrity's reinsurers.

The insolvency of the Paramus, N.J.-based Integrity Insurance gained notoriety when it was analyzed in the 1990 report "Failed Promises: Insurance Company Insolvencies." That report was issued by the U.S. House Committee on Energy and Commerce's Subcommittee on Oversight and Investigations when both were headed by U.S. Rep. John D. Dingell, D-Mich.

In the report, the subcommittee found "the number of insolvent companies had increased dramatically and the resulting costs to the public have skyrocketed due to the changing nature of the insurance industry. With an accelerating international market and the leverage provided by excessive reinsurance, the costs of liquidating failed

companies is starting to reach billions of dollars and take many years to resolve."

The lawmakers described Integrity in the report as a "bold scheme of how to profit from an insurance company without knowing much about insurance." Formed in 1957, Integrity spent its first 20 years serving the needs of institutional lenders. By the late 1970s, Integrity's three top managers—who had no prior management experience with property/casualty companies—decided to expand by selling a wide variety of P/C coverages through a nationwide network of about 80 managing general agents.

The coverages Integrity wrote on occurrence-based policies included excess and umbrella liability, hospital professional liability, commercial auto and truck programs, personal auto programs, commercial fire, inland marine, commercial special multiperil, general liability, various surety coverages, workers compensation and yachts.

The MGAs "were essentially independent operatives with authority to appoint subagents, issue policies and endorsements, collect premiums and arrange for reinsurance," the report said. "Some were also authorized to adjust and pay claims, and to establish loss reserves."

Integrity "wrote every major asbestos manufacturer in the country...and a lot of the second- and third-tier (asbestos) defendants," said Thomas S. Novak, an attorney with the Newark, N.J.-based firm of Sills Cummis & Gross P.C., which represented the liquidator for 18 years.

KILLER ASBESTOS

As premium growth soared from \$33 million in 1977 to more than \$220 million in 1985, management failed to

monitor and control MGAs' activities and did not employ a staff actuary to help set reserves. In addition, "there was no in-house management information system that could efficiently process the voluminous data generated by the MGAs in diverse product lines," the report said. The "computer system used by the company right up to the time of its liquidation was a limited one that it purchased to handle personal lines," it said.

In addition, Integrity had millions of dollars of unpaid claims from its reinsurers, the largest of which was the troubled Mission Insurance Co., which itself was

'ASBESTOS (CLAIMS) WERE THE KILLER for Integrity; they were its largest liability and half or more of its total liabilities.'

THOMAS S. NOVAK
SILLS CUMMIS & GROSS P.C.

profiled in the same report. Also, "there were several instances of Integrity reinsuring itself," the report said.

Integrity was placed into liquidation in 1987 by then-New Jersey Insurance Commissioner Kenneth D. Merin after three months of unsuccessful efforts at rehabilitation. That began the liquidation's "rather convoluted" path to resolving claim payments that continue to this day, said Dennis G. LaGory, an attorney in the Chicago office of Schiff Hardin L.L.P., who helped represent Munich Reinsurance Co., one of Integrity's reinsurers.

"Asbestos (claims) were the killer for Integrity; they were its largest liability and half or more of its total liabilities," Mr. Novak said.

More than 26,000 claims were filed by the 1988 filing deadline. A large pro-

portion of the claims were "policyholder protection claims" in which a policyholder that was unaware of any specific claims could reserve the right to seek coverage in the future for events that occurred before the liquidation order. The incurred-but-not-reported losses on these claims were estimated at \$1.32 billion in 1996.

ALTERNATIVES

The liquidator considered alternative methods for administering the Integrity estate and decided to adopt a Final Dividend Plan, which essentially "contemplated that the value of a policy-

holder's contingent claim would be determined by an actuarial estimate of its IBNR, discounted to net present value," Mr. LaGory said. Once the liquidator approved the claim, it was then presented to reinsurers for the relevant years. Although reinsurers could object, the objections would be heard by a court-appointed special master.

The FDP approach to claims resolution was considered innovative at the time, Mr. LaGory said. It had been proposed a few years earlier with the Mission insolvency, although the courts ultimately declared it illegal under California law.

In deciding to choose that approach, the liquidator considered and dismissed two alternatives to resolving claims because of problems associated with them, attorneys said. Using the tradi-

tional runoff approach, in which contingent claims were paid as substantiated, would have required leaving the estate open for years because of the long-tail nature of claims such as asbestos. Using a cut-off approach, in which claims that were not substantiated by a certain date were barred, would have left many of the policyholders with contingent claims without coverage and given reinsurers a windfall by allowing them to keep an estimated \$876 million in potential collectables.

After the liquidator filed the FDP plan in June 1996, Munich Re led a group of reinsurers that objected "vehemently," Mr. LaGory said.

To this day, "The reinsurers' position is that the statute requires 'absolute' claims, not a claims-based IBNR like that which would have been allowed under the FDP," said Matthew T. Wulf, vp and assistant general counsel for the Reinsurance Assn. of America in Washington.

In addition, reinsurers also argued that the proposed dispute resolution procedure calling for the use of a special master violated their contractual and legal rights to resolve disputes by arbitration.

That dispute was the first of many between the liquidator and reinsurers, which were aired before state court Judge William C. Meehan, who has presided over the liquidation's court hearings since 1987.

PLAN VALIDITY

In one dispute over policyholders' defense costs, Munich Re had that case transferred to federal court and obtained a favorable ruling from the 3rd U.S. Circuit Court of Appeals. Ultimately, Munich Re and the liquidator reached an agreement through arbitration in September 2002, and the RAA took over the reinsurers' challenges.

Judge Meehan approved the proposed distribution plan in July 2004. The RAA appealed that ruling to the Appellate Division of New Jersey, which in October 2006 reversed his approval and called into question the validity of the distribution plan.

This fall's hearing will be the third time the New Jersey Supreme Court has considered issues surrounding the li-

quidation. In one of its previous rulings, the court partially upheld the liquidator's authority to estimate and include contingent claims. Its other ruling rejected the liquidator's request to keep confidential some intra-agency documents.

In an unexpected development, the New Jersey Supreme Court this January allowed American Standard Cos., an Integrity policyholder, to appeal the October 2006 ruling, attorneys said. The Piscataway, N.J.-based American Standard faces millions of dollars in asbestos claims, according to court papers.

The challengers want the state Supreme Court to overturn the appeals court decision and give the liquidator authority to implement the FDP. But, if the state's high court upholds the appeal, the liquidator must come up with an alternative distribution plan, such as a runoff.

Even with these problems, the Integrity liquidation operated by Deputy Liquidator Richard L. White, who is working on behalf of the state's insurance commissioner, is considered to be well-run, several attorneys said. For example, it has returned a substantial amount of money to the guaranty funds to reimburse them for claims payments.

Officials of the New Jersey Department of Banking & Insurance declined to be interviewed for this article because the case is in litigation, a spokesman said.

One lesson learned from the Integrity insolvency is that receivers who want to use innovative claims processes should check their state laws to see if it is permissible and, if necessary, seek legislative change, Mr. LaGory said.

Liquidation laws have changed in the past 20 years in response to the increasing complexity of some insolvencies.

The Insurer Receivership Model Act, which the National Assn. of Insurance Commissioners adopted in April, allows for contingent or unliquidated claims if there is a known insurable event and a filed claim. In effect, the model allows the receiver to commute reinsurance in order to close estates with significant long-tail liabilities, but it does not specifically endorse claims estimation of IBNR, the NAIC said in a statement.

Also, the model law allows the receiver in some cases to ask for arbitration to set a commutation amount. If the parties disagree, a trust is established and the estate is paid from it until all claims are settled. Any remaining funds go to the reinsurer.

FINALITY

From a reinsurers' perspective, the problem posed by the lack of certainty in claims estimation "is somewhat taken care of" by those IRMA provisions, said Mr. Wulf of the RAA. "It puts finality to a liquidation for most potential, but unknown, claims which are treated differently."

Individual states must adopt that model, or some version of it, before its provisions go into effect. Currently, some state laws allow for some type of claims estimation, including Rhode Island, Mr. LaGory said.

New Jersey's law, however, requires "absolute" claims, although that term is subject to interpretation and litigation.

"I believe (the liquidators) went about it with the best of intentions... but got bogged down in the courts," said Joseph L. DellaFerra, chief executive officer of the New Jersey Property-Liability Guaranty Assn. in Basking Ridge, N.J.

"It's ironic because (the liquidators) started out by trying to do the most efficient thing," he said. ■

BOTTOM LINE

Integrity Insurance Co.'s liquidation involves hundreds of millions of dollars.

Declared insolvent: **1987**

Total estate assets, including investment income: **\$972 MILLION**

Total assets recovered: **\$689.75 MILLION**

Total unpaid valid claims: **\$691.7 MILLION**

Total paid valid claims: **\$477.55 MILLION**

Total administrative costs: **\$147.85 MILLION**

Source: New Jersey Department of Banking & Insurance as of Dec. 31, 2006

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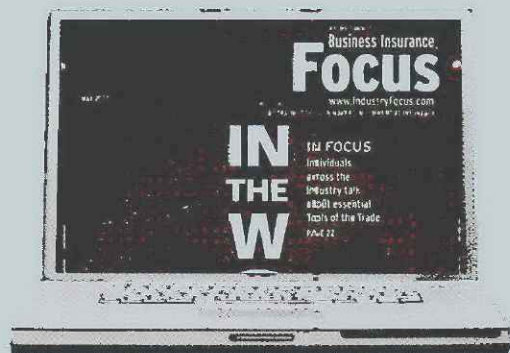
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THE SONG OF SOLVENCY

The new regulatory regime of the E.U.
is not meant to be Fortress Europe

By Rodd Zolkos

The Solvency II insurer risk-based capital regime being advanced in the European Union is being hailed by proponents as holding the potential of greater regulatory harmonization, enhanced customer protection and, possibly, a competitive advantage for E.U.-based insurers.

It's that third element that has some North American insurers who do business in Europe asking E.U. insurance officials to consider their position in the final version of new insurance regulatory standards and guarantee that they would compete on a level playing field with E.U.-based companies.

With a Solvency II framework draft released in July while the International Insurance Society was conducting its annual seminar in Berlin, the new regulatory regime was at the center of many conversations.

Speaking as part of a panel about Solvency II during the conference, Karel

van Hulle, the E.U.'s head of unit, insurance and pensions, said E.U. leaders aren't looking to close European markets with Solvency II.

"We are not building a Fortress Europe," Mr. van Hulle said. Instead, he said, E.U. leaders believe in globalization, and hope countries outside the European Union "will hear the song of Solvency II."

The E.U. regulator said Solvency II has four main objectives: deepening Europe as a single market by enhancing harmonization, enhancing policyholder protection, improving the international competitive position of E.U.-based insurers and improving regulation.

The new regulatory regime introduces an economic risk-based approach proponents say will reward insurers' good risk management by reducing the capital those insurers are required to hold and, in the process, enhancing policyholder protection.

Solvency II places an emphasis on companies' senior executives manag-

ing their businesses in responsible fashion, Mr. van Hulle said, and both fosters and demands greater regulatory convergence across the European Union.

"One key objective is that the requirements better reflect the true risks of an insurance undertaking," said another participant on the IIS panel, Jochen Sanio, president of the German Federal Financial Supervisory Authority. "We all get something out of it, a win-win scenario if ever I saw one."

For regulators shaping the new regime, "To get the balance of incentives and risks right is our ultimate challenge," Mr. Sanio said.

Helmut Perlet, chief financial officer of Allianz S.E. in Munich, Germany, said his company believes its internal risk management practices can meet its external Solvency II requirements, though ongoing fine-tuning will be necessary.

"Obviously this is a living process. You do not come to an end because you always have to have some refinements," Mr. Perlet said.

From an insurer's perspective, though, Mr. Perlet emphasized the need for the same application of regulatory tools and approaches across the European Union, independent of country. "In terms of a level playing field, regulation has a real impact on competition," he said. "In terms of a level playing field, what we would like to see is the same application in all countries of the E.U."

For large insurance groups, it's essential to regulate the group as a whole rather than country-by-country, Mr. Perlet said. Group supervision is essential for international companies to realize the benefits of scale, he said.

"The lead supervisor could and should be a single point of contact," Mr. Perlet said. In a group situation, predefined rules for dealing with crisis situations would be advantageous, he said in adding that member states shouldn't try to solve crises of pan-European insurance companies in isolation.

"We would like to have a level playing field independent of group location," Mr. Perlet said.

While Solvency II might be a European initiative, it will clearly have an impact on many non-E.U.-based compa-

nies, a perspective Jerry M. de St. Paer, senior vp, finance, at American International Group Inc. in New York and executive chairman of the Group of North American Insurance Enterprises, offered at the July IIS gathering in Berlin.

"Solvency II has a direct impact on GNAIE members, many of which have significant operations in the E.U. and in other countries," Mr. de St. Paer said.

"Indirectly, the U.S. accounting, capital markets and insurance standard setters and regulators have committed to various efforts towards convergence with international standards for solvency and accounting," Mr. de St. Paer said.

Many GNAIE members use sophisticated Solvency II-type techniques internally for capital planning and management and externally for meeting rating agency requirements, he said. And GNAIE members support principles-based approaches to standards and regulation. But those companies' views about solvency regulation are "driven by the steadfast objective of achieving prudent protection of the policyholder and a level global competitive playing pitch," the GNAIE leader said.

The North American insurers group questions whether, as currently presented, Solvency II would truly provide E.U. insurance buyers with the maximum benefit of competition for their business, or whether it would instead raise barriers within the E.U. marketplace, Mr. de St. Paer said.

"A truly risk-based Solvency II should fully recognize various approaches to risk management as well as diversification benefits among insurers," he said. Solvency II group diversification benefits, though, have been designed with European groups in mind, which often are set up differently than third-country groups, which Mr. de St. Paer said would be disadvantaged under Solvency II because they wouldn't be able to benefit from diversification within their operations in the European Union.

Also, E.U. supervisors would be allowed to require a third-country group to set up an E.U. holding company, which could be costly and disadvantageous to those insurance groups, Mr. de St. Paer said.

"Care should be taken that Solvency

II does not constitute an unlevel competitive playing field for third-country insurers in several ways," he said, adding that the benefits of Solvency II should be available to companies not based in the European Union.

From a rating agency view, Yann Le Pallec, managing director and head of European, Middle East and Asian insurance ratings for Standard & Poor's Corp. in Paris, said S&P sees Solvency II as "actually a revolution in insurance company supervision."

"Overall, Solvency II has a great potential for more intelligent and risk-sensitive supervision," he said. Still, it's too early to say how effective Solvency II will be, Mr. Le Pallec said.

For one thing, "The calibration of the standard model is an issue," he said, noting that it's always difficult to find a

making certain information public. And there will be political issues as well.

"There is that big societal issue of what is an insurable and a noninsurable risk," Mr. Le Pallec said. Pricing will be increasingly risk-sensitive, he said, with more risks becoming uninsurable or unaffordable. Consequently European governments will face questions about how to address certain exposures.

Another key issue, according to the E.U.'s Mr. van Hulle, is how small and midsize insurers will be treated under the new regime. "We want a system that is proportionate to the size, complexity, the nature of the business," Mr. van Hulle said.

Mr. Le Pallec said that while the Solvency II approach won't eliminate the need for rating agency scrutiny, the E.U. approach does represent a convergence



'WE ARE NOT BUILDING a Fortress Europe.' Instead, E.U. leaders believe in globalization, and hope countries outside the European Union 'WILL HEAR THE SONG of Solvency II.'

KAREL VAN HULLE
EUROPEAN UNION

system that accommodates all business models and insurance lines. Also, the execution of the new regime by E.U. member states and their insurance supervisors will be critical to its success.

Mr. Sanio agreed that European regulators' performance will be critical to Solvency II's success. "Whether Solvency II is actually the idea that the new century is waiting for, and whether it will become the global framework, depends on whether regulators are prepared to embrace it," he said.

Mr. de St. Paer said U.S. regulators also have an essential role to play in Solvency II. "There is an urgent need for U.S. regulators to examine the impact of group and third-country issues of Solvency II on U.S. companies," he said.

Mr. Le Pallec noted there are questions about how transparent regulation will be under Solvency II, considering that some supervisors and insurers oppose

with S&P's approach to insurer ratings. Much of S&P's approach to evaluating insurers "can be mapped against a Solvency II approach," he said.

Solvency II isn't likely to change S&P's approach to rating European insurers, but the rating agency will have to consider regulators' concerns and factor them into their analysis, Mr. Le Pallec said.

Ultimately, Solvency II will require the approval of the European Parliament and Council of Ministers. "That's a formidable task," Mr. van Hulle said.

"The implementation deadline is 2012," Mr. van Hulle said. "It is still an ambitious timeline."

He noted that while Solvency II would reward good risk management, updating risk management practices at a company takes time so insurers should begin now to prepare for complying with the new regulatory approach when it does take effect in 2012. ■

Risk management takes center stage in discussions of Solvency II

By Rodd Zolkos

BERLIN—With the European Union's Solvency II regulatory regime factoring heavily in many discussions during this year's annual International Insurance Society meeting, and companies' efforts to address risk being a key component of Solvency II, risk management came up frequently during the Berlin gathering.

A case in point was a panel discussion at the July seminar involving Wilhelm Zeller, chief executive officer of Hannover Re Group, and David Greenfield, chief financial officer of AXIS Capital Holdings Ltd., in which both offered some thoughts on their companies' risk assessment and risk management efforts.

"A vast majority of insurance industry and banking industry executives have concluded that the highest risk is too much regulation," said Mr. Zeller. "We have not yet come to the conclusion that regulation is the highest risk."

"When we at Hannover Re look at risk management, we first ask ourselves what is it we want to manage," he said. "Three (things) come to mind," the Hannover Re CEO said, citing earnings, capital and survival of the company.

FOCUS ON CAPITAL

Mr. Zeller noted that Hannover Re's risk management effort is focused on protecting the company's capital, stabilizing and optimizing results, and allowing the German-based reinsurer to profit fully from hard markets. Risk management is not meant to protect any given year's earnings, he said, nor is it intended to "protect the mere survival of the company."

Mr. Zeller said those involved in Hannover Re's risk management program are aware that many reinsurance company failures have stemmed from reserving issues. In addition, there are no reliable pricing tools for use with much of the business that the company writes, he said, so it faces significant mispricing risk.

He outlined the "risk hierarchy" as viewed by those involved in Hannover Re's group risk management program. At the top is reserve risk, followed by exposure risk, mispricing risk, investment risks and other balance sheet risks. To manage the top risk in that hierarchy—reserve risk—the company conducts multiple reserve risk assessments and makes extensive use of external consultants, Mr. Zeller said. "We feel that we can't get enough input."

In terms of exposure risks, events such as Hurricane Katrina force the company to adjust its assumptions, Mr. Zeller said. That means recalculating the prices required to meet certain risks, he said. "It's not difficult to calculate that," he said. "The real difficulty is to get those prices in the market."

"If you can get it in the market, then you stay in the market. If you can't get it and you are disciplined...then you exit," Mr. Zeller said.

Increased expectations of company transparency among shareholders, analysts, rating agencies and clients places additional demands on risk management, Mr. Zeller said. "With all this transparency, everybody today expects you to practice cutting-edge risk management," he said.

Those increased risk management

pressures raise the demand for skilled personnel, the Hannover Re CEO said. "And those people are scarce. They're not in the market. You have to train them yourself."

ENTERPRISEWIDE APPROACH

In discussing his company's risk management efforts, Mr. Greenfield said some of Pembroke, Bermuda-based AXIS' more significant risk management strategies include selective diversification, defined tolerance levels, and a strict risk selection and management process.

"Insurance companies are at the forefront of risk management, so there aren't a lot of new concepts in the field of risk management," Mr. Greenfield said. But, he said, insurance company risk management has increasingly become all about capital optimization as well as an important criterion for rating agency assessments.

Mr. Greenfield said AXIS has moved from a more traditional risk management approach to an enterprisewide approach, the underlying principle of

'THE KEY TO a successful risk management program is pushing down deep so that it becomes standard practice in the organization.'

DAVID GREENFIELD
AXIS CAPITAL HOLDINGS LTD.

which is creating value through a holistic view of the company's risks.

"The key to a successful risk management program is pushing down deep so that it becomes standard practice in the organization," Mr. Greenfield said. "That is the goal of the risk management committee."

And, he added, "We're not afraid to eliminate a previously profitable line of business that is showing greater competition in order to devote our capital to better opportunities." ■



The International Insurance Society gathered for its 43rd annual seminar this summer, drawing insurance industry executives from around the world to Berlin.

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MAKE A PLAN include an evacuation plan, out-of-area people to contact and a meeting place

BE INFORMED if a hurricane is forecasted, listen to local radio and TV and follow the guidance of local officials

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Serve and collect?

Some cash-strapped cities are billing insurance companies for emergency services to provide new revenue

By Meg Fletcher

Missouri's adoption of a law banning local law enforcement agencies from charging fees for responding to motor vehicle accidents is a small step toward outlawing a controversial practice that is a growing concern for insurers nationwide.

Currently, municipalities in 18 states charge insurers some type of accident response service fee on behalf of their police or fire/rescue personnel.

"There is a growing trend for cash-strapped local governments to seek new revenue streams," said Angela Zaydon, the Harrisburg, Pa.-based regional manager and counsel for the Property Casualty Insurers Assn. of America in Des Plaines, Ill.

Anecdotal evidence indicates that the practice of billing insurers for response fees "happens more than it used to," according to a spokesman for the State Farm Mutual Automobile Insurance Co. in Bloomington, Ill.

In Michigan, for example, "a lot of our...municipalities are looking for someone to pay" the costs of providing fire/rescue services required by Michigan's no-fault auto insurance law, said a spokeswoman in the Dearborn, Mich., office of the American Automobile Assn.'s insurance program.

Also, some fire/rescue personnel in small Missouri towns, especially those providing services to accident-prone interstate highways, justify the fees because they are "providing a service to people who don't live in the area," said Patrick Bonnet, a staff associate with the Jefferson City, Mo.-based Missouri Municipal League, a nonprofit organization that promotes cooperation among municipalities.

PCI's Ms. Zaydon has a less altruistic view: "Third-party vendors are taking advantage of these municipalities by promising large windfalls if they bill insurers for providing emergency services following an accident," she said.

For example Toledo, Ohio, finds it is worthwhile to charge a fire/rescue serv-

ice fee. The city receives an average of \$20,000 per month from fire/rescue service fees it began charging in 2005, said Battalion Chief John Kromenacker.

The city charges between \$600 to \$1,600 per call, depending upon whether one or two, four-person fire trucks respond to an accident scene, he said. All fire fighters are emergency medical technicians and some are paramedics.

Before a service fee is billed, however, there must have been an injury, department personnel must spend more than three minutes at the scene and police must issue a citation in the accident, Mr. Kromenacker said.

The city contracts with Dayton, Ohio-based Cost Recovery Corp. to issue bills. About 20% of insurers pay the fees, he said. If insurers do not pay, individual bills are then sent only to nonresidents, but never to a collection agency, he said.

The municipalities differ in the aggressiveness with which they pursue collections, sources say.

Toledo considered charging a fee for police services to outsiders who neither lived nor worked in the city, but it was "very controversial," said Chief of Police Mike Navarre. "People deemed it to be a double tax."

The mayor-proposed police service fee "wasn't going to generate enough money to offset the controversy," so it was tabled, he said.

The controversy is rooted in the fact that critics consider charging such accident response service fees as "basically a hidden tax," said Mary Bonelli, senior vp with the Ohio Insurance Institute, an insurer trade association based in Columbus, Ohio. "Most insurers in Ohio are not paying these fees," she said.

"Emergency rescue response services are already paid for through property and other local taxes," Ms. Zaydon said.



Municipalities in 18 states charge an accident response fee on behalf of police or fire/rescue personnel.

"Providing for public safety is a basic role of local government. As a taxpaying citizen, it is not unreasonable to expect the local police or fire department to respond to an automobile accident without having to pay extra for this service."

While several municipalities are passing ordinances approving such response fees, "many of these charges are not covered under the liability section of our policy contract," said a spokeswoman for The Progressive Group of Insurance Cos. in Mayfield Village, Ohio.

Charges that are generally covered at the scene of an accident include cleaning up fuel spills, providing "documented" medical assistance and transporting an injured party of an accident to a medical facility, she said. Charges that typically are not covered include fees to clean fire hoses; to dispatch police to the scene to manage it or conduct an investigation; and fees for supplies such as flares, emergency cones and police tape.

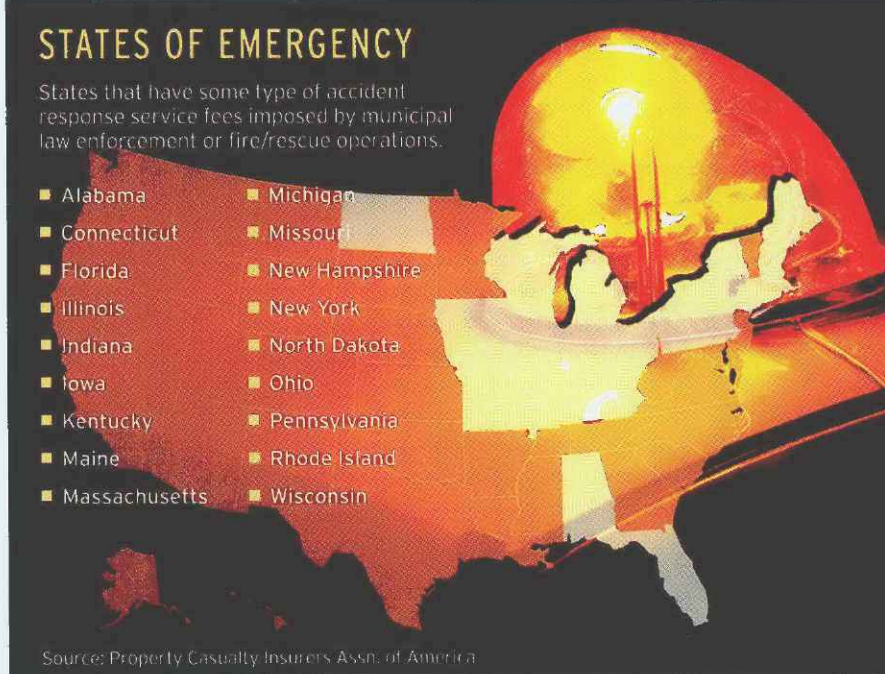
Drawing the line between what is and is not covered can sometimes be tricky.

For example, a typical State Farm policy "covers medical services rendered at the scene" and sometimes related services, such as extraction of an injured motorist from a crushed car, if it is done to speed up the delivery of medical care, the company spokesman said. However, if the driver and all passengers exit a car that subsequently bursts into flames, the cost of putting out that fire would not be covered as a related medical expense, the company spokesman said.

Fee-handling procedures raise questions in many municipalities, industry sources said.

For example, billing only to insured motorists or at-fault motorists raises issues of fairness because "if you are not insured, you don't get a bill," Ms. Bonelli said. The fees also could be potentially unconstitutional because fault determinations are being made without appropriate judicial review, she said.

In addition, an insurer's refusal to pay such a fee may create tension in the



relationship between an insurer and policyholder, who may be surprised to learn there is no coverage for such seemingly official fees.

"We only collect premium that covers the promises that we make," the State Farm spokesman said. If the company did choose to cover fire and police services at the scene of accidents that didn't include the provision of medical care, it would increase claims and what the insurer would have to charge for the coverage, he said.

"If these type of fees were required, there is a strong possibility that it could affect insurers' bottom lines," and might require them to raise premiums for policyholders in the future, Ms. Bonelli said.

Like most insurers, Progressive reviews each claim on a case-by-case basis and pays those that are covered and denies those that are not, the spokeswoman said. "If a city seeks further action against one of our customers as a result (of a company claim denial), we will defend him or her against further collection efforts."

The new Missouri law banning police service fees is not the only evidence of an effort to curb such fees.

Earlier this year, the Indiana Legislature passed a bill to ban local law

enforcement agencies from charging accident response fees, but it was vetoed by Gov. Mitch Daniels. He expressed concern about another section of the bill concerning charges for vehicle accident reports, according to a PCI statement. Indiana lawmakers will have an opportunity to override the veto in November.

In addition, Pennsylvania lawmakers are considering a similar ban on police-related bills, which has passed the House and is pending in the state's senate, according to a PCI spokesman.

Also, a few Ohio municipalities have suspended such fees, including Shaker Heights and Stow, Ms. Bonelli said.

Some municipalities have considered but then tabled such fees, including Columbus, Ohio, and Tampa and Davie, Fla., sources said.

In Tampa, the fire rescue department proposed charging fees that were expected to range from \$450 to \$2,100 for transport of an accident victim by air. In Davie, supporters suggested an average police or fire department fee of about \$840, the PCI said.

Unless more municipalities outlaw fees, "the national motto of 'Serve and Protect' is becoming 'Serve and Collect,'" said John Lobert, the PCI's senior vp-state government relations. ■

MOST PRODUCTIVE AGENTS AND BROKERS

INTERMEDIARIES* RANKED BY 2006 BROKERAGE REVENUES PER EMPLOYEE

RANK	COMPANY	REVENUE/EMPLOYEE			BROKERAGE REVENUES			EMPLOYEES		
		2006	2005	CHANGE	2006	2005	CHANGE	2006	2005	CHANGE
1	Mid American Group Inc. ¹	\$390,636	\$424,853	-8.05%	\$5,859,546	\$5,523,083	6.09%	15	13	15.38%
2	Capacity Group of Cos.	\$330,136	\$330,321	-0.06%	\$42,587,600	\$38,647,560	10.19%	129	117	10.26%
3	Aviation Insurance Services ²	\$320,529	\$316,135	1.39%	\$16,347,000	\$17,071,285	-4.24%	51	54	-5.56%
4	Wachovia Insurance Services Inc.	\$304,988	\$239,873	27.15%	\$451,077,801	\$425,055,701	6.12%	1,479	1,772	-16.53%
5	Frank Crystal & Co. Inc.	\$296,171	\$301,060	-1.62%	\$112,545,000	\$105,371,000	6.81%	380	350	8.57%
6	Alliant Insurance Services Inc.	\$286,850	\$284,789	0.72%	\$228,476,000	\$206,472,000	10.66%	797	725	9.86%
7	Western Benefit Solutions L.L.C.	\$285,333	\$273,438	4.35%	\$4,280,000	\$4,375,000	-2.17%	15	16	-6.25%
8	Thesco Benefits L.L.C.	\$280,089	\$308,347	-9.16%	\$13,724,384	\$12,333,895	11.27%	49	40	22.50%
9	Tanenbaum-Harber Co. Inc.	\$264,351	\$228,555	15.66%	\$78,512,247	\$56,681,547	38.51%	297	248	19.76%
10	Kinloch Holdings Inc.	\$245,455	N/A	N/A	\$27,000,000	N/A	N/A	110	N/A	N/A
11	DataRisk L.L.C.	\$244,400	\$366,000	-33.22%	\$1,222,000	\$1,098,000	11.29%	5	3	66.67%
12	Graham Co.	\$240,389	\$245,640	-2.14%	\$41,827,673	\$41,513,085	0.76%	174	169	2.96%
13	Bollinger Inc.	\$230,825	\$249,488	-7.48%	\$103,871,255	\$83,578,388	24.28%	450	335	34.33%
14	Associated Financial Group L.L.C.	\$229,236	\$223,953	2.36%	\$55,245,756	\$50,165,367	10.13%	241	224	7.59%
15	William Gallagher Associates Insurance Brokers Inc.	\$228,657	\$230,958	-1.00%	\$42,987,572	\$41,572,428	3.40%	188	180	4.44%
16	R.C. Knox and Co. Inc.	\$227,470	\$219,240	3.75%	\$26,614,000	\$26,528,000	0.32%	117	121	-3.31%
17	Mesirow Insurance Services Inc. ³	\$225,893	\$221,885	1.81%	\$80,417,980	\$66,787,528	20.41%	356	301	18.27%
18	Risk Strategies Co.	\$221,000	\$198,413	11.38%	\$17,680,000	\$12,500,000	41.44%	80	63	26.98%
19	Rutherford Cos.	\$220,550	\$208,726	5.66%	\$60,210,036	\$53,642,550	12.24%	273	257	6.23%
20	Frenkel & Co. Inc.	\$219,900	\$203,332	8.15%	\$50,796,963	\$47,986,369	5.86%	231	236	-2.12%
	Averages ⁴	\$264,642	\$267,105	-0.92%	\$73,064,141	\$68,258,041	7.04%	272	275	-1.09%

*Reflects U.S. agents and brokers deriving a majority of revenues from commercial retail brokerage. 1 Fiscal year ending 1/31. 2 Fiscal year ending 6/30. 3 Fiscal year ending 3/31
 4 Averages for 2005 exclude Kinloch Holdings Inc. N/A=Not applicable.
 Source: Business Insurance survey. Researched by Kevin Edison.

Many benefits can be found by just thinking differently

By Wendy Gibson

Do you have a favorite quote that you pull out when you are trying to solve a business problem or implement change? I do. It's Albert Einstein's, "You can't solve a problem from the same level of thinking that created the problem."

That's innovation at its core. We've all witnessed great examples of innovation. In fact, some of you may be relaxing at home or on an airplane reading this article while listening to your MP3 player. That market speaks to innovation.

In 2001, Apple was virtually ignored by mainstream technology customers. Its stock was in the pits and it had a small, albeit devoted, following of artists and educators. Digital technology was gaining ground—in fact, there were more than 50 manufacturers of MP3 players, all in a knockdown battle over best features and device size.

So, how did Apple innovate when it was entering a very competitive market? They approached the opportunity differently and won with distribution and content over features and size. By starting iTunes, Apple made music readily available at a price that was affordable and proceeded to seize the market. In the first week, iTunes sold more than 1 million songs.

Today, Apple has a 75% share of the MP3 market and 85% of all legal music downloads in the United States are via *iTunes.com*. Between 2001 and 2006, the company nearly quadrupled its revenue. Yes, there are benefits to thinking differently.

In the '90s, I had the opportunity to innovate in the airline industry. I saw how we changed booking travel. Trav-



Wendy Gibson is chief marketing officer of Frisco, Texas-based Skywire Software.

el agents, reservation agents and even airline employees had to go through training classes for weeks to learn how to book an airline seat, hotel room and car reservation. Now, any consumer can go online to his or her favorite travel Web site and book an entire reservation in less than two minutes with no training.

Plus, I was involved in the introduction of e-ticketing in the airline industry. Skeptics of e-ticketing said it would never happen. The entire airline industry was designed around a paper ticket. We thought differently. With some strong business cases behind us and a push for standards, it happened.

INSURANCE APPLICATION

So, how does all this apply to the insurance industry? We are not alone in pushing for automation to solve today's business problems and improve our operations. Industry analyst, Celent, says the Web will play a major role in most personal insurance

purchases across auto, life and health.

Most consumers' purchasing process involves Web influence. However, what disappoints me is that Celent then says that pure online sales are growing, but will still only be 30% by year 2011. I look at those stats and think to myself: Wow! They are telling us that we are not innovative. Let's stand up and prove them wrong.

We need to approach our current business problems and new opportunities from a different level. Let's begin with embracing standards. I've seen standards work, but we need to all work together. I encourage you to think differently in pushing for standardization.

Additionally, as a leader in a technology company, I encourage our employees to approach business problems from different levels. For example, if you want to attract a new set of business users to your applications, try incorporating industry content and user-defined templates. Help empower the users to get their jobs accomplished more effectively.

We have some great innovators in our industry. Here's a few that come to mind: Progressive, GEICO and Norwich Union. But, let's not stop here. I'm seeing innovation occur in all segments of our industry.

We are working with a very large MGA that is a pioneer in streamlining the new business application and underwriting process for complex excess and surplus lines. From my interaction with him, he is approaching this business opportunity from a different level and preaching standards to make this happen. He may be the next Michael Dell of the insurance innovation world.

I have another quote hanging in my office. It is attributed to a Chinese proverb: "The person saying that it can't be done should not interrupt the person doing it." Don't be afraid to take a risk and go against the grain. The results could be game-changing. ■

'AS A LEADER in a technology company, I encourage our employees to approach business problems from different levels.'



INGA GODDIJN is product manager for E&O and information technology risks at Deerfield, Ill.-based Shand Morahan & Co. Inc.

Cyber risks often underinsured

Computer hacking has gone global. American businesses are facing increased risks from computer system breaches that can come any time from any place in the world. The danger is not likely to let up because foreign cyber thieves are going where the money is—American consumers who have the most credit in the world.

Although unconfirmed, media reports say a T.J. Maxx database security breach the retailer reported in January that exposed nearly 47 million customer credit and debit card records, may have been plotted by Russian and Romanian gangs, perpetrated over wireless connections in Minnesota and discovered in a Wal-Mart store in Mexico.

The costs of a security breach can be astronomical. TJX Cos. Inc., the parent of T.J. Maxx and other stores involved, has spent about \$17 million so far to clean up the mess. And it could eventually pay up to \$4.5 billion, according to some reports.

These costs include investigating and containing the breach, improving systems security and communicating with customers. It's hard to estimate the lost sales from customers who no longer trust a company with their sensitive personal information.

And credit and debit card issuing companies, tired of absorbing the expenses of reissuing credit cards, are filing class action suits against the company to recover their expenses.

It's not just retailers or companies doing business on the Internet who are at risk. All systems that contain identifying and/or sensitive information are vulnerable. "Ransomware" is being used by hackers to steal sensitive corporate data which they refuse to return until the company pays a ransom.

So how can businesses protect themselves from cyber hackers?

Follow Payment Card Industry Data Security Standards. Anyone who processes a credit card should follow the standards set by the PCI Security Standards Council L.L.C. The council was created by major credit card processors and makes available policies, procedures, network architecture, software design and other critical protection measures.

Hire a dedicated database security person whose job it is to know about and implement the latest data security measures. And

update your security measures daily.

Adopt good risk management techniques for data security. Protect information as you would cash. Decide who will be allowed to access data and who will be allowed to take it home on their laptops.

Purchase cyber risk insurance. Many business owners and corporate executives think general business insurance covers data breaches. Or they think cyber hacking can't happen to them. They are wrong on both counts. Even a small breach can mean a significant loss of time and money.

American businesses are woefully underinsured for cyber risks, even though this type of insurance has been around for at least 10 years. However, no two policies are alike and the coverage can be as varied as the methods used to break into a computer system.

Before a buyer purchases cyber insurance, it's necessary to assess the risk. Experienced agents can work with buyers to evaluate the

GOOD COVERAGE isn't cheap, but good cyber risk insurance covers catastrophic losses and its price reflects this.

exposure and help them purchase appropriate coverage.

At the minimum, buyers should purchase both first-party and third-party coverage to protect against both expenses incurred directly as a result of the breach and damages the breach might cause others. And, because hacking is increasingly global, buyers should get coverage for incidents no matter where they occur in the world.

Good coverage isn't cheap, but good cyber risk insurance covers catastrophic losses and its price reflects this. For a business obtaining necessary coverage, it's money well spent. Policy limits range from \$1 million to \$25 million, and some insurers can supply coverage beyond that amount.

For anyone doing business online, it's important to remember that even though you may not have time to travel around the world, your sensitive data might. And that could be an expensive trip.



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