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Business Insurance

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\$4

Conflict escalating on WTC coverage

By **DOUGLAS MCLEOD**

NEW YORK—The high-stakes legal battle over the World Trade Center's property insurance program is intensifying as WTC leaseholder Silverstein Properties Inc. and some of its insurers exchange new lawsuits over whether the twin towers' destruction was a single \$3.55 billion loss or two.

Silverstein filed suit in U.S. District Court in New York last week against Travelers Indemnity Co., one of six primary insurers on the program, charging that the Sept. 11 terrorist attack represented two events, entitling the company to two full-limit recoveries. Silverstein also asked a federal

judge's permission to bring at least 18 other primary and excess property insurers into pending litigation on the occurrence issue with a Swiss Reinsurance Co. unit, the program's largest participant.

Meanwhile, Chubb Corp.'s Federal Insurance Co. filed its own lawsuit to limit its loss to one occurrence, and it was quickly joined in the effort by Allianz A.G. Holding, the program's third-largest participant.

The disputes reflect the unfinished state of a massive property insurance program placed through broker Willis Group Holdings Ltd. shortly

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More insurers have joined the litigation over the twin towers' insurance program.

Late News

ACE USA to join USAIG pool

ACE USA has stopped underwriting corporate aviation risks independently and has joined the U.S. Aircraft Insurance Group aviation insurance pool. Effective Jan. 1, all of ACE USA's corporate aviation, noncritical aviation products, pleasure and business aircraft, and aviation-associated workers compensation will be underwritten through USAIG, which is managed by U.S. Aviation Underwriters Inc. in New York. ACE USA will become a member of the pool for 2002. "Significant changes in the insurance and reinsurance marketplaces have driven this decision to redefine the way we participate in the business aviation arena," Jeffrey Cassidy, executive vp of ACE USA Aerospace, said in a statement. ACE USA would not comment further on the agreement. Seven insurers, including ACE USA, will be members of USAIG in 2002. In 2001, USAIG had eight members, but St. Paul Fire & Marine Insurance Co. and United Services Automobile Assn. left the pool effective Dec. 31, 2001.

Chartering bill introduced

Industry divided on federal proposal

By **MARK A. HOFMANN**

WASHINGTON—The Senate could begin debating the controversial issue of optional federal chartering for insurers and producers later this year.

Sen. Charles Schumer, D-N.Y., introduced a federal chartering proposal, the National Insurance Chartering and Supervision Act, just as Congress recessed for its holiday break in late December.

Industry reaction to the Schumer proposal underscores the ongoing division among insurers on the concept of optional federal chartering. While proponents view the legislation as a breakthrough, opponents of federal chartering stress



Sen. Schumer

that Congress instead ought to focus on determining the federal government's role in guaranteeing terrorism insurance coverage, an effort that stalled before the congressional recess.

The Schumer measure, which resembles a proposal offered in late 2000 by the American Bankers Insurance Assn. (*BI*, Jan. 1, 2001), calls for the creation of a national insurance commissioner's office within the Treasury Department. The commissioner, who would have the same standing as the federal comptroller of the currency, would serve a five-year term.

Under the measure, the commissioner could issue regulations, such

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Employers face problems 401(k) catch-ups hit state tax snag

By **JERRY GEISEL**

WASHINGTON—Employers in more than a dozen states—including California—that want to add a "catch-up" feature to their 401(k) plans face a complication that could create a significant administrative burden and prove costly for employees.

The problem stems from the failure of the states to modify their tax laws to reflect last year's change in federal law that authorizes catch-up contributions, so that employees' adjusted gross incomes would be reduced by the amount of their catch-up contributions. In other states, and under federal tax law, the contributions are considered pretax.

Just as awareness of this potentially serious obstacle emerges, the Internal Revenue Service, responding to employer concerns, agreed to modify regulations to make it easier

for employers with multiple 401(k) plans to add catch-up contributions.

Such contributions are authorized under tax legislation Congress passed last year (*BI*, June 4, 2001). Under that law, employees age 50 and older can contribute an extra \$1,000 this year to their 401(k), 403(b) and 457 plans, with the maximum catch-up contribution rising in \$1,000 annual increments until it reaches \$5,000 in 2006.

Benefits experts are warning, though, that the failure of more than a dozen states to modify their tax laws so that catch-up contributions receive favorable tax treatment will create administrative hassles for employers and prove costly for employees. In addition to California, other large so-called "non-conforming" states include Arizona, Indiana, Iowa, Massachusetts, Min-

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Appeals court OKs suit against gunmakers

Manufacturers and distributors of guns can be sued for causing a public nuisance, an Illinois state



appeals court has ruled. The Dec. 31, 2001, ruling by the Illinois State Court of Appeals 1st Division in *Stephen Young et al. vs. Bryco Arms et al.* involved a lawsuit filed by five families of victims killed by gunshots. That suit charged that Chicago and its neighborhoods have been made unsafe because gun manufacturers' distribution practices make it easy for guns to get into the hands of criminals and youngsters. The appeals court ruled, in part, that the plaintiffs could claim that the gunmakers created a public nuisance because of the "right of the people to be free from disturbance and reasonable apprehension of danger to person and property."

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Special Report

CHARTING CHANGE

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Sex bias in health benefits alleged

American Airlines will fight a lawsuit filed by a flight attendant claiming discrimination because her health plan covers Viagra for men but not infertility treatment for women. **Page 4**

Making laws like making sausage

A close look at some of Congress' accomplishments—and failures—in 2001 may prove distasteful, Editor Paul Winston writes in Commentary. **Page 6**

Crystal ball gazing for 2002

Business Insurance succeeded in compiling a winning record of predictions for 2001, and in this week's editorial offers its expectations for the New Year. **Page 8**

Australian buyers eye alternatives

High rates and restrictive coverage terms are likely to spur greater interest in risk financing alternatives among Australian insurance buyers, a new study finds. **Page 19**

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REPORTING WEEKLY ON CORPORATE RISK, EMPLOYEE BENEFIT AND MANAGED HEALTH CARE NEWS

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Ride Along Enclosed in Editions 03,05,07 and 08

CONTINUED FROM PAGE ONE PacifiCare plans job cuts to reduce costs

PacifiCare Health Systems Inc. plans to cut its workforce by about 15% in an effort to reduce costs and improve profits. The 1,300 job cuts and other actions should save the Santa Ana, Calif.-based health insurer \$80 million to \$90 million annually, PacifiCare announced last week. Other cost-cutting measures include outsourcing much of PacifiCare's information technology services. The job cuts and associated office consolidation will result in a fourth-quarter pretax charge of about \$60 million, which will create a fourth-quarter loss, PacifiCare said.



PHOTO: GETTY

New York's Hudson River is at the center of a disputed federal environmental cleanup order.

Agency wants federal rules reviewed

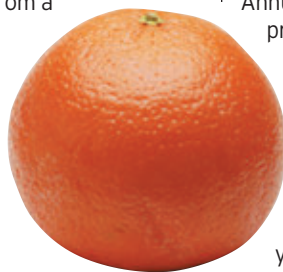
The Office of Management and Budget wants 23 federal regulations reviewed for possible revision or withdrawal. These include several environmental regulations, including parts of the Clean Water Act and Clean Air Act, as well as controversial arsenic standards. The OMB also wants certain employer recordkeeping rules established by the Family and Medical Leave Act

Late News

reviewed. OMB made the recommendations, which were based on public comments on regulatory impact, in a report to Congress called "Making Sense of Regulation." In its report, OMB said that it sought input "to identify regulations that are obsolete or outmoded" that could be revised or rescinded. The full report can be read at the OMB Web site, located at www.whitehouse.gov/omb/inforeg/costbenefitreport.pdf.

Sunkist self-insured health plan folds

Under the terms of an agreement with regulators, thousands of employees who previously received health benefits from a defunct self-insured plan created by Sunkist Growers Inc. can obtain health coverage from another agricultural growers association. SGP Benefit Plan Inc., a multiple-employer welfare association created by Sunkist in 1990, ceased operating and surrendered its



certificate of compliance on Nov. 1 to the California Department of Insurance, a department spokesman said. The plan faced financial problems and could not pay its bills, according to the spokesman. The agreement with regulators allows for all employees previously receiving coverage from SGP Benefit Plan to obtain insurance from Western Growers Insurance Services, a unit of Irvine, Calif.-based Western Growers Assn. Those employees had 90 days from Nov. 1 to sign up under a WGA plan.

P/C premium hikes continue: Survey

Annual property/casualty insurance premiums rose by an average of 19% to 22% in December, according to a survey by MarketScout.com. Some policyholders are seeing 50% to 70% rate increases, MarketScout said in a statement. The increases do not yet reflect the impact of the Sept. 11 terrorist attacks, MarketScout said. Losses from the World Trade Center disaster will be reflected in property/casualty rate increases beginning this month.

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the Late News column, as well as other content in this week's issue, is generated from Daily News postings that appeared on the Web site in the previous week.

Study finds reporting of losses to reinsurers is faster than in past Loss development accelerating: RAA

By **RODD ZOLKOS**

A recently released study by the Reinsurance Assn. of America shows a continuing reversal of what had been a persistent trend toward lengthening loss reporting patterns in casualty reinsurance lines.

"Generally, the loss development has been getting slower over time," said Vincent Connor, vp at GeneralCologne Re in Stamford, Conn., and chairman of the RAA's actuarial

committee. "But two years ago, the loss development started getting a little faster, and that happened again this time."

"This study confirmed the prior study in showing somewhat faster reporting," added Robert Bear, senior vp and chief actuary at PXRE Reinsurance Co. in Edison, N.J. Mr. Bear chairs the RAA's loss development subcommittee.

The RAA's Historical Loss Development Study, produced biennially

since 1969, is intended to increase awareness of historical loss development patterns in companies writing casualty excess reinsurance and in primary companies writing high-deductible or umbrella insurance.

The study analyzes historical loss development by accident year for each of four major lines of insurance: auto liability, medical malpractice, general liability and workers compensation. It also analyzes historical loss development for

treaty vs. facultative business and by range of attachment point.

"The purpose of the study is to compare excess loss development for a reinsurance company with primary loss development," Mr. Connor said. "It's primarily the difference between the excess and the primary and getting some sense of the magnitude of the difference."

The newly released 2001 edition examines the historical loss devel-

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Business Insurance EXECUTIVE FORUM

January 7, 2002

Insurance program covers incentive payout to coach who led team to Orange Bowl

U of Maryland scores a victory, even if team doesn't



PHOTO: BILL VAUGHAN/ICON SMI

By SALLY ROBERTS

COLLEGE PARK, Md.—Under a unique insurance program, the University of Maryland last year bet \$13,000 that its rookie head football coach would lead the team to its first post-season bowl game since 1990.

That bet paid out more than \$300,000 in bonuses for Ralph Friedgen and his nine assistants, who led the Terrapins to a league-winning 10-1 record and an appearance in last week's Orange Bowl.

Despite Maryland's loss to the University of Florida, the bonuses remain unchanged, because the insured incentive program was based on just an appearance in a bowl game and not a victory.

Although it is common for college football coaches to have incentives built into their contracts, it is far from common for athletic departments to purchase insurance policies to

cover those incentives.

But for budget-strapped college athletic departments that operate in an environment of ever-increasing coaching salaries and demand for winning programs, such insurance policies, which could be used for any sport, might prove to be a winner.

"It was a great decision on our part," said Rob Mullens, executive senior associate athletic director for the University of Maryland in College Park. The athletic department previously has purchased the incentive coverage for other sports in addition to football, Mr. Mullens said. While the coverage has paid out in the past, it was "nothing as significant as this," he said.

Mr. Mullens would not comment specifically about the policy's payout except to say that it was in the "ballpark" of \$300,000.

The way the program works, Maryland's athletic department provides the football

team's performance history and the potential bonus amounts under each contractual scenario for the coaches, and Dallas-based broker McCrum Cos. Inc. analyzes the risk and markets the program to insurers.

"It requires very extensive analysis," said Doug McCrum, president of the brokerage, which placed Maryland's coverage with an unidentified insurer. "Not only do you have to look at the team but you've got to look at their schedules, their competition, their recruiting and any other factors that they may have during the season...to assess the likelihood of them achieving that event," he said.

In the University of Maryland's case, its football team had not been to a bowl game since the 1990 Independence Bowl. Last Wednesday's Orange Bowl appearance was the university's first major bowl game since the 1977 Cotton Bowl.

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Coke case expands ability of claimants to sue for fear of injury in Florida

By MICHAEL BRADFORD

TALLAHASSEE, Fla.—A Florida Supreme Court decision in a case in which two women claimed they drank from a soft drink bottle they believed contained a used condom broadens a state law under which plaintiffs, in order to collect damages, must show that emotional distress is related to a physical injury.

The 4-1 ruling issued Dec. 13 is important because it establishes that ingestion is an "impact" under Florida's so-called "impact rule," which requires that a stress claim be related to a physical injury. The judges point out in the decision that, while "there have been a variety of other ingestion cases in Florida," none has resolved the issue of whether damages for emotional distress are barred when there are no accompanying physical injuries.

It remains unclear how significant the ruling will be, according to Russell S. Bohn, a

IMAGE COURTESY OF COCA-COLA CO.



plaintiffs attorney in the case who is with the firm of Caruso, Burlington, Bohn & Compiani in West Palm Beach, Fla. Mr. Bohn said that, while it will be easier for plaintiffs to claim emotional damages from an ingested substance,

A case alleging contamination of a bottle of Coke may pave the way for distress claims in Florida.

"the question is, what is it worth?"

Verdicts and settlements in such cases generally are for relatively small amounts, Mr. Bohn said. "Whether there will be any real expense to the insurance industry, I don't know. On the other hand, it may increase the number of suits that are filed," he said.

The recent state Supreme Court case involves two sisters' claims that in 1992 they "drank from a bottle of Coke which they both agreed tasted flat," according to the Supreme Court decision. Holding the bottle up to a light, they observed what appeared to be a used condom inside, the court papers note.

Both women subsequently tested negative for HIV. They claimed emotional distress in their suit against Coca-Cola Bottling Co., whose scientist testified that the object in the bottle was a type of mold that can grow in beverages that have lost their carbonation.

Despite the absence of any physical injury, See COKE/ page 21

Terrorism exclusions widely approved

By MEG FLETCHER

State insurance regulators in nearly all jurisdictions have either approved exclusions for terrorism in commercial lines policies or are taking steps to allow insurers to exclude such risks.

The main focus of regulators in most jurisdictions—with the notable exceptions of California and New York—is to approve exclusions that are at least as extensive as the latest language regulators negotiated last month with the Insurance Services Office Inc. in Jersey City, N.J.

In November, ISO had filed optional terrorism exclusions in every U.S. jurisdiction (*BI*, Dec. 17, 2001). ISO subsequently limited the exclusions, however, following negotiations in December with regulators from the National Assn. of Insurance Commissioners, according to NAIC President Terri Vaughan, the Iowa insurance commissioner.

The amended version excluded property damage due to terrorism when just insured losses exceed \$25 million, rather than the total of both insured and uninsured losses, which had been the trigger in the original version. In addition, the exclusion for biochemical hazards requires that such hazards be an overt part of a terrorist attack, rather than an inadvertent result of one.

An ISO spokesman said late last week that, so far, 35 states, the District of Columbia and Puerto Rico have approved the exclusions.

In addition, the NAIC recently issued a model bulletin for insurers for states to consider adopting, as Iowa has, Ms. Vaughan said. That bulletin, which summarizes action adopted by nearly all NAIC regulators last month, endorses conditional approval of commercial

See NAIC/page 21

Cell phone makers, liability insurers battle over coverage for injury claims

By ROBERTO CENICEROS

Consumer lawsuits demanding that cellular telephone companies take steps to reduce potential cell phone-related health risks have sparked coverage battles between policyholders and their commercial general liability insurers.

Zurich American Insurance Co. and one of its units, The Northern Insurance Co. of New York, recently have sued several wireless industry policyholders, seeking declaratory relief from providing those policyholders defense or indemnity against consumer class-action lawsuits.

The policyholders—Helsinki, Finland-based Nokia Inc. and Hauppauge, N.Y.-based Audiovox Corp., both cell phone manufacturers; and Timonium, Md.-based Baltimore Business Communications Inc., a wireless vendor—face class-action suits in several states. The suits demand that wireless companies provide

headsets—or money to purchase such equipment—which the plaintiffs say would reduce alleged radio frequency radiation-related health risks by moving the source of the radiation—the phone's antenna—away from the user's head.

Meanwhile, Motorola Inc. and AT&T Wireless, among other companies, have sued their insurers, seeking defense and indemnity for consumer class-action lawsuits, according to attorneys familiar with the litigation. Representatives from Motorola and AT&T Wireless did not return telephone calls seeking comment.

Although Zurich prevailed in the first of its suits, policyholder attorneys note that the coverage battles are likely to continue.

Central to the disputes is whether plaintiffs' demand for headsets involves actual bodily injury as defined under CGL policies, attorneys say. Part of the dispute stems from the

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Concern about potential health claims by cell phone users is spurring litigation between insurers and phone makers.



PHOTO: AP/WIDE WORLD

Flight attendant sues airline, charging bias in benefit plan

By **ROBERTO CENICEROS**

LOS ANGELES—American Airlines will fight a lawsuit filed by a flight attendant claiming discrimination because her health plan allegedly covers Viagra for men but not infertility treatment for women.

The suit is one of only a few similar lawsuits that have been filed nationwide, according to employer groups, reproductive rights advocates and Dolores Leal, an attorney

who is representing flight attendant Martina Alexander. That could change, though, as more women postpone childbirth and later seek fertility treatment, said Ms. Leal, a partner at Allred, Maroko & Goldberg in Los Angeles.

Of the lawsuits heard to date, the most significant ruling was made in June 2001 when a federal judge in Seattle ruled in *Jennifer Erickson vs. The Bartell Co.* The judge found that Bartell's self-funded health plan,

which excluded coverage for contraceptives, violated Title VII of the federal civil rights law, as amended by the Pregnancy Discrimination Act of 1978. The judge found the plan denied coverage for a class of drugs used only by women (*BI*, June 18, 2001).

The allegations in Ms. Alexander's lawsuit, filed Dec. 13 in a Los Angeles federal court, are broader than the earlier case. She claims her employer's health plan reimburses male employees for the purchase of Viagra but does not cover birth control pills, pap smears or infertility treatment for women—allegations that American Airlines disputes.

Ms. Alexander's lawsuit alleges sex discrimination and violation of Title VII of the civil rights law, as amended by the Pregnancy Discrimination Act of 1978, and of the Americans with Disabilities Act. Ms. Alexander's suit seeks injunctive relief, unspecified damages and permission to sue on behalf of all similarly situated American Airlines employees.

"We think it absurd for individuals to sue an employer for want of a particular benefit coverage," said Neil Trautwein, the director of employment policy for the National Assn. of Manufacturers in Washington. Such lawsuits will only increase health care benefits costs for all employees, possibly making them unaffordable for some, Mr. Trautwein said.

An American Airlines spokeswoman said the company offers employees in California the option of choosing from among three health maintenance organizations, a point-of-service plan and a self-funded indemnity plan.

All the plans offer coverage for pap smears, the spokeswoman said. The indemnity plan covers birth control, infertility treatment and Viagra only if they are necessary to treat medical conditions. For full coverage of birth control and infertility treatment, an employee must choose an HMO plan, the spokeswoman said.

Ms. Alexander chose coverage under the indemnity plan. Her attorney said the flight attendant should not have to accept coverage under an HMO—which would restrict her choice of medical providers—in order to have coverage for care such as infertility treatment.

The American Airlines spokeswoman said the lawsuit paints an unfair picture of the company.

"This notion that the health care of women at American Airlines is neglected is absolutely nonsense," she said.

Because a large number of women comprise American's workforce, the company faces substantial expense from treating illness that affect women, such as breast cancer, the spokeswoman said. Therefore, she said, the company's medical director is keen to ensure that employees are provided with preventive care such as pap smears and mammograms.

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Charter: Response to bill mixed

Continued from page 1

as minimum capital requirements and reserving rules for nationally chartered insurers and producers. The measure does not discuss specific minimum dollar amounts.

Nationally regulated insurance entities would not be subject to state regulation, and states could not discriminate against them. In addition, producers who represent nationally chartered insurers would have to obtain a national license.

Supporters of optional federal chartering hailed the introduction of the Schumer bill as much for its symbolism as its particulars.

The measure has "great political significance," said Joel Wood, senior vp-government affairs for the Council of Insurance Agents & Brokers in Washington. "It's the first federal chartering bill that has been introduced since the Dingell bill in 1994," he said, referring to a federal solvency measure drafted by Rep. John Dingell, D-Mich., that never became law.

Mr. Wood said that the bill's details are less significant than the mere fact of its existence. "No one is under the illusion that this is going to be signed into law this year," he said. But the Schumer bill should have a "galvanizing effect" on efforts by the CIAB and others to keep Congress focused on harmonization of producer licensing requirements, Mr. Wood said.

The legislation "is an important step toward creating a modern insurance marketplace that can meet the many and varying needs of the

21st-century consumer," American Insurance Assn. President Robert E. Vagley said in a December letter to Sen. Schumer.

Furthermore, enactment of optional chartering could aid the industry with regard to legislative matters, said Julie Rochman, an AIA senior vp in Washington. "Certainly, anyone who is paying close attention to the national debate over federal terrorism insurance knows that the effort suffered dearly because there was a lack of federal-level expertise about the insurance industry and how it functions," she said.

But others in the insurance industry took a less enthusiastic view of the matter.

"While well-intentioned, this bill is premature at best," said Kenneth Schloman, Washington counsel for the Alliance of American Insurers.

"Realistically, the first order of business when Congress comes back on Jan. 23 should be to address the market problems created by Sept. 11," he said.

Mr. Schloman also said that Senate action on optional federal chartering would be premature, because states are already working on modernizing and promoting uniformity of regulation. "They need a chance to get that to work," he said.

"We do support state regulation of insurance, and we feel that Congress needs to give the states adequate time to address needed—with emphasis on the 'needed'—reforms," said Carl Parks, senior vp-government relations in the Na-

tional Assn. of Independent Insurers' Washington office.

"In the meantime, the terrorism reinsurance issue is one that is appropriate for federal action and is really needed now," Mr. Parks said.

Michael Phillipus, vp-external affairs for the Risk & Insurance Management Society Inc., said that "RIMS supports policies that will increase the efficiency and uniformity of our members' insurance purchasing abilities."

"A single regulator and fewer rate and form restrictions would make risk managers' jobs easier. Sen. Schumer's proposed optional federal charter bill provides an interesting starting point for what will no doubt be an extensive and significant debate over the role of the federal government in insurance regulation," said Mr. Phillipus, who also is manager-risk management at Pennzoil-Quaker State Co. in Houston.

"RIMS believes that the implications of optional federal chartering, as well as reform measures at the state level, should be seriously assessed for their ability to positively impact the insurance market," he said.

The National Assn. of Insurance Commissioners has consistently opposed optional federal chartering. The NAIC would not comment on the Schumer proposal, but provided a copy of a statement issued weeks before the bill was introduced that called the idea unnecessary and urged greater focus on state-based regulatory reform.

Commentary

A few sausages remain unmade

The year ended with considerable frustration over Congress' failure to act on several important pieces of legislation.

One obvious disappointment for the insurance industry was the inability of the House and the Senate to reach agreement on any federal backing for insurers providing terrorism insurance coverage. While it is still possible that the 107th Congress will act on these proposals in the new year, it is also possible—and some might say just as likely—that the Chicago Cubs will win the World Series.

It is especially disappointing because the aviation industry, whose utter failure to satisfy travelers has spawned an entire genre of violence known as "air rage," won a quick handout and liability relief. Could this mean there exists a previously undocumented phenomenon known as "premium rage" that has soured lawmakers' willingness to aid the insurance industry?

Other legislation related to the Sept. 11 attacks was also left in

limbo, including a proposal for the government to pay up to 75% of the COBRA premiums of individuals who lost their jobs after Sept. 11.

Employers also saw proposals wither in Congress that would allow employees to roll over unused flexible spending account balances. Another measure that did not clear Congress—to the relief of some employers but not of *BI's* editor—would require employers to offer the same coverage for mental health care as for other health care.

And, of course, perennial efforts to win congressional support for broad tort reform, Superfund reform and asbestos liability reform proposals went nowhere.

Considering what failed to win congressional support or attention last year, you might wish to review some of the measures that did become law in 2001. The government maintains a Web site, <http://thomas.loc.gov>, that provides a search engine for all legislative activity for the current and previous sessions of Congress.

An electronic stroll through these records is a bit overwhelming and reminds me of the saying that making laws is a lot like making sausage. In other words, some of what you learn will please you, but some of it will disgust you.

One overlooked bit of legislation passed by Congress in late December was reported last week in the *New York Times*. This was the Homestake Mine Conveyance

Act of 2001, sponsored by Sen. Tom Daschle, D-S.D.

The legislation, which was added without debate to a Defense Department funding bill that won House and Senate approval last month, is designed to pave the way for a mining company in South Dakota to donate a dormant gold mine to the state, to be used in federal scientific research. In exchange, Uncle Sam would provide the company with relief from any liability stemming from pollution at the site, as well as cover the cost of any future cleanup expenses.

Given the fact that this measure contains elements of tort reform, Superfund reform and brownfields

reform all in one, it is a shame that Sen. Daschle and other lawmakers did not feel that other businesses around the country might also benefit from this kind of liability relief. They call this sort of narrow largesse "pork-barrel politics."

Congress did act on other measures last year with clearer benefits to the wider

public, though.

Legislation became law last month, for example, that calls for greater funding and research into a cure for several of the most common forms of muscular dystrophy, a fatal disease that afflicts children and was described in this column last September.

Lawmakers also approved sweeping pension reforms, capping a three-year effort to improve the laws that govern how these benefits are administered and delivered by private employers.

In late December, a bill that would provide small businesses with liability relief for developing brownfields sites was sent to the White House for signature.

And don't forget that lawmakers last March invoked the little-used Congressional Review Act to undo the controversial ergonomics standard adopted by the Occupational Safety and Health Administration in the last days of the Clinton administration.

Now we head into the second half of the 107th session of Congress, which has a fair amount of unfinished business. We can only hope that, amid all that sausage-making, the legislators come up with something we find palatable.



Paul D. Winston

Editor Paul D. Winston's commentary appears fortnightly and on www.businessinsurance.com. He can be reached by e-mail at pwinston@crain.com.

INSURANCE in a TIME OF TERROR



The Aftermath of September 11th
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 - The claims landscape post September 11th
 - Victims Compensation Fund and the airline bills: how they work and what they mean to the future of mass litigation
 - Actions against terrorists' assets
 - State and regulatory issues: ISO exclusions, reinsurance and solvency

For more information, a complete agenda and registration form — please call us toll free at 1-800-242-2302 or visit our website at www.aiadc.org

WHERE: The Omni Shoreham Hotel, Washington, D.C.

WHEN: January 31, 2002 from 8:00am to 5:00pm

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Schillerstrom



Editorial

Predictions for 2002

IF THE EVENTS OF 2001 have taught the world anything, it's that some things are not predictable. At the start of 2001, no one could have foreseen the unprecedented losses from terrorist attacks on the United States and their widespread repercussions on the insurance industry and other sectors of the economy. Those losses, which amount to the largest insured catastrophe in history, led to an acceleration of hardening conditions in the property/casualty insurance market, and their repercussions will be felt in 2002 and for years to come.

After 13 years of making predictions in January about the coming year, *Business Insurance* knows well the challenges of accurately forecasting what the year will bring the fields of risk management and employee benefits. Perhaps that's to be expected, since the insurance industry makes its living by helping policyholders cope with uncertainty.

Looking back, our record for 2001 predictions was mixed, as usual (*BI*, Jan. 1, 2001). On balance, though, we got it right more often than wrong.

Among the misses, we predicted a surge of interest in funding benefits through captive insurers, which did not come to pass. We also expected the widespread adoption by employers of ergonomics programs to comply with the regulations of the Occupational Safety and Health Administration, but that did not occur after Congress revoked those controversial rules in March.

We also missed the mark when we said that 2001 would be a year with relatively light catastrophe losses in the United States; that was proved false by Tropical Storm Allison, among other natural disasters. And we did not expect a longstanding effort to win pension reforms to succeed, as it did when legislation was enacted in May that expanded benefits and cut government red tape.

We hit our targets, though, with predictions of an end to multiyear insurance programs and guaranteed cost property/casualty insurance. We also foresaw new interest in captive insurance and other risk financing alternatives as market hardening progressed. We correctly predicted that employers would shed their reluctance to pass along health care cost hikes to employees, as well as scale back overly generous prescription drug benefits.

We were right that efforts to penalize Bermuda-based companies for alleged tax advantages would lose steam, especially because many insurers flocked to form new

facilities in Bermuda as the market hardened. And we also predicted that concern about asbestos exposures would continue to escalate in 2001, though even we did not expect it to force as many companies into bankruptcy as it did.

With great hopes of again achieving a winning record overall, we gamely set forth our 14th annual predictions for the new year. For 2002, we offer the following ins and outs:

IN: Private initiatives to solve the terrorism coverage crisis.

IN: Terminating underfunded pension plans.

IN: Consumer-driven health care plans.

IN: Proposals for optional federal chartering of insurers.

IN: Applying risk securitization concepts to more exposures.

IN: Restrictions on the amount of 401(k) investments in company stock.

IN: Bank ownership of insurance brokerages.

IN: Trying to find the lowest-priced insurance policy.

IN: New ergonomics guidelines for employers.

IN: Shareholder litigation over drops in stock prices.

IN: Consolidation among health insurers.

IN: Exclusions in commercial general liability policies.

IN: Efforts to market fraudulent insurance programs.

OUT: Generous employer matches on 401(k) contributions.

OUT: Inexpensive terrorism coverage.

OUT: Traditional health maintenance organizations.

OUT: Government support for terrorism insurance coverage.

OUT: Benefits plans that cover Viagra but not birth control pills.

OUT: Bank ownership of insurers.

OUT: Preferences for Jan. 1 renewal dates on insurance programs.

OUT: Single-digit increases in insurance rates.

OUT: Dormant captive insurers.

OUT: Vague definitions of "occurrence" under property insurance policies.

OUT: Adoption of new and offbeat work/life benefits.

OUT: Insurer coverage of film financing deals.

Letters to the Editor

Government must aid insurance buyers

To the editor: Commercial insurance buyers nationwide, especially those in South Florida, are being ripped off. Things were difficult enough here with our hurricane exposure and prevalent fraud, but now we're being faced with exorbitant insurance rate increases and coverage restrictions as a direct result of the Sept. 11 World Trade Center catastrophe.

Why hasn't our state or federal government stepped up to protect our businesses from these rate hikes in the face of the ongoing, serious economic downturn?

Particular empathy should be given to our nonprofit social service organizations, which were already under pressure to maintain current service levels, despite cutbacks in government funding at all levels. No doubt some businesses and nonprofits will ultimately close their doors in the face of the insurance crisis.

Despite the fact that the death toll from Sept. 11 has been revised from 6,000 downward to 3,000, there has been no serious attempt made by the insurance industry to scale down its initial loss estimates, ranging anywhere from \$30 billion to \$100 billion. But depending on whom you ask in the insurance industry, the industry's consolidated surplus figures range from \$125 billion to \$275 billion so, even under a "worst-case scenario," the industry would not go bankrupt as a result of Sept. 11 claims.

It's unfortunate during this period of time, when patriotism is at an all-time high in the United States and heroes are being recognized and honored daily, that the insurance industry is failing once again to improve its public image. Suits have already been filed in which, depending upon the outcome, insureds could find themselves recovering substantially less money than they thought they were entitled to when they first negotiated their insurance policies.

Because businesses will be forced to pass on their higher insurance costs, every American will be affected in some way. Now is our chance to be heard—we must contact our local state and federal representatives and demand relief.

Michael S. Scheinblum
Aventura, Fla.

BI's online forum

Visit *BI's* online forum, which offers unmoderated discussion areas for readers to exchange ideas or information on risk management, employee benefits, insurance and miscellaneous other topics.

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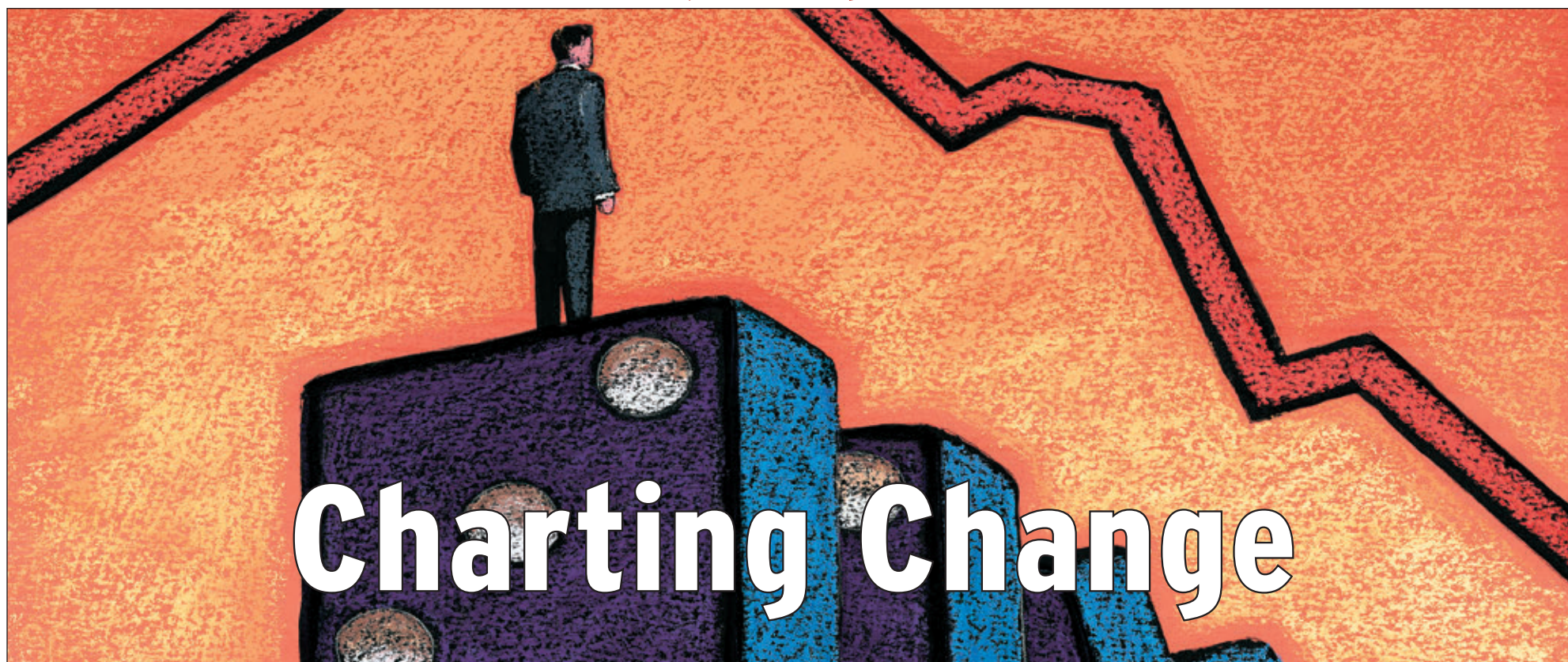
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ONWARD. UPWARD.



2001 ushered in significant changes for risk managers, employee benefit managers and the insurance industry. Months before the terrorist attacks on Sept. 11 changed many companies' perception of risk and precipitated a drastic hardening of insurance and reinsurance markets, corporate insurance buyers began to see rates rise and risks face closer scrutiny by

underwriters. Among other occurrences, asbestos claims increased, tax rules on captive premiums were relaxed and new capital flowed into Bermuda.

Employee benefit managers also received some surprises, such as soaring health care costs, sweeping pension reform and expanded medical privacy rules.

Our feature, Charting Change, highlights some of the events and trends of the past year. Central to this report are two timelines, each summarizing the major events in risk management and employee benefits during 2001.

In addition, several charts of interest to risk managers and benefit managers appear throughout the section:

World's 10 largest brokers / page 11
Reinsurance brokers / page 12
Captive managers / page 14
Risk management consultants / page 14
Surplus lines insurers / page 14
Insurance wholesalers / page 14
Case managers / page 15
Employee assistance program providers / page 16
Claims administrators / page 16

Developments in 2001 relating to employee benefit programs

JANUARY:

With a record \$10 billion in surplus, David Strauss, head of the Pension Benefit Guaranty Corp., recommends reducing the insurance premiums that the agency charges employers with fully funded pension plans.

Final Internal Revenue Service regulations give employees in flexible benefit plans more opportunities to amend their benefit elections.

Newly issued IRS final regulations on COBRA answer a slew of employer questions, such as whether employers must offer COBRA coverage to beneficiaries who have access to lower-cost coverage, and whether employers can cut off coverage when beneficiaries' premium payments are off by a few dollars.

FEBRUARY:

Backers of comprehensive pension reform legislation that died during the waning days of the previous congressional session begin a new drive to win passage of their legislation. The reform measure, which would cut red tape for employers and in-

crease the opportunities for employees to save for retirement, wins passage in Congress in May.

MARCH:

The Bush administration considers a proposal that would allow employees with health care flexible spending accounts to roll over from one year to the next up to \$500 in unused FSA balances. However, the proposal was never formally introduced.

Hewitt Associates L.L.C., the nation's second-largest benefit consultant, mulls over the possibility of going public through a sale of shares, though no offering was initiated in 2001.

APRIL:

PricewaterhouseCoopers L.L.P. evaluates whether to sell its benefit consulting unit, Unifi Network. In November, PwC agreed to sell Unifi to Mellon Financial Corp., parent of Buck Consultants Inc., for \$275 million.

Employers that provide "lesser" health

Continued on page 15

Timeline of events in risk management throughout 2001

JANUARY

Property/casualty insurance buyers see signs of market hardening in their renewals. Rates continue to rise during the year, and the hardening increases dramatically after Sept. 11.

Lloyd's of London increases its premium capacity by 10% to £11.06 billion (\$16.62 billion), the largest annual increase since 1994, due to increased investment by corporate members.

An earthquake in western India Jan. 26 kills tens of thousands and causes economic damage in excess of 150 billion rupees (\$3.22 billion).

FEBRUARY

XL Capital Ltd. prepares to enter the international primary insurance market in announcing it will acquire the large-commercial business of Winterthur Swiss Insurance Co. for \$600 million.

A 6.8 magnitude earthquake shakes Seattle Feb. 28, injuring more than 300 and causing one heart attack death. Property damage is superficial, however, with insured losses reaching about \$330 million.

MARCH

Wells Fargo & Co. agrees to buy the parent of broker Acordia Inc., for an undisclosed sum. Acordia and Heath Lambert Group later announce a joint venture network for global brokerage and risk management services. After nearly six months as a Minneapolis-based unit of Wells Fargo Insurance Co., Acordia reclaims its former name, moves back to Chicago and becomes a wholly owned subsidiary of Wells Fargo & Co.

Troubled Frontier Insurance Group Inc. announces its Frontier Insurance Co. unit will stop writing new and renewal business in the wake of a sharp drop in policyholder surplus.

President George W. Bush signs legislation revoking the Occupational Safety and Health Administration's ergonomics standard.

An oil rig owned by Brazil's Petroleo Brasileiro S.A. sinks off Rio de Janeiro. The \$700 million loss is expected to drive up offshore energy insurance rates.

Lloyd's of London posts a £1.06 billion (\$1.58 billion) loss for the 1998 year of account and says an even larger loss is likely for the 1999 year.

Continued on next page

Continued from previous page

APRIL

Willis Group Ltd. unveils plans to redomesticate to Bermuda from the United Kingdom and launch an initial public offering of a new holding company. The June IPO raises \$270 million before expenses, and \$400 million worth of shares in Willis Group Holdings Ltd. is sold in a secondary offering.

Paint manufacturers join tobacco companies and gun makers as targets of public entity lawsuits, as Rhode Island and Milwaukee separately sue to recoup the cost of removing lead paint in public and private buildings.

Benfield Greig Group P.L.C. agrees to acquire rival E.W. Blanch Holdings Inc. for \$179 million. The move creates the world's largest independent reinsurance broker and the third-largest intermediary overall.

MAY

Saul Steinberg resigns as chairman of troubled Reliance Group Holdings Inc., and George Baker resigns as interim CEO of Reliance Group and its Reliance Insurance Co. subsidiary. Both men also resign from Reliance Group's board. In October, Pennsylvania regulators place the company into liquidation.

Congress again takes aim at an alleged tax loophole some U.S. insurers say favors offshore insurance holding companies. H.R. 1755 would raise taxes on premiums ceded by U.S. insurers to affiliated reinsurers in low-tax foreign jurisdictions such as Bermuda.

JUNE

London market insurers respond to new asbestos bodily injury claims by requiring that claims be backed by medical evidence of illness, including proof that the claimant was exposed to asbestos for which the insurer is responsible.

The Internal Revenue Service abandons its long-held position that premiums paid to captives in the same "economic family" are not deductible. Later in the month, a federal appeals court overturns a tax court ruling that a United Parcel Service of America Inc. package reinsurance program was a tax dodge.

Tropical Storm Allison causes at least two dozen deaths and \$2.5 billion in insured losses in Houston, the Gulf Coast and elsewhere. The slow-moving storm surprises those who previously thought a tropical storm could not cause such damage.

Georgia Insurance Commissioner John W. Oxendine moves to suspend The St. Paul Cos. Inc.'s license after it says it will stop writing medical malpractice liability coverage on an admitted basis in the state. In December, The St. Paul announces plans to exit med mal business altogether.

Continued on next page

WORLD'S 10 LARGEST INSURANCE BROKERS

Company	Brokerage revenues		% change	Employees		% change
	2000	1999		2000	1999	
Marsh & McLennan Cos. Inc.	\$6,915,000,000	\$6,473,000,000 ¹	6.8	50,500	47,000 ¹	7.4
Aon Corp.	5,137,000,000 ²	4,800,000,000	7.0	40,000	39,000	2.6
Willis Group Holdings Ltd.	1,304,931,600	1,239,388,000 ²	5.3	10,470	9,446	10.8
Arthur J. Gallagher & Co.	716,466,000	586,054,000	22.3	5,201	4,589	13.3
Wells Fargo Insurance Brokerage Inc.	610,163,000 ²	190,254,000	220.7	5,055	807	526.4
Jardine Lloyd Thompson Group P.L.C.	462,380,000 ³	432,006,000 ²	7.0	4,160	3,641	14.3
HLF Insurance Holdings Ltd.	405,855,832 ⁴	405,664,325 ³	0.1	4,128	4,580	-9.9
Alexander Forbes Ltd.	385,410,480	329,158,998 ⁴	17.1	5,307	4,758	11.5
USI Insurance Services Corp.	359,690,000	320,555,000	12.2	3,205	3,159	1.5
Hilb, Rogal & Hamilton Co.	260,275,000	222,320,000	17.1	2,100	2,185	-3.9
Total	\$16,557,171,912	\$14,998,400,323	10.4%	130,126	119,165	9.2

¹ Restated ² British pound=\$1.516 (2000), \$1.618 (1999); fiscal year ending 12/31. ³ British pound=\$1.4787 (2000), \$1.595 (1999); fiscal year ending 3/31.
⁴ South African rand=\$0.1365 (2000), \$0.153 (1999); fiscal year ending 3/31
 Source: BI survey

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WORLD'S LARGEST REINSURANCE BROKERS

Company	Gross revenues ¹ 2000	% change	Employees 2000	% change	2000 % treaty	1999 % treaty
Aon Re Worldwide	\$682,000,000 ²	4.1	2,600 ²	-13.3	NA	NA
Guy Carpenter Co. Inc.	550,000,000	4.6	2,084	0.2	95	95
Benfield Group P.L.C.	410,654,080 ^{3,4}	158.2	1,634	205.4	98	98
Willis Re Inc.	304,000,000	20.2	913	4.9	NA	NA
JLT Risk Solutions Ltd.	106,568,736 ³	23.5	NA	NA	72	72
Heath Lambert Group	85,912,470 ⁵	-18.4	323	-17.6	56	60
Towers Perrin Reinsurance	57,450,000	12.0	252	12.5	95	95
Arthur J. Gallagher & Co. ⁶	50,857,000	5.2	323	6.3	NA	NA
BMS Group	34,700,000	17.2	230	7.0	95	95
John B. Collins Associates Inc.	26,075,000	25.4	115	47.4	100	100

¹ Based on reinsurance brokerage and services only ² B/ estimate ³ Fiscal year ending 12/31/00 (British pound = \$1.516) ⁴ Pro forma results to reflect the 2001 merger with E.W. Blanch Co. Inc.
⁵ Fiscal year ending 3/31/01 (British pound = \$1.4787) ⁶ Includes Arthur J. Gallagher (Intermediaries) Bermuda Ltd., Arthur J. Gallagher Intermediaries Inc., Arthur J. Gallagher (UK) Ltd. and John P. Woods Co. Inc. NA = Not available
Source: B/ survey

Continued from previous page

JULY

Attempting to set Bush administration policy on workplace ergonomics safety, Secretary of Labor Elaine L. Chao holds public hearings in Washington, Chicago and Stanford, Calif.

Tamil Tiger rebels attack the airport in Colombo, Sri Lanka, killing at least 18 and destroying 18 aircraft. Losses are estimated at \$400 million and add fuel to an already hardening insurance market.

AUGUST

Aon Corp. becomes the world's largest captive manager with its acquisition of SINSEER Holding A.B. from the Skandia Group. SINSEER becomes part of Aon International Risk Management Group, which was formed when Aon acquired International Risk Management Group Ltd.'s captive management operations in late 2000.

A Pennsylvania state judge orders PHICO Insurance Co. into rehabilitation after massive first-half losses nearly deplete the medical malpractice liability insurer's policyholder surplus.

Munich Re Capital Markets structures a derivative tool that would pay out if an earthquake disrupts this year's World Cup soccer championship. The \$50 million contract, underwritten by Berkshire Hathaway Group, would protect AXA Colonia Versicherung A.G. and Munich Re, which were writing the World Cup event cancellation coverage. Later, AXA pulls out of the World Cup coverage, and Berkshire Hathaway unit National Indemnity Co. steps in to provide the cancellation coverage.

SEPTEMBER

Zurich Financial Services Group announces plans to launch an initial public offering of unit Zurich Re and divest itself of at least 70% of the reinsurer. The company completes the IPO of Converium Holdings A.G., the rebranded Zurich Re, in December, selling 35 million shares, 87.5% of Converium's share capital. The IPO raises \$1.1 billion net of expenses and Zurich's capital contribution to Converium.

Two hijacked passenger jets strike the World Trade Center towers Sept. 11, while a third is flown into the Pentagon. A fourth jet crashes in a Pennsylvania field after passengers apparently thwart hijackers. The terrorist attacks kill about 3,000 in New York, including employees of the many insurance industry companies housed in the two towers, 125 in Washington and 265 on the four planes. The attacks are expected to be the largest insured loss ever, with estimates ranging from \$30 billion to \$70 billion. The attacks further harden the market, give rise to concerns about coverage availability and the exclusion of losses resulting from terrorist attacks in future insurance policies. It also leads to the formation of sever-

Continued on page 14

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AGENT/BROKER TOPICS

A MONTHLY EDITORIAL SECTION SENT EXCLUSIVELY TO AGENTS, BROKERS AND CONSULTANTS

Financial Strategies



Insurers left behind by modernization

Gramm-Leach-Bliley Act's main beneficiaries have been banks, observers say

By MARK A. HOFMANN

Enactment of the Gramm-Leach-Bliley Act was supposed to pave the way to true financial modernization by allowing banks, insurance companies and producers, and securities firms to enter each other's businesses.

But now, a little more than two years after then-President Clinton signed the measure into law, Gramm-Leach-Bliley is looking a lot more like a one-way street than the open road. While banking companies have aggressively branched into new financial services sectors—particularly the distribution side of insurance—neither insurers nor securities firms have followed suit to any significant degree.

In fact, the only high-profile merger of an insurer and a bank—the creation of

Citigroup Inc. out of Travelers Group and Citicorp—took place before Gramm-Leach-Bliley became law. And even that didn't last: Citigroup last month announced plans to spin off Travelers Property Casualty Corp. (*BI*, Dec. 24, 2001).

Observers give numerous explanations for why banks have taken far more advantage of their new freedoms than have other financial concerns.

One significant factor is the regulatory role of the Federal Reserve Board under the liberalized arrangement, according to Peter Wallison, a resident fellow at the American Enterprise Institute, a think tank in Washington.

Other than bank holding companies, "very few companies have wanted or will want to let the Fed determine what business they are permitted to enter," Mr. Wallison said during a roundtable discussion at the

AEI in November.

"In other words, the act's requirement that companies that control banks engage only in activities that the Fed defines as 'financial in nature' is its fatal flaw," he said. Furthermore, he said, "while it was certainly possible to make a distinction between banking and nonbanking companies—because banking has a relatively clear definition—it is not possible to make a principled distinction between financial and nonfinancial activities."

Banking organizations have been busy acquiring insurance and securities operations, he noted. But "of the hundreds and hundreds of transactions approved by the Fed in the last two years, only a handful have involved companies from outside of the banking business coming in to become a financial holding company," Mr. Wallison said.

Part of the reason that banks have been more active in convergence is simply the relative size of the parties involved, said Beth Climo, executive director of the American Bankers Insurance Assn. in Washington.

"The traditional bank-centered holding companies tend to be the acquirers, because of the banking industry's larger capitalization and market value," she said. Some insurance industry entities, however, have developed banking operations in recent years (see story, page 12D).

Ms. Climo also noted that, in general, banks haven't been looking at buying insurers but rather at becoming involved in the agent/broker side of the business. "The great activity is banks and bank holding companies acquiring or getting into insurance agency business," she said.

Like Mr. Wallison, Ms. Climo said that

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Financial services convergence allowing insurance entities to branch out / 12D

**States differ on privacy requirements / 12F
Study identifies marketing opportunities / 12H**

AGENT/BROKER TOPICS

GLB: Insurers left behind by financial services modernization

Continued from previous page
concern about the role of the Fed might be discouraging nondepository institutions from branching into banking. "I think there is a real hesitancy of those that have not been bank holding companies heretofore to become financial services companies and subject themselves to Fed jurisdiction," she said.

Others agree. "When an insurance company or a securities firm chooses to go into full banking integration, they are

subjecting themselves to a very complex and comprehensive set of regulations and scrutiny from a very competent and far-reaching federal regulator," said Joel Wood, senior vp-government relations for the Council of Insurance Agents & Brokers in Washington.

In addition, there's "very little" an insurer can do with a bank, said Michael A. Cohen, a vp at A.M. Best Co. in Oldwick, N.J. "It doesn't fit their existing business. The financial supermarket concept didn't work."

Debra Ballen, executive vp of the American Insurance Assn. in Washington, said that "at this point, most of the activity (among banks) has been on the distribution side as opposed to the underwriting side."

Insurance companies generally have not been that attractive to banks, said Ms. Ballen, because insurers have a lower return on capital than what banks seek. In addition, she said that losses associated with the World Trade Center attacks "won't look good

short term and might influence the bank sector to put its capital elsewhere" for the foreseeable future.

Some of the promise of financial services convergence may have been more imagined than real.

"Insurance agents fought banks for so long and for so hard to block them from the door of insurance agency activities that banks thought that there was money there," said the CIAB's Mr. Wood. He suggested that both sides might be learning that there was "more

cachet" about being associated with each other's business when they were fighting for the right to enter it than when they actually were allowed to do so.

Gramm-Leach-Bliley was "evolutionary as opposed to revolutionary. To some extent, the legislation was really catching up to where the market was a couple of years ago," said the AIA's Ms. Ballen. "It seems that the merger and acquisition activity seems to be driven by business—rather than legislative or public policy—

'To some extent, the (financial services modernization) legislation was really catching up to where the market was a couple of years ago.'

*Debra Ballen
American Insurance Assn.*

perspectives."

"Looking at the insurance industry, there's been relatively less big merger activity over the past couple of years," said Ms. Ballen. "When you have less of it generally, you're going to have less of it at all levels."

The CIAB's Mr. Wood also noted that the ongoing debate over financial records privacy has the potential to undermine many of the basic advantages of financial services convergence. He said it "was only through an act of God" that California did not adopt privacy provisions even more stringent than those provided by Gramm-Leach-Bliley.

The federal law requires that consumers be given the opportunity to opt out of having their financial information shared among parts of a financial services company; California would have required that consumers actually "opt in" before such information could be shared. If California were to adopt that more stringent standard, it would become the de facto national standard, because companies won't maintain separate standards, said Mr. Wood.

AEI's Mr. Wallison said he believes that the Gramm-Leach-Bliley Act's days are numbered. He said that the law is "fundamentally flawed" in that it attempts to make a distinction between commerce and finance and gives the Federal Reserve Board the job of policing the line, he said. That makes it necessary for companies that want to acquire a bank to give up their freedom to enter new activities.

The act gives the Fed what he called a "conceptually impossible task." There is no way to distinguish between a financial and a commercial activity, he said, and the "arbitrary" decisions that emerge as well as the failure to "create a true two-way street" in financial services "will eventually require the act to be substantially modified or repealed."

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AGENT/BROKER TOPICS

Some insurance entities banking on diverse offerings

Agents, insurer groups see advantages in branching out in financial services

By SALLY ROBERTS

Although the convergence of financial services sectors has not occurred as widely as many had predicted, it is creating opportunities for some in the insurance industry to branch out of their traditional businesses.

For example, even prior to the 1999 enactment of the Gramm-Leach-Bliley Financial Services Modernization Act—which lowered barriers to convergence among the banking, insurance and securities industries—two insurance trade associations were busy creating their own banks. The new banks were developed to allow the associations' members to sell a full range of banking products in addition to insurance.

Business is now flowing into the banks, executives for the operations say, but they note that there have been certain obstacles along the way. In particular, changing an insurance agent's mindset to get him or her to think about selling banking products can be a big challenge, the executives say.

Carmel, Ind.-based Assurance

Partners Bank, which is affiliated with the Indianapolis-based National Assn. of Mutual Insurance Cos., opened its doors for business in June 2000, after receiving the necessary approval by the Office of Thrift Supervision and the Federal Deposit Insurance Corp.

The bank, which received a \$12.5 million investment from 262 NAMIC member companies, initially operated only in Indiana, but is now open in some 40 states where NAMIC has a concentration of members, explained Dave Fronek, president and chief executive officer of Assurance Partners Bank.

The whole idea behind creating Assurance Partners Bank was to help member companies' independent agency distribution force to become more competitive—giving agents a "greater share of wallet," Mr. Fronek said.

He noted that business is growing each month. "We couldn't have processed any more business than what was available to us in October and November."

And starting in 2002, Assurance Partners Bank will begin targeting a new group of clients—member

insurers and their agencies, Mr. Fronek said.

Farmington, Conn.-based InsurBanc, which is co-owned by the Independent Insurance Agents of America Inc. and W.R. Berkley Corp., began operations in April 2001. It operates as a full-service

Selling banking products can help retain clients. 'Today, you can't just have insurance products to offer. You have to offer customers one-stop shopping.'

*Dave Wyrch
Van Dyk Group*

bank in Massachusetts, Connecticut and New Jersey, with plans calling for expansion during the next few years.

For the first six months of InsurBanc's existence, "we really focused on conducting training programs for independent agents," said Mike Herlihy, president and CEO. "We trained 200 independent agents in three states, representing 100 agencies," he said.

And in addition to training agents to sell banking products, InsurBanc has been soliciting their business. According to Mr. Herlihy, in order for agents to be effective in selling InsurBanc's products and services, "they really have to be a consumer of our products and services as well. It's a much more credible sale," he said.

Over the past two months, InsurBanc has changed its focus and has started to solicit referrals from agents.

Mr. Herlihy said that about 100 agents have signed an agreement to market InsurBanc's products to clients, and business is beginning to flow into the bank.

Overall, "the response has been very strong and very promising," Mr. Herlihy said. "There's a lot of enthusiasm from the independent agents' ranks for this concept," he said.

After obtaining the proper licenses and compliance training, the Connelly Agency Inc. in November began selling various banking products through InsurBanc, said Mark Connelly, president of the Fairfield, Conn.-based independent agency. So far, "we have closed four lines of credit

totaling \$1 million," he said, noting that he expects to close the agency's first residential mortgage loan soon.

"I see it as another valuable product offering for our clients," said Mr. Connelly. He noted that most of his local competitors have been acquired by banks, which was not the path he wanted his agency to follow. At the same time, however, he did not "want to be caught short of the products and services clients view as valuable," he said.

InsurBanc has "allowed us to compete fairly easily with banks in our neighborhood and still allows us to be true independent business entrepreneurs," he said.

Dave Wyrch, president of the Van Dyk Group, said that the Long Beach Island, N.J.-based agency also is selling banking products through InsurBanc as a way to keep clients from going to other financial services companies.

"Today, you can't just have insurance products to offer. You have to offer customers one-stop shopping. That's the way I look at it," Mr. Wyrch said.

It's not just insurance agencies
See CONVERGENCE/page 12F

Philadelphia Insurance Companies
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AGENT/BROKER TOPICS

Convergence: Agents, insurers branching out into banking

Continued from page 12D

that are benefiting from the newly established banks.

Brian Wilkin, president of Hingham Mutual Fire Insurance Co. in Hingham, Mass., noted that the establishment of Assurance Partners Bank has allowed the small mutuals to better compete with larger insurance companies.

"It gives small companies like ours a chance to go out and compete head-to-head with other companies," Mr. Wilkin said. He also noted that working with the

bank has allowed Hingham Mutual to offer its independent agency force the opportunity to sell financial products, something "they feel they really need," he said.

Those in charge of the associations' banks say that although business is growing, they have faced challenges along the way. One of the biggest, they say, is getting independent insurance agents to think like financial services providers.

"As a banker all my life, I can tell

you banks have the same problem," Mr. Fronek said. "It's hard trying to get banks to think about mutual funds and insurance, because they think like bankers."

And the opportunities presented by the hardening insurance market are making that challenge even tougher, he said. "We have to command a portion of their time to think about the long term of how to think like a financial services provider."

InsurBanc's Mr. Herlihy agreed that the mindset issue is a big

challenge.

As such, he said InsurBanc's "biggest effort" continues to be educating and training agents. "We're getting together with agents and bringing them through the training program, focusing on what the changing roles mean, how they can participate and how they can recognize" opportunities, he said.

"It's a major paradigm shift and one that takes a while. But when it happens, it's very rewarding," Mr. Herlihy said.

Mr. Connelly from Connelly

Agency agreed that while it might be a challenge for some agencies, it was not difficult for his agency to focus on selling banking products. That's because in addition to selling property/casualty insurance products, the agency sells "an enormous amount of life and annuity business," he said, noting their similarity to banking products.

"Recognizing those opportunities and capitalizing on them, for us, that was an easy thing to work into our daily routine," he said.

Some state privacy regulations rankle industry

Requirements imposing costly burdens, insurance companies and agents say

By MICHAEL BRADFORD

States generally are adopting privacy regulations that insurers and producers can live with, but there have been a couple of notable exceptions, and all eyes will be on California this year.

Forty-four states and the District of Columbia had taken steps as of late December to implement privacy rules required by the 1999 Gramm-Leach-Bliley Financial Services Modernization Act, according to the Alliance of American Insurers. Of those, 35 have based their regulations on the model privacy legislation developed in 2000 by the National Assn. of Insurance Commissioners.

Under the 1999 federal act, affiliated companies within a financial industry holding

company structure can share financial information on clients. But, the legislation requires that those clients be notified of such sharing and be given an opportunity to block any sharing of information outside the holding company "family."

Another requirement of the law is that all financial institutions establish privacy policies.

The thorniest issue in the Gramm-Leach-Bliley privacy debate involves how clients of financial services companies are notified of information sharing. While most states are adopting regulations that would allow clients to opt out of such sharing outside the holding company structure, a couple have decided the information could be shared only if clients "opt in."

There are some "really ugly regulations in New Mexico and Vermont," said Rey Becker, vp with

the Alliance in Downers Grove, Ill. "They go above and beyond just implementing Gramm-Leach-Bliley," he explained, by requiring an opt-in system of disclosure. The result could be burdensome and

There are some 'really ugly regulations in New Mexico and Vermont,' for example, that 'go above and beyond just implementing Gramm-Leach-Bliley.'

Rey Becker
Alliance of American Insurers

expensive for insurers doing business in those states, he noted.

The cost of developing forms and procedures specifically for use in

New Mexico and Vermont would be "unnecessarily costly," according to Mr. Becker, and the expense would be passed on to policyholders in the form of higher premiums.

"It makes those states much less attractive insurance markets," Mr. Becker said.

"The whole opt-in issue is of major concern to agents," said Robert A. Rusbuldt, executive vp of the Independent Insurance Agents of America Inc. in Alexandria, Va. Like insurers, agents would find it burdensome to operate in states that require an opt-in disclosure, he noted. "If they are required to have that kind of customer consent, it could hinder the way agents do business."

Time will tell which way California will fall regarding the disclosure issue, Mr. Becker suggested, but many expect a

repeat performance of last year's "legislative drama" in which a bill establishing opt-in rules was narrowly defeated in California's Legislature.

"When Jan. 1 rolls around, we will be back in the thick of California," agreed Julie Gackenbach, director of government relations at the National Assn. of Independent Insurers in Washington. "It's considered a bellwether, and if we get a bad bill out of there, we could have some unforeseen problems."

Mr. Becker said that "we will probably see bills here and there that propose an opt-in. We will have to react to those on a state-by-state basis."

Research conducted by the Alliance indicates that many states have reacted to concerns raised by that group and others by dropping

See **PRIVACY**/page 12H

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AGENT/BROKER TOPICS

Privacy: Some state regulations rankle industry

Continued from page 12F
or scaling back some of the provisions considered problematic in the NAIC model regulation. A dozen states, for example, have eliminated a provision that prohibited the distribution of personally identifiable health information unless the customer opts in and allows disclosure. And 13 eliminated language that would have applied privacy language to information involving workers compensation claimants, according to the Alliance.

Mr. Rusbuldt said that having so many different state regulations is making it difficult for agents and insurers to adhere to privacy rules.

"Each state is supposed to follow the NAIC guidelines on privacy," he said. "But some have and some haven't."

Furthermore, "there seems to be some confusion on how far states could or should go" when drafting privacy regulations, Mr. Rusbuldt added. "States have been interpreting Gramm-Leach-Bliley in different ways."

For example, some states say agents don't have to send privacy notices to clients if the insurer that writes the customer's coverage is sending a notice. Other states, however, say the agents must send a notice. "So some consumers are getting two or more notices for the

same policy," Mr. Rusbuldt said. "We've advised our members that if they want to take the safest route, they should notify their clients."

On the federal level, "things have quieted down a little bit," according to Ms. Gackenbach. She said legislation was introduced last year "to move to opt-ins rather than opt-outs," but the bill failed to advance in Congress.

Mr. Becker said there are efforts afoot at the NAIC and some federal agencies to develop boilerplate language for the privacy notices that financial services companies are required to distribute. "Our concern there is that the effort to

tinker with the language is coming too late. Insurers already have spent millions of dollars and thousands of hours" to develop the notices, he pointed out, and to start over would be costly and time-consuming.

Many financial services companies are lagging in development of their own privacy policies, according to Larry Ponemon, chief executive officer of the Privacy Council, a Richardson, Texas-based company that helps businesses address privacy issues. "Some have done a very good job in building a business process to manage privacy, but the vast majority have

not done a whole lot. Some have not even put out a privacy notice."

In fact, Mr. Ponemon said, some companies are flouting the Gramm-Leach-Bliley legislation.

Mr. Ponemon said he was told by the general counsel for one large insurer that the insurer's CEO decided not to develop a privacy policy despite the possibility that the failure to do so could leave the company open to expensive litigation. The executive reasoned that the probability of a suit was low enough, he said, "relative to the cost of getting a program in place, that he decided not to comply with the law."

Groups most open to nontraditional products identified

KPMG, ACLI survey finds that wealthier people tend to spend more new financial services

By RODD ZOLKOS

Affluent single individuals, both young and old, and empty nesters in their 50s or 60s are the most promising markets for life insurance companies looking to sell nontraditional products, a new study shows.

The survey, conducted by KPMG L.L.P. and the American Council of Life Insurers, was intended to gauge consumers' willingness to buy nontraditional products from life insurance companies. It was released last month at the ACLI's Business Solutions 2001 conference in Boston.

The 21st Century Financial

Services Consumer survey was sent in July to a national sample of middle- to higher-income individuals in more than 900 U.S. households. The subsequent study divided the survey respondents into six psychographic segments, based on characteristics that included risk tolerance, willingness to try new financial products and motivation to build wealth.

The group found to be the most receptive market for life companies' nontraditional sales efforts was dubbed "Successful Innovators." The wealthiest of the six segments, that group included affluent young singles, affluent older male singles, affluent empty nesters and couples with dual incomes and no children.

Successful Innovators tend to be

the first ones to buy new financial products and services, according to the study. And with a lot at stake in the stock market, members of this group regularly review their financial situations.

According to the study, about 20% to 30% of the population is aware that insurance companies offer nontraditional services such as annuities, 401(k)s, IRAs and mutual funds.

Representing about 14% of the population, according to the study, Successful Innovators are the most likely of the six groups to use the Internet for information.

The biggest reason behind that group's behavior is free time, according to Christopher J. Swift, partner and national industry director of KPMG's insurance practice in Chicago. "I think, generally, these people have more time and can do research and can

do different things," Mr. Swift said.

Other groups identified by the survey included "Naive Innovators." About 18% of the U.S. population, this group is most willing to try new products as soon as they come on the market. According to the study, Naive Innovators are risk takers who believe it is important to take a leadership role and for whom making money is important; consequently, they tend to be wealthier than average. A large percentage of this group is men in their mid 30s or early 40s.

"Cautious Investors," about 17% of the population, have considerable stock market investments, keep up with financial news and review their financial situations regularly. The group tends to be affluent empty nester males in their 50s and 60s.

"Carefree Spirits" stress spiritual value over material goods, and making money is low on their agenda. Representing about 13% of the population, according to the study, they tend to be optimistic, believing they will fare well in any economy. The group's average age is 44 and has more low- to mid-income families, larger households and the highest percentage of women. The group tends to favor bargain hunting over brand loyalty, according to the study.

"Pessimist Conformists," about 22% of the population, are socially conscious and are willing to try new things, but they aren't necessarily risk takers. They are not the first to buy new financial products and typically have little at stake in the stock market, do not feel financially secure and are not confident of their economic future. The group tends to be in their late 20s or early 30s and includes a higher percentage of younger working parents.

The final segment identified by the study is "The Laggards," individuals who don't keep up with changes in the financial markets or financial news. They have little investment in the stock

market. Comprising about 16% of the population, this group does not like risks, preferring to stick to the familiar, and they tend to be loyal to brands. The group tends to consist primarily of lower- and mid-income families, households with four or five members and a higher percentage of women, according to the study.

In comparing the segments, the study showed Successful Innovators, Cautious Investors and Naive Innovators as the primary financial decision-makers, with Successful Innovators having the highest level of investments, followed by Cautious Investors.

According to the study, roughly 20% to 30% of the population is aware that insurance companies offer nontraditional services such as annuities, 401(k)s, IRAs and mutual funds, with Successful Innovators the most aware.

The study showed that, overall, about 16% of the population is apt to look to nontraditional sources for services; Successful Innovators are most likely and Cautious Investors are second most likely to do so. According to the study, about 9% of the population is likely to use insurance companies as a source for nontraditional products, with Successful Innovators taking the lead.

Mr. Swift said the study gives a clear picture of where life insurers should be focusing their marketing efforts as they try to sell nontraditional products.

"Why would you want to waste your time on certain of those groups? They don't have the willingness or time," he said.

"I think segmentation, certain customer relationship management programs, are giving people better data, better insight into who's going to buy when and why," Mr. Swift said.

The study *The 21st Century Financial Services Consumer* can be found on KPMG's Web site at <http://www.us.kpmg.com>.

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A Sept. 21 explosion at a Total-FinaElf chemical plant in Toulouse, France, kills 29, injures 200 and causes an estimated \$703 million in insured losses.

OCTOBER

The National Assn. of Insurance Commissioners says it will let Lloyd's of London fund 60% of its gross U.S. reinsurance liabilities related to the Sept. 11 attacks by Nov. 15, and fund the rest later. Alien reinsurers with U.S. operations typically must place 100% of their gross liabilities in U.S. credit-to-reinsurance trust funds, and other European reinsurers seek similar treat-

ment. After the NAIC withdraws its recommendation, a compromise is reached with New York regulators—which the NAIC agrees to follow—letting Lloyd's place in trust 60% of its gross Sept. 11 reinsurance liabilities by the November deadline and raise that funding level to 100% by March 2002.

A legal battle erupts over the World Trade Center's property insurance coverage, as a Swiss Reinsurance Co. unit suing in U.S. District Court in New York over whether the towers' destruction was one event or two under the \$3.55 billion insurance program. Silverstein Properties Inc., the WTC's leaseholder, had argued that the attack on each tower was a separate event, entitling it to twice the limit, while Swiss Re contends it was a single occurrence. Silverstein

and several affiliates later counter-sue.

NOVEMBER

A year after resigning from American International Group Inc., Evan G. Greenberg is named vice chairman of ACE Ltd. and chief executive officer of ACE Tempest Re.

An American Airlines jet crashes shortly after takeoff from New York, killing 260 passengers and crew and at least five on the ground. The tragedy is another blow to the airline, which lost two aircraft in the Sept. 11 attacks, and threatens to

drive aviation insurance prices higher still.

DECEMBER

The spectacular financial collapse of Houston-based Enron Corp. is expected to trigger \$2 billion in liability coverages—primarily through surety bonds—and to have mixed implications for the weather derivative market.

The 2001 RIMS Benchmark survey shows that the overall cost of risk for U.S. companies fell 7.1% in 2000 to its lowest point in more than a decade. The trend is not ex-

pected to continue.

French insurers form a government-backed terrorism reinsurance program. In the United States, however, efforts to create a federal guarantee for terrorism coverage prior to year-end renewals fall short as the Senate fails to pass terrorism insurance legislation before the House adjourned Dec. 20.

Citigroup announces plans to divest Travelers Property Casualty Corp. The spinoff shows that significant differences remain between banking and property/casualty underwriting, analysts suggest.

LARGEST CAPTIVE MANAGERS

Ranked by captives managed worldwide in 2000

Manager	Captives
Marsh & McLennan Cos. Inc.	854
Aon Corp. ^{1,2}	719
Mutual Risk Management Ltd.	255
SINSER Holding A.B. ²	211
Willis Group Holdings Ltd.	192

¹ Pro forma to reflect the merger of Aon Insurance Managers and International Risk Management Group Ltd. ² Aon Corp. acquired Sinsler Holding A.B. in August 2001
Source: BI survey

LARGEST U.S. RISK MANAGEMENT CONSULTANTS

Company	2000 revenues	Total clients	Risk mgmt. professionals
PricewaterhouseCoopers L.L.P.	\$106,860,000	3,700	509
EQE International - ABS Consulting	\$97,600,000	1,500	720
Arthur Andersen L.L.P.	\$89,835,657	1,000	353
Deloitte & Touche L.L.P.	\$75,700,000	1,000 ¹	500
Ernst & Young L.L.P.	\$30,220,000	850	120
Tillinghast-Towers Perrin	\$29,000,000	850	121
KPMG L.L.P.	\$25,000,000	350 ¹	NA
Health Insurance Specialists Inc.	\$10,350,000	132	9
J.H. Albert International Insurance Advisors Inc.	\$6,900,000	675	33
Milliman USA	\$4,500,000	NA	NA

Ranked by risk management consulting revenues. ¹ Estimated
Source: BI survey

10 LARGEST U.S.-BASED SURPLUS LINES INSURERS

Insurer Parent Company	Non-admitted 2000 direct premiums	% change	Total gross premiums	% change	Statutory combined ratio
Lexington Insurance Co. ¹					
American International Group Inc.	\$1,278,916,173	26.4%	\$1,786,134,580	9.4%	99.1%
American International Specialty Lines Insurance Co. ¹					
American International Group Inc.	1,107,979,952	10.4	1,132,528,722	7.7	98.5
Scottsdale Insurance Co. ¹					
Nationwide Mutual Insurance Co.	576,421,627	17.3	1,421,652,426	7.0	111.1
Steadfast Insurance Co. ¹					
Zurich Financial Services Group Inc.	370,278,119	14.4	382,260,376	11.8	59.9 ²
Evanston Insurance Co.					
Markel Corp.	276,351,838	104.5	352,598,463	72.7	89.3
General Star Indemnity Co.					
Berkshire Hathaway Inc.	269,605,541	4.5	273,833,490	4.2	111.7
United National Insurance Co. ¹					
American Insurance Service Inc.	256,660,795	39.8	453,495,872	26.8	94.1
Columbia Casualty Co.					
CNA Insurance Cos.	223,531,385	-30.2	437,586,730	-16.1	112.0
Admiral Insurance Co.					
W.R. Berkley Corp.	184,754,736	13.3	212,811,478	23.1	104.9
Essex Insurance Co.					
Markel Corp.	175,904,255	43.5	331,438,159	131.8	101.3

LARGEST INSURANCE WHOLESALERS

Broker Parent Company	2000 premium volume	% change 1999	% of gross revenues	% change	% surplus lines
Swett & Crawford Group					
Aon Corp.	\$1,050,000,000	19.3%	\$102,218,000 ²	17.8%	38%
Crump Insurance Services Inc.					
Marsh & McLennan Cos. Inc.	639,000,000	3.9	47,727,000 ²	1.8	55
Stewart Smith Group					
Willis Group Holdings Ltd.	432,138,000	12.0	36,555,000	21.5	41
Cooney, Rikard & Curtin Insurance Group					
Cooney, Rikard & Curtin Inc.	377,000,000	72.5	35,000,000	73.7	65
Heath Holdings USA Inc.					
HLF Insurance Holdings Ltd.	340,100,000	47.1	28,900,000	51.8	50

¹ Figures reported on pooling basis ² BI estimate
Source: BI survey

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January 7, 2002

Continued from page 10

care benefits to Medicare-eligible retirees than to younger retirees are violating the Age Discrimination in Employment Act, a federal judge rules. The *Erie County* decision, named for the defendant in the case, increases employers' exposure to litigation.

MAY:

The Family and Medical Leave Act covers flu and other minor illnesses, the 4th U.S. Circuit Court of Appeals says in a ruling, significantly opening up the opportunities for employees to take leave under the FMLA.

The decision of Vermont Sen. James Jeffords to quit the Republican party and become an independent gives the Democratic party control of the Senate. Sen. Jeffords' move increases the chances that benefits-related legislation will receive priority attention.

JUNE:

Los Angeles-based Maxicare Inc., one of California's largest HMOs, files for bankruptcy. Observers are skeptical that the plan—once one of the nation's largest—can survive what is its second bankruptcy filing.

Excluding coverage for contraceptives in a prescription drug plan discriminates against female employees, a federal judge says in a ruling involving The Bartell Co., a Seattle-based drugstore chain.

JULY:

Blue Cross of California says that it will stop paying cost and utilization bonuses to providers with HMO contracts and instead will offer bonuses to medical groups for delivering quality care and for measuring patient satisfaction.

The Equal Employment Opportunity Commission suspends enforcement of a controversial federal appeals court decision, known as the *Erie County* case, that held it was illegal for employers to spend smaller amounts or provide lesser benefits to Medicare-eligible retirees than to younger retirees. EEOC Chairwoman Cari Dominguez says the agency reversed course amid concerns that enforcement of the decision could discourage employers from offering retiree health care plans.

AUGUST:

Patient protection legislation heads to conference committee following House passage of a scaled-back bill that could expose employers and health plans to unlimited economic damages and up to \$1.5 million in noneconomic damages for wrongfully denying coverage. A prior Senate-passed bill would expose employers to even greater damages. The bill remained in limbo at year end, with no conference committee named to hash out a compromise measure.

Because an employer never publicized its method for calculating

time off taken under the Family and Medical Leave Act, the calculation method most favorable to employees must be used, the 9th U.S. Circuit Court of Appeals rules in a case involving America West Airlines Inc.

SEPTEMBER:

For the second straight year, managed care plans are significantly improving the quality of care provided, such as stepping up screening for cervical cancer and immunization of children for chicken pox, according to a new report by the National Committee for Health Care Quality.

Continued on next page

TOP CASE MANAGEMENT PROVIDERS

Ranked by 2000 gross revenues from case management services

Intracorp	\$313,000,000
Concentra Managed Care Inc.	\$142,000,000
CorVel Corp.	\$110,000,000
GENEX Services Inc.	\$96,480,000 ¹
Crawford & Co.	\$72,000,000
National Healthcare Resources Inc.	\$46,000,000
Private Healthcare Systems Inc.	\$26,200,000
Horizon Behavioral Services	\$23,200,000
Resource Opportunities Inc.	\$20,000,000
Health International Inc.	\$20,000,000

¹ Estimated. Firms that derive 100% of case management revenues from insurer/managed care clients or from specialized case management services are not ranked. Source: BI survey



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OCTOBER:

Eagerly awaited rules from the Internal Revenue Service provide much of the guidance employers need to add a "catch-up" feature to their 401(k) plans to give older employees the opportunity to kick in an extra \$1,000 to the plans in 2002 and more in succeeding years.

Employers in 2002 will face the biggest health care cost increases in a decade, with HMOs quoting rate increases averaging 18%, according to a new Hewitt Associates L.L.C. survey.

The Treasury Department announces that it will not be issuing new 30-year Treasury bonds, which employers are required to use to calculate their defined benefit pension liabilities. As a result of this move, already depressed Treasury bond rates fell further, which will require employers to pump tens of billions of dollars more into their pension plans.

NOVEMBER:

A new, nonprofit, nonpartisan group of health care experts from a variety of disciplines is promoting a complex reform plan to address problems with the health care system in the United States. The Center for Practical Health Reform counts employers, insurers, health care providers and consultants among its members.

The Pacific Business Group on Health enters into a partnership with Definity Health that allows the PBGH's employer members to offer Definity's participant-directed health care plan as part of their benefit offerings. The agreement marks the first employer coalition to endorse the consumer-directed health plan design.

Closing loopholes in a now-expired 1996 law, the Senate passes on a voice vote legislation containing an amendment that would require employers, starting in 2003, to offer the same coverage in their group health plans for mental disorders as they do for other medical expenses. No such provision was included in House legislation. Congressional negotiators later reject the Senate proposal and instead agree to renew through the end of 2002 the 1996 law that bans discriminatory annual and lifetime dollar limits on mental health care benefits.

The Washington Business Group on Health calls for changes in tax law to create a new kind of medical spending account to enable employees to carry over unused balances in their accounts to pay for succeeding years' health care expenses.

Employees can donate, on a tax-favored basis, the cash value of unused paid time off to charitable organizations, the Internal Revenue Service says, in a ruling prompted by employers that want to establish

such assistance programs in the wake of the Sept. 11 terrorist attacks in New York, Virginia and Pennsylvania.

DECEMBER:

Group health plan costs for active employees jumped 11.2% to an average of \$4,924 per employee in 2001, finds an annual survey by William M. Mercer Inc. That

cost increase is the highest since 1991.

The collapse of Enron Corp. draws lawsuits from its 401(k) plan participants, as well as congressional attention on proposals to limit the amount of stock in its own company that a defined contribution plan can hold.

The Labor Department issues

guidelines for employers on how to comply with a 2000 regulation requiring, beginning July 1, 2002, faster deadlines for resolving health care claims.

Declining to follow the lead of the House, the Senate put off action on legislation that would have the federal government subsidize 75% of the cost of COBRA premiums for employees laid off since Sept. 11.

10 LARGEST EAP PROVIDERS

Ranked by the total number of lives covered at year-end 2000

Company	Total number of clients	Total number of covered lives
Magellan Behavioral Health	1,590	14,563,500
ComPsych Corp.	525	6,000,000
Horizon Behavioral Services	262	1,933,412
Ceridian	1,094	1,800,000
VMC Behavioral Healthcare Services	122	1,720,000
Wood & Associates	30	1,000,000
Bradman/Unipsych Cos.	100	1,000,000
Bensinger, DuPont & Associates	220	625,000
Perspectives Ltd.	125	550,000
New Directions Behavioral Health	373	501,352

1 Employees lives only; 2 Estimated.
Source: BI survey

TOP U.S. BENEFIT BROKERS

Brokers that derive majority of 2000 gross revenues from benefits business

Company	Total gross revenues	% of total gross revenues	Revenues from benefits*
USI Insurance Services Corp.	\$360,690,000	57.2%	\$206,314,680
Brokerage Concepts Inc.	\$92,250,000	73.0	67,342,500
First Union Insurance Services Agency Inc.	\$53,000,000	57.0	30,210,000
TRION Group Inc.	\$16,942,102	100.0	16,942,102
Fringe Benefits Management Co.	\$16,364,167	100.0	16,364,167
Cottingham & Butler Inc. -an Assurex partner	\$25,000,000	58.0	14,500,000
Black, Gould & Associates Inc.	\$13,030,938	100.0	13,030,938
Frank F. Haack & Associates Inc. -an Assurex partner	\$17,000,000	75.0	12,750,000
SilverStone Group Inc.	\$17,073,000	64.0	10,926,720
CFG Insurance Services Inc.	\$12,891,000	66.5	8,572,515

* Includes commission and fees from brokering group benefit coverage, benefit consulting and health care administration.
Source: BI survey

TOP 10 CLAIMS ADMINISTRATORS

Based on claims paid on behalf of self-insurers

Company	2000 claims paid for self-insurers	2000 estimated gross revenues from claim services	2000 self-insured clients
Cambridge Integrated Services Group Inc.	\$2,870,000,000	\$146,000,000 ¹	8,900
Sedgwick Claims Management Services Inc.	\$2,808,131,797	\$134,420,000	521
Gallagher Bassett Services Inc.	\$2,600,000,000	\$224,000,000	1,991
Benesight Inc. ²	\$2,200,000,000	\$98,000,000	750
CoreSource Inc.	\$2,197,088,000	\$129,812,256	1,510
ESIS Inc.	\$2,000,000,000	\$136,000,000	441
RSKCo	\$1,958,862,058	\$183,700,000	635
Crawford & Co.	\$1,700,000,000	\$520,000,000	5,100
Harrington Benefit Services Inc.	\$1,591,209,138	\$65,040,000	1,365
Brokerage Concepts Inc.	\$1,516,241,000	\$59,267,481	1,042

¹ BI estimate; ² Formerly The TPA Inc.
Source: BI survey

January 7, 2002

Products & Services

Tempest Re, HartRe offer workers comp reinsurance

STAMFORD, Conn.—ACE Tempest Re USA Inc. and HartRe Co. L.L.C. are joining forces to offer \$20 million in reinsurance limits for workers compensation risks.

Each reinsurer will provide up to \$10 million in limits for the per-occurrence coverage, which does not include coverage for injuries due to acts of terrorism. The coverage requires a minimum attachment point of \$10 million.

ACE Tempest Re USA will manage the business on behalf of both companies.

The coverage fills a "critical market need" for insurers and brokers that are looking for "meaningful capacity," Jacques Q. Bonneau, chief executive officer of Stamford, Conn.-based ACE Tempest Re USA, said in a statement.

More information on the coverage is available from Jim Wixtead of ACE Tempest Re USA, who will underwrite the coverage. He can be reached at 203-328-7005 or james.wixtead@ace-ina.com.

Zurich N.A. expands e-commerce program

SCHAUMBURG, Ill.—Zurich North America Financial Enterprises has expanded its e-commerce insurance program to address growing technology risks.

E-Risk Edge, the latest such coverage program offered by Zurich North America, is an updated version of the insurer's E-Risk Protection Policy, which was introduced more than three years ago.

"Since then, advances in Internet technology and increasing interdependence among companies and their suppliers have vastly increased companies' exposure and potential liability for Web-related problems," Dave O'Neill, vp of e-business solutions at Schaumburg, Ill.-based Zurich North America, said in a statement.

E-Risk Edge provides comprehensive coverage for Internet exposures in a single, integrated policy. It protects against unauthorized access or use of data

or software; damage from computer viruses; attacks that result in an inability to perform e-business activities; public disclosure of private information; and theft of money, securities or other resources.

Loss of business income, intellectual property development costs, electronic publishing liability, e-business extortion and other risks also are covered. The policy also offers coverage for some vendor losses and for expenses for efforts to counter negative publicity related to a covered loss.

E-Risk Edge expands liability coverage first offered by the E-Risk Protection Policy to cover most financial loss claims, not just those resulting from an interruption of service.



UnumProvident redesigns Web site

CHATTANOOGA, Tenn.—Unum Provident Corp. has unveiled a redesigned Web page that provides tools for benefit managers and consumers.

Visitors to the site, www.unum-provident.com, can gain quick access to company information, products and services, links to industry articles, details on online billing, claims filing capabilities and more.

Keith Hickerson, vp of corporate marketing at Chattanooga, Tenn.-based UnumProvident, explained in a statement announcing the redesign that the site aims to make benefit managers' jobs easier "through useful site enhancements, such as guidebooks on industry topics like (the Employee Retirement Income Security Act); electronic presentations that showcase our return-to-work resources; and e-services, including online billing and claims submission."

Aon offers online benefits services

CHICAGO—Aon Consulting Inc. has unveiled a product, called SelfServiceNow, that bundles several employee benefit and human resource services.

The Web-based platform provides benefits and human resources information, personal financial planning, enrollment options, and it allows users to purchase financial products online. While other systems can offer many of those services, Aon claims that SelfServiceNow is the first to link those options and allow employees to use them more



efficiently.

Aon Consulting, a unit of Chicago-based Aon Corp., said, for example, that employees can access enrollment and compensation information and then incorporate that data into a planning feature, allowing users to determine whether goals are being met by the elections in place. If not, employees can make needed changes and purchase financial products without leaving the platform.

In addition, users of the system's financial planning tools can access providers of financial and work/life products without leaving the SelfServiceNow platform.

By linking the components of several benefit options, the system lets employers provide an added benefit to their employees, Donald C. Ingram, chairman and chief executive officer of Aon Consulting, said in a statement. The system also allows "human resources executives to play a more strategic role in their organization's success," he said.

More information on SelfServiceNow and a demo are available at <http://media.selfservicenow.com>.

Sept. 11 attacks show value of planning for crisis

By JUDY GREENWALD

PALO ALTO, Calif.—Cantor Fitzgerald L.P. lost nearly 700 of its 1,000 U.S. employees in the attack on the World Trade Center, yet the bond trading firm was ready for business just two days later.

"With proper crisis planning, your company can survive even a tragedy such as this," said Steve Goldman, manager, global business continuity program at Santa Clara, Calif.-based Applied Materials Inc.

Mr. Goldman spoke at a session titled "Risk Management 911" at a joint meeting of the Santa Clara County and Golden Gate chapters of the Risk & Insurance Management Society Inc., held last month in Palo Alto, Calif.

Cantor Fitzgerald, which runs the largest electronic marketplace for municipal bonds, announced it had two goals immediately after the disaster, Mr. Goldman said. The first was to take care of the families of employees who were missing. The second was to hold off competitors, which wasted no time in pursuing business with Cantor Fitzgerald's customers, he said.

The company was able to resume business with a backup system it had established in New Jersey after the 1993 World Trade Center bombing, as well as the help of new and former employees and emergency offices, he said.

Mr. Goldman said that another

example of good crisis handling is Johnson & Johnson's response to the 1982 Tylenol tampering incident. Seven people died after cyanide-laced Tylenol capsules were planted in Chicago-area stores, and the murderer was never found. But thanks to Johnson & Johnson's prompt response, which included destroying millions of bottles of Tylenol and appointing a senior executive to deal with the crisis, the company was eventually able to regain and exceed its 1982 market share, he said.

But there are examples of poor crisis management as well, Mr. Goldman said. For example, an Exxon Corp. official in 1989 proclaimed that the Exxon Valdez oil spill crisis was over, as cameras showed oil slicks and dead birds in Alaska's Prince William Sound. And Union Carbide Corp.'s communications vp allegedly learned of the 1984 toxic gas leak at its plant in Bhopal, India, from a reporter, he said.

"Someday, you will have a crisis. You need to be prepared for it," Mr. Goldman said.

Planning is the first step to surviving a crisis. "You plan, you test and you improve," he said. The next steps are: emergency response, resumption of business, recovery and restoration.

A basic tenet of crisis management philosophy is that "day-to-day operations are not good enough in a crisis," said Mr. Goldman. Instead, a crisis management

team must be established to deal with the problem, he said.

In addition, information must be quickly released, in light of media demands. At the same time, unaffected operations must continue while affected business processes are being restored.

In developing a crisis management plan, "the most important thing is doughnuts," Mr. Goldman quipped. "What you need is a basic bribe" to get people to attend meetings, he said.

The various crises companies should plan for include technological problems, such as computer viruses; natural disasters; business crises, such as product failure; external threats, such as political unrest; and crises due to location, such as offices above the 10th floor, where fire department ladders cannot reach.

A crisis plan must be comprehensive, flexible and detailed, and it should be approved by senior management, Mr. Goldman said.

In addition, the plan should establish lines of communication and allow company resources to be committed quickly. And the crisis plan should be tested annually, he said.

In California, for example, a company might set up a general plan that would respond to most general crises, and then add sections devoted to the particular local risks of power outages and earthquake, Mr. Goldman said.

Risk managers need not have detailed knowledge of their company's various operations to become involved in the crisis planning process, said Mr. Goldman, who professed ignorance as to how Applied Materials turns sand into microchips. "You gather the best and the brightest," he said. "You don't have to know it, you just organize it" by getting selected personnel to bring their own expertise to the table.

And in terms of crisis communications, Mr. Goldman said telling the truth is crucial.

Crisis planning is "a lot of work, but it's not insurmountable," said Mr. Goldman, noting that "a crisis is a company's defining moment."

Also speaking at the session was Janet Childs, director of education for the Centre for Living with Dying in Santa Clara, and Arturo Perez-Reyes, vp-FINPRO with Marsh Risk & Insurance Services in San Francisco.

The session was moderated by Ellen Pfeiffer, business risk manager for Palo Alto, Calif.-based Hewlett Packard Co.

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LEGAL NOTICE

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COUNTY DEPARTMENT, CHANCERY DIVISION

IN THE MATTER OF THE LIQUIDATION OF)
UNITED CAPITOL INSURANCE COMPANY) NO: 01 CH 14957

NOTICE OF CLAIM FILING DEADLINE AND PROCEDURES

PLEASE TAKE NOTICE, that on November 14, 2001, the Circuit Court of Cook County, Illinois, entered an Order of Liquidation With a Finding of Insolvency against United Capitol Insurance Company ("United Capitol"). Nathaniel S. Shapo, Director of Insurance of the State of Illinois, is the statutory and court affirmed Liquidator of United Capitol ("Liquidator").

TAKE FURTHER NOTICE, that on December 7, 2001, the Circuit Court of Cook County, Illinois, entered an Order Fixing Rights and Liabilities and Providing for the Filing of Claims and the Setting of Claim Filing Deadlines ("Fixing Order"). Pursuant to the Fixing Order, all rights and liabilities of United Capitol and its policyholders, creditors and stockholders, and all other persons interested in its property or assets, are fixed as of November 14, 2001, unless otherwise provided in prior or subsequent orders of the Court.

TAKE FURTHER NOTICE, that all persons, companies or entities who have, or may have, claims against United Capitol, its property or assets, or against a United Capitol insured or policyholder, shall have the right to present and file with the Liquidator proper proofs of claim on or before November 14, 2002 at 4:30 p.m. (C.S.T.).

TAKE FURTHER NOTICE, that any insured under an insurance policy issued by United Capitol shall have the right to present and file with the Liquidator a proper proof of claim setting forth a contingent claim on or before November 14, 2002 at 4:30 p.m. (C.S.T.). No contingent claim shall be allowed for purposes of participating in any distribution of estate assets that may be made at the fourth priority level [215 ILCS 5/205(1)(d)] unless such claim has been liquidated and the insured claimant has presented and filed evidence of payment of such claim to the Liquidator on or before November 14, 2003 at 4:30 p.m. (C.S.T.). Any contingent claim for which a proper proof of claim is filed on or before November 14, 2002 at 4:30 p.m. (C.S.T.), but which is not liquidated on or before November 14, 2003 at 4:30 p.m. (C.S.T.), may be estimated pursuant to 215 ILCS 5/209(4)(b) for purposes of participating in any distribution of estate assets that may be made at the fifth priority level [215 ILCS 5/205(1)(e)] unless otherwise directed by the court.

TAKE FURTHER NOTICE, that the form and required content of all proofs of claim are described in 215 ILCS 5/209. Proofs of claim, along with supporting documents, if any, are to be filed with, and may be obtained from, the Liquidator of United Capitol, c/o the Office of the Special Deputy Receiver, located at 222 Merchandise Mart Plaza, Suite 1450, Chicago, Illinois 60654. A proof of claim shall be deemed "filed" with the Liquidator upon the Liquidator's receipt thereof. The Liquidator reserves the right to require such additional information with respect to any claim filed with him as he may deem necessary. The Liquidator further reserves any and all defenses available to United Capitol relating to all filed claims. All proofs of claim must be duly sworn to before an officer authorized to take oaths.

THE LAST DATE FOR FILING OF PROOFS OF CLAIM WITH THE LIQUIDATOR IS SET FORTH ABOVE. NO PERSONS, COMPANIES OR ENTITIES HAVING OR CLAIMING TO HAVE ANY CLAIMS AGAINST UNITED CAPITOL, ITS PROPERTY OR ASSETS, OR AGAINST A UNITED CAPITOL POLICYHOLDER, SHALL PARTICIPATE IN ANY DISTRIBUTION OF THE ASSETS OF THE COMPANY UNLESS SUCH CLAIMS ARE PROPERLY FILED WITH THE LIQUIDATOR ON OR BEFORE NOVEMBER 14, 2002 AT 4:30 P.M. (C.S.T.)

Cathleen Travis
Special Deputy Receiver _____

www.businessinsurance.com

LEGAL NOTICE

THE TAISEI FIRE & MARINE INSURANCE COMPANY LIMITED ("TAISEI")

REORGANIZATION PROCEEDINGS

DEADLINE FOR PROOF OF CLAIMS

Take notice that the deadline for filing proofs of claim in the corporate reorganization of Taisei is February 1, 2002. Creditors who fail to file a proof of claim within this time limit may lose their right to claim against the company.

Claims must be filed on the form approved by the Tokyo District Court and lodged in person or by mail at the following address:

The 8th Department of Civil Division of the Tokyo District Court
1-4 Kasumigaseki 1-chome
Chiyoda-Ku
Tokyo
Japan

Attn: Corporation in Reorganization The Taisei Fire and Marine Insurance Company Limited

Filing proof of claim with Taisei itself, or its court appointed trustees, is invalid.

Information for U.S. market creditors in relation to the claims filing process can be obtained from:

LeBoeuf Lamb Greene & MacRae

125 West 55th Street

New York, New York 10019

Telephone: 212-424-8000

Fax: 212-424-8500

Attn: Peter Ivanick, William G. Primps, Ira Reid

Or

E-mail to: Taisei.usclaims@lglm.com

By order of the trustees appointed by the Tokyo District Court.

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January 7, 2002

International

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Wider risk management urged

U.K.'s new crisis manager advocates meeting increasing uncertainty with a broader outlook

By CAROLYN ALDRED

LONDON—The events of Sept. 11 show that companies and governments must adopt a broader and more-integrated approach to contingency planning and risk management, the U.K. government's top crisis manager says.

Mike Grannatt was appointed head of the newly formed Civil Contingencies Secretariat this summer, after Prime Minister Tony Blair called for improvement in the government's crisis response. Mr. Grannatt also continues to serve as head of profession for the United

Kingdom's Government Information and Communications Service.

The U.K. government reorganized its contingency planning arrangements following several national emergencies last year in the United Kingdom, including a fuel shortage crisis, widespread flooding and the foot-and-mouth disease outbreak that devastated the farming industry.

The CCS is charged with preparing U.K. government entities at every level both with preventing disruptions from developing into crises and with dealing with those emergencies that arise despite pre-

ventive efforts. The secretariat has been hard at work in the aftermath of the terrorist atrocities, Mr. Grannatt told participants at a recent conference on flooding risk sponsored by the Local Government Assn. in London.

Since Sept. 11, the CCS has held four full meetings of its Civil Contingencies Committee, 15 subcommittee meetings, dozens of working group meetings and daily coordination meetings, and it has issued 84 working papers.

The CCS has worked closely with many government and public-sector agencies, including those that

provide emergency services; all national government departments; local authorities, particularly those in London; health authorities; the Strategic Rail Authority; the Port of London Authority; the Financial Services Authority; the European Union; the North Atlantic Treaty Organization; and government agencies in Australia, Canada, France and the United States.

The CCS has also involved private companies in its work, including all nuclear energy companies; all telecommunications providers; all major Internet service providers;

See CCS/page 20

World Updates

HSE faces suit over rail crash

Thames Trains and its insurer are suing the U.K. Health and Safety Executive over the October 1999 Paddington rail crash. The suit says the HSE should not have allowed a complex track layout in the area and should have raised questions about Thames Trains' driver training program before the accident, which killed 31. An official investigation found the Thames Trains driver at fault in the crash for passing a red light. The HSE said it would defend itself against the charges. Thames Trains' insurer, London-based St. Paul International Insurance Co. Ltd., is also subrogating against Railtrack P.L.C., the now-defunct company that was in charge of Britain's track network at the time of the crash.

JLT restructures operations

London-based Jardine Lloyd Thompson Group P.L.C. has reorganized its operations into two business groups. The new risk and insurance group comprises JLT's worldwide insurance and reinsurance brokerage activities, as well as the company's local government activities. JLT's new employee benefits group is made up of its pension administration, outsourcing, employee benefits, consulting and U.S. marketing operations.

St. Paul enriches London operation

London-based St. Paul Reinsurance Co. Ltd., the London market operation of St. Paul Re, has received an injection of \$100 million of share capital from its parent, The St. Paul Cos. Inc. St. Paul said the capital would be used to strengthen the balance sheet of the London operation. Thomas Mahoney, managing director of St. Paul Reinsurance Co. Ltd., said that the move demonstrates the company's commitment to the London market after a trying year for reinsurers in London and around the world.

Joint Hull Committee names chairman

Simon Beale has been elected chairman of the London-based Joint Hull Committee. The committee, a joint initiative of the London-based International Underwriting Assn. and Lloyd's of London, works to develop the London hull insurance market. Mr. Beale is underwriter of the K.J. Coles marine business, which is part of Amlin Underwriting Ltd.'s Lloyd's syndicate 2001. Mr. Beale said he plans to establish several subcommittees to address technical issues, wordings,

Continued on page 20



PHOTO: JEREMY PIPER/GETTY IMAGES

Losses tallied in Australian fires

SYDNEY, Australia—Insurance claims stemming from the bush fires that have been raging around Sydney, Australia, will likely cost \$70 million Australian (\$35.8 million), according to the Insurance Disaster Response Organization.

"Several large commercial claims and expected losses from homes destroyed overnight have boosted estimated insurance costs," according to a statement issued last Thursday by the Sydney-based IDRO.

Losses from the fires near Australia's largest city likely will exceed the \$56 million Australian (\$28.6 million) in losses caused by bush fires in 1994 in the state of New South Wales, the statement by the insurer-sponsored organization said.

As of last Friday, the fires had been burning around Sydney and other areas of New South Wales for more than 10 days. Several of the blazes are thought to have been set by arsonists.

Health care access services for expats gain in popularity

By MICHAEL BRADFORD

Keeping overseas workers and business travelers healthy and safe has become a high priority for multinational employers.

Demand for services that provide overseas workers with access to health care and security information has risen sharply since the Sept. 11 terrorist attacks. And companies that provide those services say that employers are eager to offer what has become an important benefit in a troubled time.

"We saw a huge increase in demand as a result of Sept. 11," said Daniel Anber, president and chief executive officer of XN Holdings, a Boca Raton, Fla.-based managing general agency that writes travel-related coverage for expatriates.

"Before Sept. 11, some people may have thought of business insurance, travel insurance and per-

sonal health, but now it's at the top of everybody's mind," agreed Angelo M. Masciantonio, CEO of HTH Worldwide in Radnor, Pa., a provider of international health care and security services.

While the companies differ in the ways they market their programs and provide services, they all rely on a network of health care providers operating throughout the world. Travelers who need medical care typically make arrangements by placing a telephone call to a 24-hour service center or by using the Internet. Employees also can obtain information on physicians and health care facilities before they begin their overseas assignments.

Companies that offer the services say they are valuable not just for workers but also for employers. Having access to quality care in another country means there is less

See OVERSEAS/page 20

Survey details Australians' expectations of a hard market in 2002

Insurance costs to go up Down Under

By DAMIEN TOMLINSON

SYDNEY, Australia—Sharply higher rates and more-restrictive terms and conditions might prompt more Australian buyers to reconsider their risk financing programs and explore alternatives.

That is the conclusion of a recent survey by J.P. Morgan Securities Australia Ltd. and Deloitte Touche Tohmatsu/Trowbridge Consulting, both of Sydney, that predicts an "explosion" in insurance premiums for corporate buyers in 2002.

The firming market will likely spur more corporations to consider various forms of self-insurance, such as captives, and to place more emphasis on loss control and disas-

ter planning, said Peter Caldwell, national insurance industry group chairman for Deloitte.

The survey, which was released in December, polled 80 brokers, underwriters and reinsurers in the Australian market just prior to the Sept. 11 terrorist attacks.

While the attacks have accelerated and deepened the price hardening in international insurance and reinsurance markets, Mr. Caldwell noted that the Australian market reached its softest point about two years ago and has

been firming ever since. "Many premiums then being charged were below cost," he said.

The result is a "hardening market, hardened further and faster by (HIH Insurance Ltd.'s) collapse and now to be compounded by the events of Sept. 11," Mr. Caldwell said.

He predicted that insurance lines with direct exposure to the Sept. 11 attacks will see huge rate increases in 2002.

"For example, there have been reports of increases in aviation insurance premiums of multiples of the



will see huge rate increases in 2002. "For example, there have been reports of increases in aviation insurance premiums of multiples of the

See AUSTRALIA/page 20

CCS: New U.K. crisis manager urges broader outlook

Continued from page 19

all major supermarkets and producers; all major transportation providers; British Airports Authority P.L.C. and other airport operators; 20 major gas, water, electricity producers and distributors; the freight transportation, chemical and pharmaceutical industries; the banking and finance sector; and news media organizations.

The unprecedented complexity and interdependency of the way we live and work calls for a new approach to risk management, Mr. Grannatt said.

"Government is working closely with industry to introduce a cultural change to risk management," Mr. Grannatt said, adding that the "insurance industry also is encouraging companies to manage risk more

widely."

"In the past, we've all tended to be concerned about our own house burning down. We have to change that...and worry more about the whole street burning down," he said. "As an example, we may have to change some business habits, such as just-in-time delivery, so that stock is on site when needed."

Governments, society and busi-

ness now operate in a global village in which every individual can have worldwide reach, Mr. Grannatt told conference participants.

Last year's fuel crisis demonstrated how quickly and effectively changes in the public's mood can lead to massive disruption, he said. Public anger over fuel taxes in the United Kingdom and in other parts of Europe led to protests and block-

ades outside oil refineries and gas stations; these, in turn, led to severe fuel shortages.

Individuals increasingly will be able to challenge the operations of companies and even of nation-states, Mr. Grannatt predicted. "Disruption and crises will not diminish. If anything, the future is getting more uncertain and the challenges will be more asymmetric," he said.

Overseas: Expat health services gain popularity

Continued from page 19

chance that a sick or injured employee will develop a condition that will lead to an expensive medical evacuation. And workers are more likely to complete their foreign assignments if they are assured their families will have access to quality medical care, the service providers say.

As communications technology has improved, so has the quality of services provided to workers overseas.

The Internet factors heavily in the delivery of HTH's services. The Web-based service gives users 24-hour access to information employees need before traveling abroad or after they arrive, explained Eliot C. Heher, chief medical officer of HTH.

The company's Internet portal provides registered users with access to information on health conditions in around 200 cities outside the United States, lists of providers and emergency numbers, security updates, travel news, medical terms translation, appointment requests and a variety of other services, Dr. Heher said.

HTH has partnered with Aetna Global Benefits, a unit of Hartford, Conn.-based Aetna Inc., to provide international health care services to Aetna clients' expatriate employees and those who travel for business.

HTH also offers its services under

its Business Traveler product, which includes insurance coverage that is written by Continental Insurance Co., a unit of CNA Financial Corp.

The Business Traveler product offers employers group supplemental medical coverage for business travelers, providing up to \$250,000 in annual and per-trip coverage. The coverage also includes \$100,000 in medical evacuation coverage and up to \$200 in prescription drug costs. If an employee dies overseas, the plan pays up to \$25,000 for transportation of remains.

Providers of these travel services say that, given the events of Sept. 11, the security information they offer has become highly valued. Dr. Heher said that HTH's security information, which is supplied by a Houston-based company called Air Security International and an Internet news-clip service, is very popular among employers and their traveling employees.

Some travel programs are offered strictly through employee benefit plans.

Assist America Inc., a Princeton, N.J.-based program, provides its services to more than 150,000 organizations and covers more than 14 million people through group benefit plans. The benefits are available to employees traveling more than 100 miles from home and include access to a network of more than 600,000 prequalified medical

providers.

George W. Howard III, president of Assist America, explained that

'The Internet is a lot more reliable than telephone connections' for communicating with health care providers.

*George W. Howard III
Assist America*

employees in the program carry a card with two telephone numbers—one to access help in the United States and the other for assistance in other countries. An ill or injured employee can dial in to obtain several services, including help with medical appointments, referrals to multilingual medical personnel, hospital admissions, critical-care monitoring and evacuation. The program also provides, among other services, help with filling prescriptions while away from home and with transporting children who have been left alone due to an employee illness.

Mr. Howard said Assist America uses the Internet to enroll employees and to communicate with providers. He said that one of the qualities the company looks for when credentialing doctors is Internet capabilities. "The Internet is a lot more reliable than telephone connections" for communicating with health care providers, he said.

Mr. Howard said that he could not reveal much about how the benefits are covered for competitive reasons, but he pointed out that "all

the benefits are insured. We take no risk and we buy insurance to cover our liabilities."

XN Holdings offers its travel product on a group basis to employers that provide it as a benefit to expatriate employees. The program includes health insurance and other coverages, such as life insurance, political risk, kidnap and ransom and personal property and liability insurance.

AXA S.A. writes the health care coverage for employers who purchase the XN product; the other coverages are written by Lloyd's of London syndicates.

Mr. Anber explained that employers purchase the coverage through XN. "Delivery is through the XN.com Web site. We create a master policy in the name of the employer, with the expatriate employees being beneficiaries," he said.

Employers can offer the program as a fully paid benefit to employees or sponsor a portion of it. In many cases, Mr. Anber noted, employers pay all of the premium for health care coverage and allow employees to purchase "enhancements," such as additional life insurance.

The events of Sept. 11 have not affected XN's ability to offer political risk and kidnap and ransom coverages, Mr. Anber said. "We were fortunate," he said, to have a "good spread of risk" that alleviates some of the worry by insurers that write the coverages. "We're insuring people in more than 100 countries," he said.

XN clients also have access to a medical-record storage service called DrGlobe.com. An employee

carries a card indicating that his or her medical records are stored online; if the individual gets injured or becomes ill and unable to communicate, a health care provider can use the information to access the patient's medical history.

Zurich North America last month launched its own program, Zurich Travel Assist, after using a third-party program for six years. The new program provides business travelers and expatriates with medical, legal and security information services. Pretrip assistance in locating health care providers also is offered.

The service allows sick or injured travelers or expatriates to dial up a call center and receive help from a multilingual staff trained to respond to problems anywhere in the world. Some of the services also are available over the Internet.

Stephen Mueller, vp of sales and field operations for the accident and health group at Zurich North America in Schaumburg, Ill., explained that the program "wraps around our accident insurance products. The insurance vehicle pays for the use of the services."

Pretrip planning allows users of the program to identify English-speaking doctors in the country in which they will be working. Information on weather, travel advisories, immunization requirements, security matters and other topics also is available through the service. Employees who find themselves in need of legal help can locate attorneys through the service.

Zurich Travel Assist covers approximately 2 million employees who work for around 750 companies, Mr. Mueller said.

World Updates

Continued from page 19

statistics and information, education and market information, liaison and finance.

Toro seeks stake in La Fondiaria

Only days after Italy's insurance regulator blocked a deal in which an insurer would have increased its stake in La Fondiaria Assicurazioni S.p.A., another insurer has offered to buy La Fondiaria shares. Toro Assicurazioni S.p.A., the multilined insurance arm of automaker Fiat S.p.A., has made a formal offer to buy 24.4% of Florence, Italy-based La Fondiaria, which is a unit of Italian manufacturer Montedison S.p.A. Earlier this week, regulators blocked a deal to allow Turin-based Societa

Assicuratrice Industriale S.p.A. to acquire an additional 22% stake in La Fondiaria and raise its stake in the company to 30%. No explanation of the regulatory action was released.

Briefly noted

The number of names underwriting at **Lloyd's of London** for the 2002 year of account has fallen by more than 12%. Lloyd's said that 2,490 names would underwrite in 2002, compared with 2,852 in 2001....Charles Fry has been appointed chief financial officer of **Benfield Greig Ltd.**, the U.K. and non-U.S. international reinsurance brokerage arm of London-based Benfield Group P.L.C. Mr. Fry reports to John Whiter, CFO of Benfield Group.

Continued from page 19

holders not only because of their higher reinsurance costs but also because of a new awareness of potentially greater loss exposures and of cash events, in which multiple coverages are triggered by a loss. Insurers also will likely have to increase their retentions as reinsurers seek to attach at higher levels, which also could lead primary insurers to raise rates.

In light of this higher pricing, Mr. Fitzgerald said, corporate policyholders may decide to buy less insurance and self-insure more of their risk.

He advised risk managers to "en-

sure your risk management program is geared for this new era, which could lead to various forms of self-insurance, including the creation of a captive, if the corporate is big enough. An emphasis on loss control and disaster planning could bring a sympathetic response from insurers."

Terrorism is one risk that may require alternatives to insurance.

Bruce Ferguson, president of the Assn. of Risk & Insurance Managers of Australasia, said ARIMA will survey its members next year to ascertain the level of coverage they have been able to obtain for terrorism.

Mr. Ferguson, who also is risk

and insurance manager at Sydney Water Corp., said insurers and reinsurers already have indicated that most terrorism coverage would be withdrawn from property and liability policies at renewals.

"My guess is that the majority of ARIMA members, who pay around \$4 billion Australian (\$2 billion) a year in insurance premiums in Australia and international markets, will find loss or damage from terrorist attacks excluded on all their covers," Mr. Ferguson said.

ARIMA has called for a government-backed terrorism insurance pool to become an insurer of last resort (*BI*, Oct. 29).

January 7, 2002

Bonus: Policy covers coach's incentive

Continued from page 3

Maryland paid a \$13,000 premium, which was based on an analysis of the probability that Mr. Friedgen, who came to Maryland last year after serving as Georgia Tech's offensive coordinator, would lead the team to a bowl game. Under the insurance program, the more prominent the bowl appearance, the bigger the bonus Mr. Friedgen and his assistants would receive.

Those familiar with this type of

'We believe in the (football) program, so we'll certainly ask for quotes, but our risk just went way up, which means that our premium will go up as well.'

Rob Mullens
University of Maryland

insurance coverage say that Maryland is unique among college athletic programs to insure its risk of making incentive payments to coaches.

"My guess is it's not common simply because few schools know about it or few schools have it in the budget or few think it's a good idea," Mr. McCrum said.

"We thought this would take off tremendously, and it has not," said

Wally Kemp, chief executive officer of Bene-Mark Inc., the Fort Worth, Texas-based managing general agency that markets the coach's incentive coverage program. Mr. Kemp said that it is difficult for athletic departments to rationalize such an investment when their budgets are so tight.

"It will be interesting to see what Maryland does next year," he said, referring to the expected increase in premiums that Maryland now would have to pay for the coverage.

"We believe in the (football) program, so we'll certainly ask for quotes, but our risk just went way up, which means that our premium will go up as well," said Maryland's Mr. Mullens.

Mr. McCrum said that is not necessarily so. "Simply because of their success this year doesn't necessarily mean they will achieve the same success next year," he said. "Maryland is in a competitive conference."

Furthermore, he said, it's hard to say what the premium increase will be without looking at such factors as Maryland's graduating senior rate, its recruiting and the identity of its red-shirt freshmen coming onto the team.

"Plus, you have to take some stock in their schedule," Mr. McCrum said. "They had a favorable schedule this year and next year many of their tough games are on the road."

Coke: Court upholds contamination suit

Continued from page 3

a trial court jury awarded \$75,000 to each sister and \$20,000 to the husband of one of the women. The court later reduced the amounts to \$25,000 each to the women and \$8,000 to the husband. Both sides appealed the verdict.

The appeals court reversed the awards, ruling that, under the impact rule, the sisters "had not established a claim, because neither woman had suffered a physical injury."

Mr. Bohn said he thought that earlier rulings established that ingestion constituted an impact, so he chose not to argue that point but instead to challenge the appeals court ruling that the women should not recover damages because they had not suffered an injury.

"For something that maximally disgusting, for something that horrendous, you shouldn't have to prove a physical injury. That was basically my argument," Mr. Bohn said.

In its decision, the Supreme Court said it made clear in earlier cases that "those who market food-stuffs should foresee and expect to bear responsibility for the emotional and physical harm caused by someone consuming a food prod-

uct that is contaminated by a foreign substance." And, in the case at hand, because the court ruled that ingestion of a contaminated beverage does constitute an impact, the impact rule was found not to bar the plaintiffs' claims.

The high court remanded the case to the district court.

In a dissent, Justice Major B. Harding pointed out that the plaintiffs "failed to establish that the condom and the material in the Coke were contaminated with HIV. Nor did they show that it was likely and probable that the virus was present." Absent those and other proofs, "a plaintiff's fear of contracting AIDS is unreasonable as a matter of law and not a legally compensable injury," Justice Harding wrote.

Justice Harding stated in his dissent that allowing such suits without the proofs he mentioned "could lead to an explosion of frivolous litigation, opening, as some courts say, a 'Pandora's Box' of AIDS phobia claims."

Linda Hagan et al. vs. Coca-Cola Bottling Co. et al.; Supreme Court of Florida; Dec. 13, 2001; No. SC00-287.

Phones: Coverage cases in court

Continued from page 3

fact that the consumer lawsuits exclude plaintiffs who have been diagnosed with cancers, brain tumors or other injuries allegedly resulting from radio frequency radiation. Those allegations have been leveled in several existing individual lawsuits filed against cell phone manufacturers.

And the stakes are high in the coverage battles, in part because defense costs are unlimited under CGL policies, said Edward M. Joyce, a policyholder attorney at Heller Ehrman White & McAuliffe L.L.P. in New York.

"In cases like this, the defense expenditures can be more than the actual indemnity payouts," Mr. Joyce said. "That is why there is a fight here."

In addition, a settlement with the plaintiff class could be costly, and the number of underlying class-action lawsuits and policyholder lawsuits could grow, Mr. Joyce pointed out.

So far, the question of coverage for the consumer demands has produced only four suits. But insurers and attorneys representing the policyholders say more lawsuits could follow, because numerous wireless industry manufacturers, service providers, and vendors have been named or are likely to be named in consumer class-action lawsuits.

"Right now, these insurance coverage actions are like test cases to determine what is likely going to be the law in various states," said Mark Kolman, a partner in the Washington office of Dickstein Shapiro Morin & Oshinsky L.L.P. If policyholders win the existing cases, many more could seek coverage, he said.

Consumer victories in the class-action suits could also embolden

plaintiffs attorneys to file additional lawsuits in states where they have not yet done so.

With more than 100 million cell phone users in the United States, the damages could run into the billions of dollars, said Mr. Kolman, who represents Audiovox in both its litigation with Zurich and in the underlying consumer class-action lawsuits.

And because the stakes are so high, some insurers are suing first, allowing them to choose court venues thought likely to be most favorable, the policyholder attorneys say. "They are jumping policyholders and starting cases in jurisdic-

'In cases like this, the defense expenditures can be more than the actual indemnity payouts. That is why there is a fight here.'

Edward M. Joyce
Heller Ehrman White
& McAuliffe L.L.P.

tions they want to be in," Mr. Joyce said.

The class-action lawsuits claim that cellular telephones are defective because they pose a health risk stemming from dangerous levels of radio frequency radiation emitted by their antennas.

The health risks, described in the suits as "biological injury" and "adverse cellular reaction" that can lead to brain cancers and other "health issues," occur when consumers place the phones near their heads, the lawsuits allege. The use of headsets would eliminate that risk, plaintiffs say.

The consumer lawsuits also claim that the companies are strictly liable and that the wireless industry conspired to prevent dissemination of information about defects and failed to provide headsets to eliminate the problems, court papers show.

But Zurich claims in its suit that it has no duty to indemnify or defend its policyholders against the class actions, because the plaintiffs are not seeking damages for any actual property damage or bodily injury, as defined in its policies, court records show.

The insurer declined to comment on the cases, but it provided papers it had filed in court that describe its position.

There is no basis for coverage, Zurich contends, because the underlying class-action lawsuits explicitly excluded all claims for medical monitoring, emotional distress, pain and suffering, and claims for any individual physical injury. The underlying lawsuits also exclude from their definition of a class "all persons who allegedly sustained any bodily injury," Zurich's position papers note.

Policyholders, in contrast, argue that the plaintiffs they represent clearly allege bodily injury and that under CGL policies, if there is even a possibility that policyholders are owed coverage, then the insurer has a duty to defend, Mr. Joyce said.

So far, a New York Supreme Court judge in *Zurich-American Insurance Co. vs. Audiovox Corp.* granted summary judgment in favor of five insurers, saying the companies are not obligated to defend the policyholder because the underlying lawsuits allege economic damage and not bodily injury. Audiovox will appeal that decision, Mr. Kolman said.

NAIC: Exclusions approved

Continued from page 3

lines exclusions for terrorism using the ISO framework.

State insurance regulators adopted the exclusions because of "reports of market disruptions" following reinsurers' unwillingness to cover terrorism risks and Congress' failure to pass a federal backstop for terrorism coverage, Ms. Vaughan said.

Congressional efforts to create such a program stalled when lawmakers recessed last month (*BI*, Dec. 24/31, 2001). In addition, regulators were concerned that significant portions of the insurance market would go offshore or into surplus lines markets, which offer consumers little or no protection in the event of an insurer's insolvency.

The NAIC still hopes that Congress will provide a federal backstop for insurers when it reconvenes later this month. To the extent permitted by state law, the exclusions "would sunset or be

withdrawn 15 business days after the president signs into law a federal backstop to address insurance losses attributed to acts of terror-

'Reports of market disruptions' led regulators to adopt the terrorism risk exclusions.'

Terri Vaughan
NAIC

ism," the bulletin states.

The bulletin, which is available on the Iowa Insurance Department's Web site at www.iid.state.ia.us, also provides an online application form insurers can use to expedite the filing of terrorist exclusions. The application requires that an insurer certify that it is seeking approval for the exclusions because it is unable to obtain reinsurance coverage for

acts of terrorism.

Regulators in California and New York, who voted against adopting the broadly supported resolution the NAIC adopted last month, are reviewing the ISO filings individually.

"California is still concerned that the ISO language may be overly broad" and may not respond to vandalism stemming from hate crimes, said a department spokesman. Commissioner Harry Low must act by Feb. 12 or the filing is deemed to be approved, the spokesman said.

In addition, Connecticut Insurance Commissioner Susan Cogswell had expressed reservations about the ISO filings but decided earlier this week to adopt them.

ISO is in the process of filing terrorism exclusions for personal lines coverages nationwide, the ISO spokesman said. An NAIC subgroup is currently reviewing those filings, Ms. Vaughan said.

WTC: Coverage fight grows as more insurers join fray

Continued from page 1

before Silverstein signed a long-term lease on the WTC complex in July and only weeks before terrorists flew two planes into its 110-story towers. While agreeing to bind the coverage, the program's roughly two dozen insurers, in most cases, had not issued actual policies before the attack, and the two sides are now fighting over what coverage terms the insurers agreed to.

Silverstein claims that the entire program is governed by a Travelers policy issued after Sept. 11 that includes no definition of "occurrence," opening the way under New York law for the loss to be treated as two separate events. Swiss Re, on the other hand, says it bound coverage under a Willis form that included a restrictive definition of occurrence that would classify the WTC's destruction as a single event.

Muddying the waters further is that other insurers signed onto the program using other forms with varying occurrence definitions, including Allianz, which used its own policy form, sources familiar with the program say. Both Chubb—which says it is bound under the Willis form—and Allianz echo Swiss Re's contention that the catastrophe entitles Silverstein to only one payout.

Silverstein's arguments amount to "post-loss attempts to change the terms and conditions of the coverage agreed to by the parties," Chubb charges in its complaint.

Silverstein said it moved to draw most of its insurers into the Swiss Re litigation last week after settlement talks broke down.

"It is unfortunate that we have been forced to sue to enforce our rights," Larry Silverstein, the company's principal, said in a statement. "We will seek to resolve these suits as quickly as possible, so that we can get on with the important business of rebuilding New York."

The coverage dispute began soon after the catastrophe, though in a relatively limited way. Swiss Re filed suit in U.S. District Court in New York last October for a ruling on whether the loss was one occurrence or two and on how it should divide insurance payments among Silverstein, its lenders and other parties, including the Port Authority of New York and New Jersey, the WTC's owner (*BI*, Oct. 29, 2001).

Swiss Re has the biggest stake in the outcome, and other insurers remained on the sidelines, seemingly content to let it take the lead.

The \$3.55 billion program features a \$1 million deductible, a \$10 million primary layer split among

six insurers and 11 excess layers. Swiss Re wrote 22% of each excess layer, for a total participation of \$778.1 million per occurrence.

The WTC program's roughly two dozen insurers, in most cases, had not issued actual policies before the attack.

Lloyd's of London underwriters—collectively, the second-biggest participant—wrote parts of various layers excess of \$500 million, for a total exposure of \$667.8 million per occurrence. Allianz participated on all layers, including the primary, for a total exposure of \$354.7 million per occurrence, while Chubb was the program's fifth-largest participant, with a \$254.3 million share of a layer excess of \$1.5 billion.

In its declaratory action, Swiss Re contended that it agreed to bind coverage under the Willis form, which defined an occurrence as damages arising from "one cause or a series of similar causes" and called for these damages to be added together and treated as a single loss

"irrespective of the period of time or area over which such losses occurred."

Silverstein responded with a counterclaim asserting that the entire program is governed by a policy issued three days after the attack by Travelers, which it described as the lead primary insurer. The policy includes no definition of "occurrence," meaning that New York law would look to the "immediate proximate cause" of the loss: each plane striking each tower separately, Silverstein's lawyers contend.

In the weeks that followed, Silverstein and Swiss Re lawyers continued sparring in and out of court. In court, Silverstein has demanded that Swiss Re immediately pay at least one full-limit loss, which it notes is undisputed. Swiss Re has countered that the coverage calls for immediate payment only if Silverstein has decided not to rebuild on the 16-acre site.

Out of court, Swiss Re's lawyers have pointed out that cover notes signed by two of Silverstein's excess insurers—ACE Ltd. and XL Capital Ltd.—specifically cite the Willis policy as governing coverage. This, they say, shows that the Willis form was always intended to be the basis of the program.

Silverstein's lawyers countered

that Swiss Re's own binders don't mention the Willis form specifically and that this shows that the insurer didn't intend to use the form.

The scuffling broke out into a wider fight last week, though, as Silverstein filed a new complaint against Travelers.

Since there is no dispute over which form governs Travelers' participation, Silverstein says it will seek summary judgment that Travelers must pay two full-limit claims. Along with the physical loss of the World Trade Center buildings, Silverstein said it will suffer an estimated \$2 billion in business interruption losses.

At the same time, Silverstein asked U.S. District Judge John S. Martin to allow it to add nearly all of its property insurers as defendants in its counterclaim in the Swiss Re action. This move does not include ACE and XL, which Silverstein has sued over the applicability of arbitration clauses.

Other insurers are now following Swiss Re to court. Chubb's Federal Insurance and Allianz both filed suits in New York federal court last week to limit their losses to a single occurrence.

Judge Martin has given Swiss Re and Silverstein until April 30 to complete pretrial discovery.

Catch-up: Differences emerge in state tax treatment

Continued from page 1

nesota, New Jersey and Wisconsin, according to benefit consultant The Segal Co.

Consider the example of an employee who earned \$80,000 and made \$11,000—the maximum deferral in 2002—in regular pretax 401(k) contributions, plus a \$1,000 catch-up contribution. In the nonconforming states, the employee would, for federal tax purposes, have an adjusted gross income of \$68,000 but an adjusted gross income of \$69,000 for state tax purposes. The difference in what is considered income for federal and state tax purposes would widen each year as the maximum catch-

up contribution increases.

Benefit experts warn that this difference in federal and state tax law will significantly complicate recordkeeping for 401(k) plan administrators.

"This could be very messy for payroll departments," said Marilyn Scalia, a consultant in Fort Lee, N.J., with Unifi Network, whose purchase was finalized last week by Mellon Financial Corp.

"It is a real recordkeeping nuisance," concurred Henry Saveth, an attorney with consultant William M. Mercer Inc. in New York.

But it isn't only employers and recordkeepers who face problems due to differences in tax laws. Em-

ployees in nonconforming states also would be liable for state taxes on catch-up contributions, and that tax bite could be hefty in states with high income tax rates.

"It is a cost issue not just for the employer but also for the plan participant," said Kyle Brown, an attorney with Watson Wyatt Worldwide in Washington.

'Some states are in a real financial squeeze. It is questionable if all states' will modify their laws to provide tax relief for catch-up contributions.

David Wray
Profit Sharing/401(k)
Council of America

And employees face their own recordkeeping problems as well. If states consider catch-up contributions to be taxable income, employees would need to maintain records showing that they have paid taxes on the contributions in order to prevent the contributions from being taxed again when the employees receive distributions from their 401(k) plans.

"If employees don't have the records, they could be double-taxed," warned Rich Koski, a principal with Buck Consultants Inc. in Secaucus, N.J.

Despite the current concern, some experts are optimistic that states eventually will bring their

laws into line. "I would not expect this to be a problem over time," said Mr. Koski.

Others, though, are less sanguine. "Some states are in a real financial squeeze. It is questionable if all states" will modify their laws to provide tax relief, said David Wray, president of the Profit Sharing/401(k) Council of America, a Chicago-based association made up of plan sponsors.

"It is going to take states a while to catch up with what has gone on at the federal level," said Joyce Meyer, a partner and employee benefits attorney with Gardner, Carton & Douglas in Chicago.

Benefit groups are urging states to make their laws conform to federal law with regard to catch-up contributions.

James Klein, president of the Washington-based American Benefits Council, wrote in a letter last month to members of the California Assembly Committee on Revenue and Taxation that nonconformity by the state will "frustrate the plans of workers who need to save as much as possible for their retirement," while imposing significant administrative costs on California employers.

Meanwhile, employers got some good news regarding catch-up regulations from the IRS late last month.

The IRS, responding to employer concerns, agreed to modify a regulation it issued last year that said that employers with multiple 401(k) plans could not stagger the dates at which they would amend

their plans to let older employees make catch-up contributions. Under that regulation, employers had to offer catch-up contributions either in all of their 401(k) plans or in none of them.

But in a notice issued late last month, the IRS said employers with multiple 401(k) plans could vary the implementation dates as long as all of their 401(k) plans allow catch-up contributions by Oct. 1.

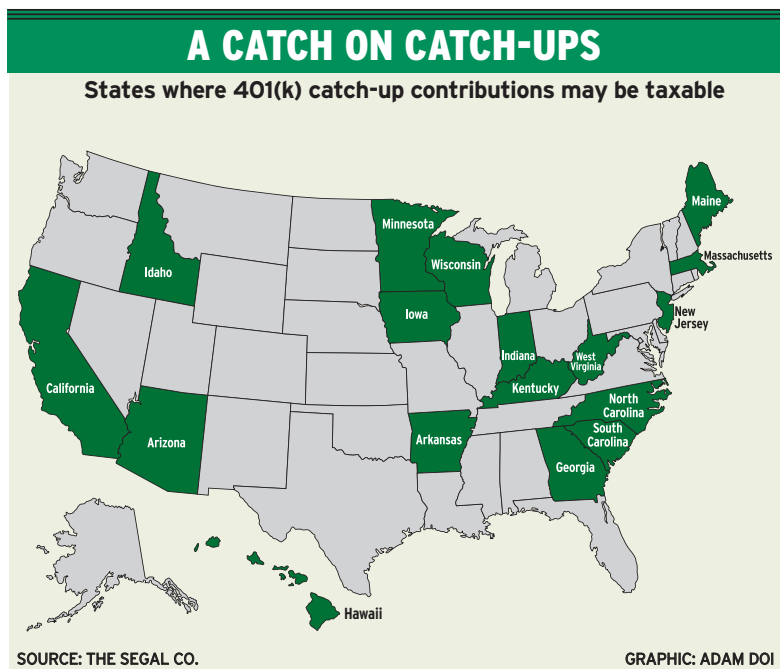
The change is a relief to those employers that have found that some of their 401(k) plan administrators need more time to adjust their recordkeeping systems to handle catch-up contributions.

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FTR

[Week of 12/31-1/04]

This roundup of news from the previous week is generated by *BI's* daily news reporting. To get breaking news as it occurs, log on to www.businessinsurance.com, or sign up online for free *BI* Daily News by e-mail.

SINSER execs buy out operations in Bermuda

SINSER Insurance Ltd.'s management team has acquired the Bermuda-based company, after Aon Corp. decided not to keep the operations as part of its acquisition of SINSER Holding A.B. Chicago-based Aon, which purchased the global SINSER operations from Skandia Group in August (*BI*, Aug. 13, 2001), sold its rights to buy SINSER Insurance to SINSER executives Nicholas Dove, Adrian Lee-Emery, Nicholas Frost and Larry Turnbull. The deal was completed in late December. Aon decided to sell SINSER Insurance because the Bermuda-based unit's business "is generated by smaller entities, and some of the client base might not have been comfortable with Aon handling their account," said Alan C. Cossar, executive director of Aon Insurance Managers (Bermuda) Ltd. In addition, Aon already has a "sizable critical mass" in Bermuda, he noted.

Natural disaster losses increased in 2001

In a year that saw the destruction of the World Trade Center become the largest-ever insured catastrophe, the insurance industry also was hit hard by natural disasters. Insured losses from natural disasters in 2001 totaled \$11.5 billion, compared with \$7.5 billion in 2000, according to Munich Reinsurance Co. Total economic losses from natural disasters rose last year to \$36.0 billion from \$30.0 billion in 2000. The about 700 natural disaster loss events recorded in 2001 were above the long-term average of 650 events per year but below the record set in 2000 of 850 events. At least 25,000



PHOTO: AFP

Tropical Storm Allison inundated Houston in June 2001.

people were killed in natural disasters last year, compared with 10,000 in the prior year. The two largest insured natural disasters in 2001 both occurred in the United States. Tropical storm Allison in June caused \$3.5 billion of insured losses, mainly in Texas, making it the costliest such storm on record, according to Munich Re. An April hailstorm in Missouri was the second-costliest insured loss, at \$1.9 billion.

EEOC sues Allstate over treatment of agents

Insurance giant Allstate Corp. violated a group of Allstate agents' rights when it required them to sign a release giving up their right to sue the company, the Equal Employment Opportunity Commission charges in a lawsuit filed late last month. According to the suit, filed in the U.S. District Court of Eastern Pennsylvania, agents were required to sign the release as part of the Northbrook, Ill.-based insurer's plan



PHOTO: COURTESY OF ALLSTATE

Allstate is facing an EEOC lawsuit over its agents.

to convert its 15,200-member agent workforce to independent contractors from regular employees. The EEOC brought the suit on behalf of 6,500 Allstate agents, all but 19 of whom signed the release. The EEOC alleges that it is unlawful for Allstate to bar agents from filing claims under the Age Discrimination in Employment Act, Title VII of the Civil Rights Act or the Americans with Disabilities Act. In a statement, Allstate said it was "disappointed" with the EEOC's decision to sue. "Releases are used routinely in the American workplace in connection with business reorganizations and have been consistently upheld in court."

State workers comp reinsurer reducing rates

Minnesota's Workers Compensation Reinsurance Assn. is reducing the rates it charges self-insured Minnesota employers and insurance companies by an average of 12%. Actual rate reductions will be 5% to 19%, depending on the insurer's or self-insured employer's retention. The WCRA said it is able to buck broader trends and reduce rates because they are based solely on Minnesota employers' claims experience. Minnesota law requires all workers comp insurers and self-insured employers to buy reinsurance for large claims from the WCRA. The Minnesota Legislature created the nonprofit, tax-exempt WCRA in 1979. The WCRA also said it would continue to provide reinsurance coverage for terrorism-related losses.

Tennessee bank to buy agency network

First Tennessee National Corp., a

Nashville, Tenn.-based bank, has bought Synaxis Group Inc. for an undisclosed amount. Synaxis is a network of regional insurance agencies in Georgia, Kentucky and Tennessee. In 2000, the latest year for which figures are available, Synaxis had brokerage revenues of \$34.6 million and was No. 41 in *Business Insurance's* annual ranking of the 100 largest brokers of U.S. business. Being part of First Tennessee will enable Synaxis to offer a wider range of financial services, said David Haynes, Synaxis' chairman and chief executive officer, in a statement.

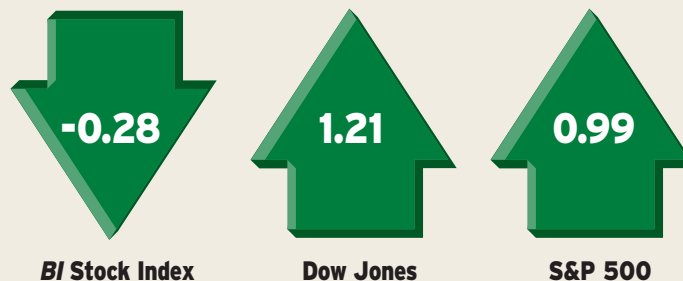
Briefly noted

Blue Cross & Blue Shield of North Carolina last week filed its plan to convert to a for-profit company. The plan is subject to regulatory approval....President Bush is expected to sign soon a federal appropriations bill, H.R. 3061, that includes a provision extending through the end of this year a 1996 law that bars group health plans from offering discriminatory annual and lifetime dollar limits for **mental health care services**....A.M. Best Co. has raised its financial strength rating of **Electric Insurance Co.** to A- from B++....Best cited EIC's capitalization and sustained profitability. Beverly, Mass.-based EIC is a direct writer of commercial and personal property/casualty insurance, including workers compensation and commercial auto liability.

BI Stock Index [12/31-1/4]

Up-to-the-minute data for all 87 companies that comprise the *BI* Stock Index can be found at www.businessinsurance.com

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



Largest gains

Unico American Corp.	12.15
Gainsco Inc.	11.92
Mutual Risk Mgmt. Ltd.	10.53
Sierra Health Services	8.59
AXA-UAP Group	8.36

Largest losses

Baldwin & Lyons Inc.	-10.95
Arthur J. Gallagher	-5.82
CNA Surety	-5.43
Humana Inc.	-4.70
RenaissanceRe Holdings	-4.67

Weekly change by market segment

Brokers	.69
Insurers/Reinsurers	.30
Managed Care Organizations	.15

Source: CNET Investor (investor.cnet.com)

RAA: Loss development trends accelerating

Continued from page 2

opment data through the end of 2000 of 24 RAA member companies and three other companies.

"In addition to developing the current numbers as of 12/2000, we also developed some historical numbers from the information provided for the study so we can see how it changed over time," Mr. Connor said.

"The trends are somewhat useful to see how things are going," he said. "For a while it seemed that the loss development factor was getting bigger and bigger and the reporting slower and slower, but it's changed, starting two years ago."

The RAA study showed that automobile liability has proven to be the fastest developing of the four lines of business examined, with reinsurers aware of about 25% of ul-

timate losses by the end of each accident year and about 90% of ultimate losses emerging by the end of the fifth year.

In contrast, workers compensation is very slow to develop, with only about 12% of ultimate losses emerging by the end of the first year, about 45% by the fifth year, and about 55% by the 10th year.

General liability losses are also shown as somewhat slow to develop, with about 8% of ultimate losses reported by the end of the first year, 71% by the end of the fifth year, and 88% by the 10th year. The remainder emerges gradually over the next 20 to 25 years, according to the RAA report.

"AL remains a very fast reporting line," Mr. Bear said. "Workers comp remains a slower reporting line, and GL is somewhere in between."

The last two studies have shown a reversal of a longtime industry trend toward a general lengthening in loss reporting patterns.

'For a while it seemed that the loss development factor was getting bigger and bigger and the reporting slower and slower, but it's changed, starting two years ago.'

Vincent Connor
GeneralCologne Re

Historically, the RAA studies show that primary insurers experience much faster loss development

patterns than do reinsurers.

"The major reason for these differences lie in the retention feature of excess of loss reinsurance," the study notes. "Since many claims are not valued at ultimate cost initially, the primary insurer may not report such claims to its insurer until considerable time has passed because the initial reserve is within the primary insurer's retention."

Claims below the primary insurer's retention are likely to close sooner and stop developing, the study said. Meanwhile, the development of claims affecting the excess reinsurer is magnified by the exclusion of losses below the attachment point from the reinsurer's loss development base.

Since the 1991 edition of the study, the RAA has, where possible, excluded identifiable asbestos and

environmental liability losses from general liability data. Those losses were thought to distort findings about general liability claim reporting patterns due to their long discovery periods and the legal questions concerning responsibility associated with them.

"The tail factor beyond 25 years was reduced because we were better able to identify asbestos and environmental data that appear to have been included in previous year's studies," Mr. Bear said.

Other identifiable mass torts also were excluded from general liability data for similar reasons.

Copies of the RAA's *Historical Loss Development Study 2001 edition* can be ordered from the RAA's Web site, at www.reinsurance.org.

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