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Bank-insurer mergers unlikely in U.S. / 3

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January 14, 2002

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Supreme Court limits ADA

'Disabled' construed as impaired in daily tasks

By MARK A. HOFMANN

WASHINGTON—The Supreme Court handed employers a victory last week when it ruled that a worker's inability to perform a specific job activity does not necessarily mean the worker is disabled and entitled to protections under the Americans with Disabilities Act.

The ADA requires claimants to show that they are unable to "perform the variety of tasks central to most people's daily lives" rather than that they are unable to perform certain job tasks, wrote Associate Justice Sandra O'Connor for the unanimous court in *Toyota Motor Manufacturing, Kentucky Inc. vs. Ella Williams.*

Business groups and employer attorneys hailed the decision as a welcome clarification of the ADA's scope.

The "ruling makes it clear that the ADA is still the Americans with Disabilities Act, not the Americans with Injuries Act," Patrick Cleary, senior vp-human resources policy and external affairs for the National Assn. of Manufacturers, said in a written statement. He said the Washington-based NAM is "gratified" that the decision "validates our position that the original intent of the ADA should be preserved without diluting its focus on helping the disabled succeed in the workplace."

"It's definitely important for any employer involved in ADA litigation, because it sets the tone for the manner in which courts should construe the statute," said Gerald L. Maatman Jr., chairman of the global em-

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Differing state stances muddy coverage issue

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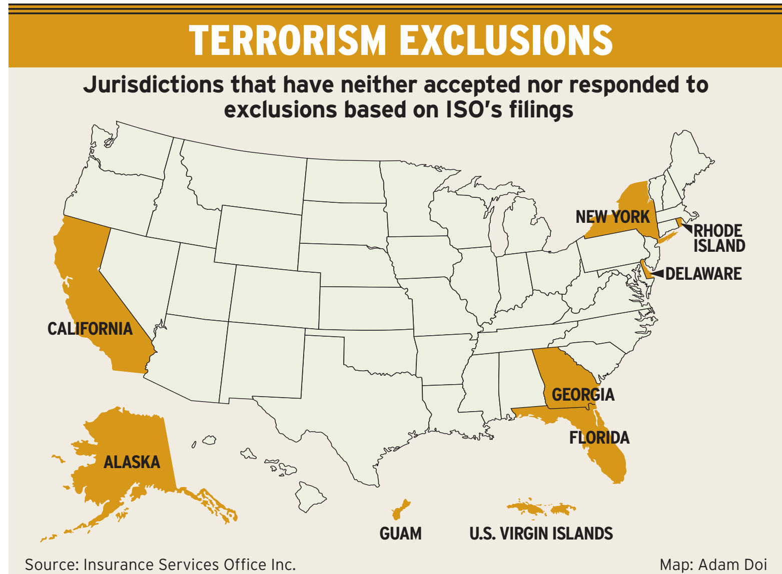
By MEG FLETCHER

California's rejection of a proposed terrorism exclusion for commercial lines policies is increasing uncertainty about the extent to which risk managers will be able to obtain coverage for terrorism risks.

California last week became the first state to reject terrorism exclusions proposed by the Insurance Services Office Inc. That move—coupled with a statement by New York's top regulator that he is "not inclined" to accept any exclusion that would limit coverage to just $25 million in total losses—is raising questions about the effectiveness of exclusions that would not be available in the nation's two largest insurance markets.



Source: Insurance Services Office Inc. Map: Adam Doi

Currently, 45 jurisdictions in the United States—43 states, the District of Columbia and Puerto Rico—have adopted terrorism exclusions that are at least as broad as those proposed by ISO, said a spokesman for Jersey City, N.J.-based ISO late last week. With terrorism coverage excluded, risk managers would have to buy such protection as separate endorsements or policies, or self-insure the risk.

While negotiations between ISO and the National Assn. of Insurance Commissioners limited the scope of the exclusions, a few states have taken additional steps to protect insurance buyers (*BI*, Jan. 7). For example, Illinois requires insurers to demonstrate that they have lost their reinsurance for terrorism risks rather than merely certify that loss by signature, according to Illinois Insurance Director Nat Shapo.

See EXCLUSIONS/page 34

Asbestos accord survives challenge

By DOUGLAS McLEOD

NEW ORLEANS—London underwriters are considering an appeal following a federal judge's refusal to void a longstanding asbestos claims agreement between the insurers and bankrupt engineering firm Babcock & Wilcox Co.

In what some describe as a test effort to rescind "coverage-in-place" agreements with asbestos defendants in bankruptcy, Lloyd's of London underwriters and London-based Turegum Insurance Co. had sought to cancel their agreement with Babcock after paying more than $650 million in claims in the 10 years before Babcock's February 2000 bankruptcy (*BI*, May 14, 2001). The insurers charged that the Chapter 11 filing breached provisions of the agreement and potentially expanded underwriters' liability for future claims.

In a Jan. 4 ruling, though, U.S.

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Special Report

PROPERTY/ CASUALTY RENEWALS

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NEWSPAPER

Late News

Bush task force to review 401(k) safeguards

In the wake of the loss of more than $1 billion by Enron Corp. 401(k) plan participants, the Bush administration will establish a multiagency task force to develop recommendations to prevent future threats to retirement savings. President Bush said last week that he has asked the secretaries of the Commerce, Labor and Treasury departments to establish a working group to analyze pension rules and to "come up with recommendations how to reform the system to make sure that people are not exposed to losing their life savings as a result of bankruptcy." The initiative comes after a dizzying fall late last year in the price of shares of Enron Corp. Many plan participants had significant investments in Enron stock.

CIGNA cutting 2,000 jobs

CIGNA Corp. plans to cut 2,000 jobs as part of a restructuring of its health care, life and disability units. The Philadelphia-based health insurer said it would take a $65 million aftertax charge in the fourth quarter of 2001 related to the restructuring. The charge will be used to pay $33 million in severance costs and $32 million in expenses related to consolidating its U.S. service centers, CIGNA said in a statement. CIGNA expects the job cuts, which will eliminate about 4.5% of its workforce, to save the company $45 million to $55 million in 2003.

Pennsylvania delays med mal surcharge

In an attempt to provide short-term relief to physicians, Pennsylvania Insurance Commissioner Diane Koken has asked private medical malpractice insurers to delay collecting a premium surcharge for four months. The move, made at the request of Gov. Mark Schweiker, comes after physicians in the state-run Joint Underwriting Assn. in December received a similar deferral. The delay, which would push the collection date to April 30, is intended to help physicians facing sharp increases in the price of their medical malpractice insurance coverage. Every physician in Pennsylvania is

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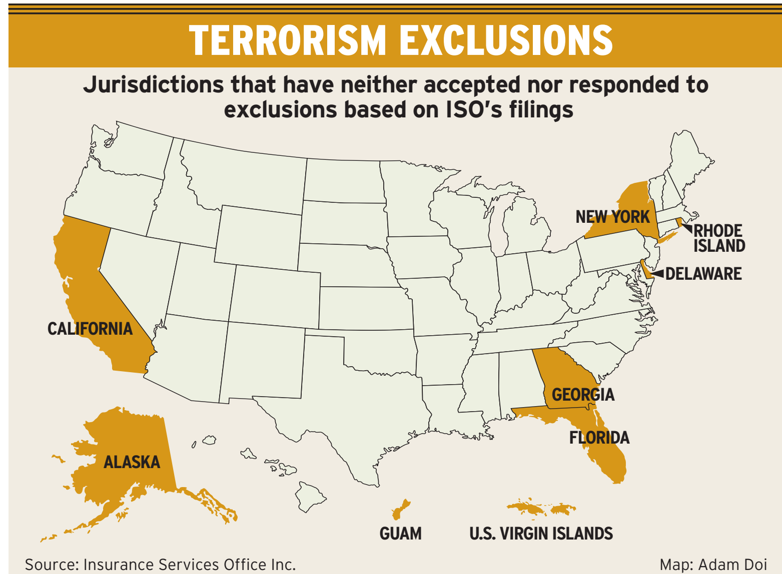
TERRORISM EXCLUSIONS

Jurisdictions that have neither accepted nor responded to exclusions based on ISO's filings



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NEWSPAPER

Inside

State high court broadens bad faith

An insurer that refuses to settle a suit against its policyholder even though it doesn't believe there is a strong chance of winning the lawsuit can be liable for bad-faith damages, the Pennsylvania Supreme Court has ruled. Page 4

A call for Congress to act

Senior Editor Dave Lenckus finds it ironic that Congress has been slow to act on legislation to honor 40 individuals whose heroic actions may well have saved many lawmakers' lives. Page 6

Alternatives needed to state regulation

Business Insurance praises legislative efforts to allow optional federal chartering of insurers in one of this week's editorials. Page 8

Market uncertain in Argentina

Buffeted by political and economic turmoil, Argentina's commercial property/casualty policyholders and their insurers face many uncertainties. Page 27

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

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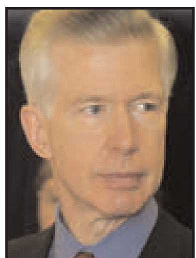
required to pay a surcharge, collected by insurers, to fund the state-run Medical Professional Liability Catastrophe Fund.

California eyes tax change for 401(k) catch-ups

A bipartisan effort is underway in California to amend state law so that employees making catch-up contributions to their 401(k) plans are not taxed on those contributions. Last week, Democratic Gov. Gray Davis endorsed—as part of a budget package he presented—changing California law to conform with the Economic Growth and Tax Relief and Reconciliation Act. California is the largest of more than a dozen states that have not changed their statutes to recognize federal tax changes, including those allowing catch-up contributions, included in EGTRRA.


Gov. Davis

Names' contributions remain level: ALM

Despite trying times for Lloyd's of London names in 2001, individual investors' overall contribution to the market's capacity for 2002 remains steady, according to the Assn. of Lloyd's Members. The London-based ALM said that, for the third straight year, names have supplied about £3 billion ($4.30 billion) of Lloyd's capacity, despite cash calls and heavy losses last year in the wake of the Sept. 11 attacks. Capacity supplied by names represents about one-quarter of the market's record capacity of £12.3 billion ($17.63 billion) for 2002. Separately, Lloyd's reported that the number of syndicates operating in the market for 2002 has fallen 20% to 86 since 2001. The number of managing agents also is down 14% to 49, and the number of members agents has fallen 28.5% to five. The number of Lloyd's brokers licensed in 2002 increased 12.6% to 142.

Late News

Noonan resigns from American Re

Edward J. Noonan has resigned as president and chief executive officer of American Re Corp., effective March 31. John P. Phelan will replace Mr. Noonan. Currently, Mr. Phelan is president of Munich Reinsurance Co. of Canada, which, like American Re, is a member of the Munich Re Group. Mr. Noonan has been with American Re for 18 years, the last five as president and CEO. "I have no plans," Mr. Noonan said. "I've just stepped down and I've decided I want to see what the rest of life holds for me."

Mr. Noonan

Colorado governor urges health plan options

Colorado Gov. Bill Owens is calling on state lawmakers to pass legislation that would create a low-cost, basic health insurance plan without many of the mandated coverages that insured plans in Colorado must now offer. In his 2002 State of the State speech last week, Gov. Owens also asked the Legislature to provide a tax credit for small employers that offer health insurance to their workers.

Cost containment efforts stall: WCRI

The adoption of new managed care and medical cost containment initiatives in the nation's workers compensation systems has slowed in recent years, according to the Cambridge, Mass.-based Workers Compensation Research Institute. Since 1997, only "a handful" of new utilization management initiatives have been implemented by law or regulation, according to a WCRI study. Also, since 1997, no jurisdiction has mandated the use of managed care and no jurisdiction has added treatment guidelines as a way to hold down costs, the study found. In fact, Florida eliminated its managed care mandate, and Vermont dropped its managed care mandate for the residual market, according to the study.

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All the material in 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.

Briefly noted

The National Oceanic and Atmospheric Administration's Climate Prediction Center said last week that warming in the Pacific Ocean could create an **El Nino** weather phenomenon this year. The El Nino that formed in 1997 brought extremely heavy rains that caused flooding in California and parts of the Gulf Coast but helped dampen Atlantic hurricane activity.... Farmington Hills, Mich.-based wholesaler **Burns & Wilcox Ltd.** is acquiring Birmingham, Ala.-based managing general agent Van American Insurance Services Inc. The transaction, effective Jan. 1, is the first of a series of acquisitions Burns & Wilcox plans for 2002, the company said....**American Home Products Corp.**'s $3.75 billion settlement of class-action suits involving its diet drugs became final earlier this month. Claimants had until Jan. 2 to request a U.S. Supreme Court review of the settlement, which was approved in August 2000 by the U.S. District Court for the Eastern District of Pennsylvania....The American Institute for Chartered Property Casualty Underwriters and the Insurance Institute of America have signed an agreement with **Walden University** in Minneapolis under which Walden will apply AICPCU/IIA credits toward requirements in Walden's online master of business administration program. This will allow the institutes' members to earn an MBA in less than two years

USI, Ceridian in outsourcing pact

By JUDY GREENWALD

SAN FRANCISCO—USI Holdings Corp. and Ceridian Corp. have taken a step toward providing one-stop shopping for middle-market clients.

Minneapolis-based Ceridian, which offers payroll and human resources services, has formed an alliance with the San Francisco-based insurance broker that will permit the two companies to offer a wide range of outsourcing services.

Bernard H. Mizel, USI's chairman and chief executive officer, said the partnership will permit middle-market employers to go from several service providers to just one.

> **Payroll services are critical to USI becoming 'the dominating player in core benefit enrollment worksite marketing.'**
>
> *Bernard H. Mizel*
> *USI Holdings Corp.*

Providing payroll services "is critical to our ultimate goal of being the dominating player in core benefit enrollment worksite marketing," said Mr. Mizel.

The two firms, which began a pilot program in last year's fourth quarter, plan a national sales rollout for the first quarter of this year. The sales staffs of both companies are currently being trained in each other's product lines, said Tony Holcombe, the Nashville, Tenn.-based president of Ceridian Employee/Employer Services, who has been named to USI's board of directors.

Ceridian services to be made available initially include integrated human resources and payroll, payroll, tax filing, check printing and W-2 printing. USI's contribution to the alliance will include insurance and related financial service offerings, from employer-paid health insurance to property, casualty and workers compensation coverage.

At USI, the partnership will operate as part of ResourceONE, USI's national marketing program, which specializes in customized, single-source benefit enrollment pro-

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SAVE THIS DATE: February 12, 2002

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The *Business Insurance* Executive Forums will be highly informative events where noted speakers and respected business leaders present the most intriguing topics for discussion in a uniquely interactive format. Designed for top level executives to come together, network and discuss the most pressing issues impacting the industry. Save this date and watch for details on our NYC location. Contact John Dempsey or Neva Flynn at 203-762-5052 for more information on the first *Business Insurance* Executive Forum on Business Interruption Risks.

Business Insurance EXECUTIVE FORUM

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IRS rejects health plans aimed to cut payroll tax

By JERRY GEISEL

WASHINGTON—Employers beware: an aggressively marketed health insurance plan designed to cut employers' payroll taxes doesn't pass muster with the Internal Revenue Service.

Under the design, employers would restructure their health plans so that employees would pay the full premium through pretax contributions made through salary reduction. That would reduce employees' adjusted gross incomes on which the 7.65% federal payroll tax is assessed. Then employers would reimburse, on a tax-free basis, employees for most of the premium contributions.

Plan promoters, such as third-party administrators, said such arrangements are bona fide because the tax code permits employers to reimburse employees, on a tax-free basis, for health insurance premiums and expenses.

But the IRS, in Revenue Ruling 2002-03, issued this month, didn't see it that way. While Tax Code Section 106 does provide for tax-free employer reimbursement for premiums paid by employees, in this design, legally there were no employee contributions. That is because, under law, premium payments made through salary reductions are employer, not employee, contributions.

As a result, in this arrangement, "there is no employee premium" to reimburse, the IRS said, and any reimbursement payment an employer made to its employees would be added to employees' taxable income, wiping out the employer tax advantage of the restructured plan.

While much of the IRS revenue ruling is couched in dense legal lan-

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Banks see P/C insurance as incompatible business

Citigroup breaks its own mold

By JUDY GREENWALD

NEW YORK—Any financial supermarket of the future is unlikely to stock property/casualty underwriting on its shelves.

Many observers say Citigroup Inc.'s 1998 acquisition of Travelers Insurance Group was a unique event unlikely to be copied by other banks, even before last month's announcement that Citigroup plans to spin off Travelers' property/casualty business. Incompatibilities between property/casualty underwriting and banks' basic businesses make a successful union infeasible, they say.

Observers say there is still continuing interest by banks in distributing property/casualty products, though. This was illustrated by Palo Alto, Calif.-based Greater Bay Bancorp's plan to buy Redwood City, Calif.-based ABD Insurance & Financial Services Inc. (*BI*, Dec. 24/31, 2001)

All this should have relatively little, if any, impact on the commercial property/casualty buyer, say most observers. "There's a lot more important issues for them to worry about," said Harold D. Skipper Jr., chairman of the department of risk management and insurance at Georgia State University in Atlanta.

Citigroup said last month that it plans to sell up to 20% of Travelers Property/Casualty in an initial public offering during the first quarter of 2002 and then spin off the remaining shares to Citigroup's shareholders in a tax-free transaction. Citigroup will retain Travelers Life & Annuity Co. and maintain a relationship with Travelers P/C in the distribution of homeowners and automobile insurance policies, as well as provide investment advisory services to Travelers P/C.

Citicorp's Travelers acquisition was hailed in 1998 as representing the creation of a one-stop shopping, financial supermarket. The deal, engineered by Citigroup Chairman and Chief Executive Officer Sanford I. Weill, led to enactment of the Gramm-Leach-Bliley Financial Services Modernization Act, which lowered the barriers between the banking, securities and insurance industries.

But others failed to follow Citigroup's lead. "The vote was already in on that," said Don McNees, a principal with Tillinghast in New York. "People sat back and took a look and said, 'Gee, that's interest-

See CITIGROUP/page 31

Aviation market hit hard in 2001

By SARAH VEYSEY

Aviation insurers face losses of $5.8 billion for 2001, making last year the worst ever for the aviation market, according to aviation analyst Airclaims Ltd.

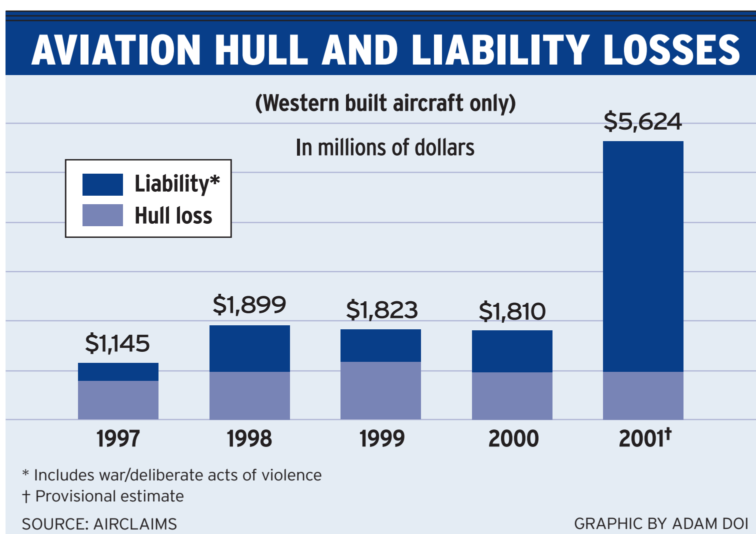
London-based Airclaims' estimate includes hull and liability claims arising from the Sept. 11 attacks in the United States, in which terrorists hijacked and crashed four commercial jets.

Prior to 2001, the aviation market's worst year was 1994, with losses of just under $2.3 billion, according to Airclaims.

Airclaims said that had it not been for the Sept. 11 attacks, and to a lesser extent, the destruction of three Sri Lankan Airlines planes by the Tamil Tigers (*BI*, July 30, 2001), losses in 2001 would have been below the expected annual average.

"We currently estimate that incurred insurance losses from airline accidents (fortuitous events) in the year total only about $1.2 billion, making (2001) one of the 'best' years for some time," Airclaims said in its bulletin. "The past trend would have indicated accidental losses closer to $2 billion for the year."

Western-built jets, which Airclaims says carry about 90% of commercial traffic, suffered four fatal accidents in 2001, compared with seven in 2000. These accidents resulted in 377 fatalities, compared with 729 a year previously.



"Star Trek: Insurrection" is among several movies at the heart of a claims dispute involving insurance-backed film financing.

Court battle grows in film financier's coverage dispute with its insurers

By DOUGLAS McLEOD

NEW YORK—The legal war over disastrous insurance-backed film financing deals is flaring on both sides of the Atlantic, as JPMorgan Chase Bank and two insurers exchange new lawsuits over programs covering 12 Paramount Pictures films and as a London court absolves one of the insurers of liability in a separate pair of loss-plagued deals.

In the latest flurry of court action over insurers' ill-fated Hollywood foray, AXA Reinsurance U.K. P.L.C. and General Star International Indemnity Ltd. have sued Chase in a New York federal court to rescind policies guaranteeing the repayment of production loans on a dozen Paramount films.

Chase has already filed claims totaling $38.5 million on three of the films—1998's "Star Trek: Insurrection," "A Civil Action" and "A Simple Plan"—and claims on the other nine are expected and could total as much as $123 million more.

Chase has responded by suing AXA, General Star and seven other insurers in state court in New York to force the payment of its claims.

Meanwhile, a London High Court judge last month voided AXA's reinsurance of the defunct HIH Casualty & General Insurance Ltd. on two slates of made-for-TV films, absolving AXA of its share of liability for $31 million in losses that HIH paid in 1999 and 2000. The judge found that film producers did not make as many pictures as they had agreed to, breaching a warranty in the coverage.

The legal fights over insurers' film guarantees have escalated since the first disputes hit the courts in late 1999. About 16 suits are now pending in U.S. courts and several more are pending in the United Kingdom over policies written by AXA and other insurers promising to repay movie industry borrowers' bank loans if films' revenues fall short of covering their debts.

In one case, a New York State Supreme Court jury last month ruled against AXA on a pair of coverage issues, clearing the way for Chase to recover a potential multimillion-dollar loss on the 2000 Burt Reynolds film "The Crew" (*BI*, Dec. 17, 2001).

Insurance industry experts have estimated insurers' total exposure to film finance losses at $1.5 billion to $2 billion.

The latest complaints involve Chase's financing of two slates of six films each produced for Paramount and released between 1998 and 2000.

In complaints filed in U.S. District Court in New York, AXA and General Star charge that they were defrauded by Chase and others in the placement of policies backing Chase's roughly $168 million in loans on the 12 pictures.

The suits, echoing earlier insurer complaints, allege that Chase took advantage of the insurers' lack of experience in film finance to structure deals that removed all risk to Chase while virtually guaranteeing massive losses to the insurers.

Revenue distribution formulas in the deals, for example, allow Paramount to deduct large sums from a film's gross receipts before net proceeds are made avail-

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The Pennsylvania Supreme Court found St. Paul liable for bad faith.

Pennsylvania focuses on St. Paul's own pessimistic assessment of chance of winning suit

Insurer refusal to settle ruled bad faith

By MICHAEL PRINCE

HARRISBURG, Pa.—An insurer that refuses to settle a suit against its policyholder even though it doesn't believe there is a strong chance of winning the lawsuit can be liable for bad-faith damages, the Pennsylvania Supreme Court has ruled.

The court's Dec. 31, 2001, ruling upheld a $700,000 trial award to a policyholder that had earlier lost a multimillion-dollar verdict in a medical malpractice suit after its insurer refused—against the policyholder's wishes—to settle the case for the policy limit.

"Where an insurer refuses to settle a claim that could have been resolved within policy limits without 'a bona fide belief…that it has a good possibility of winning,' it breaches its contractual duty to act in good faith and its fiduciary duty to its insured," the court wrote in a 3-2 opinion.

The decision involved a lawsuit filed in 1986 against the Wilmington, Del.-based The Birth Center by the parents of a child born with permanent physical and brain damage. The center turned to its liability insurer—The St. Paul Cos. Inc. of St. Paul, Minn.—with which it had a $1 million policy.

A trial judge said that 'St. Paul's actions were in bad faith and that it was putting its interests ahead of those of its insured.'

From August 1991 until the trial ended in March 1993, the plaintiffs offered to settle the case for the full amount of the policy. St. Paul refused to settle, though, despite an analysis by its own attorneys indicating that the insurer had at best a 50% chance of winning the trial and that a jury verdict could reach $1.5 million, according to court papers.

Even on the first day of trial, St. Paul refused to make a settlement offer despite the trial judge's assertion that "St. Paul's actions were in bad faith and that it was putting its interests ahead of those of its insured," the state Supreme Court's opinion says.

The jury returned a verdict of $4.5 million in favor of the plaintiffs. St. Paul subsequently agreed to settle the case for $5.0 million and asked The Birth Center to waive its right to sue, which it refused to do.

In 1994, The Birth Center sued St. Paul, charging that the insurer's initial refusal to settle the case amounted to a breach of its fiduciary duty, violated its implied covenant of good faith and breached its contract.

Following a 1996 trial, a jury awarded The Birth Center $700,000 in damages from injuries it suffered to its business, reputation and credit from losing the earlier trial. On a request by St. Paul, the trial judge threw out the verdict, but an appeals court reinstated the award. The Supreme Court's ruling upheld the appellate decision.

In its appeal, St. Paul asserted that, because it eventually settled the case for above the policy limits, the policyholder suffered no damages. The Supreme Court rejected this argument, though.

"Where an insurer acts in bad faith, the insured is entitled to recover such damages sufficient to return it to the position it would have been in but for the breach," the opinion states.

"St. Paul's payment of the excess verdict does not bar The Birth Center's claim for compensatory damages, because The Birth Center was able to prove that St. Paul's bad-faith conduct was a substantial factor in The Birth Center suffering damages in addition to the excess verdict," the decision states.

The Birth Center vs. The St. Paul Cos. Inc., Pennsylvania Supreme Court; No. J-139-2000.

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Errors & Omissions

• Because of incorrect information supplied to *Business Insurance*, a Jan. 7 story and chart on state tax treatment of 401(k) plan catch-up contributions contained an error. Catch-up contributions in Minnesota will not be subject to state tax.

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- Actions against terrorists' assets
- State and regulatory issues: ISO exclusions, reinsurance and solvency

WHERE: The Omni Shoreham Hotel, Washington, D.C.
WHEN: January 31, 2002 from 8:00am to 5:00pm
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Commentary

Heroes' honors long overdue

Christian Adams, Lorraine Bay, Todd Beamer, Alan Beaven, Mark Bingham, Deora Bodley.

Every day since Sept. 11, the media have covered some story relating to the terrorist acts. Meanwhile, Congress has wrangled over many pieces of legislation dealing with the tragedy's consequences.

One story that received some early attention has, unfortunately, faded off news pages. Worse, Congress, after jumping on the issue, added it to a to-do rather than a get-it-done list. Four months later, it's still not done.

How ironic that Congress isn't acting swiftly on this issue: legislation that would honor 40 hijacked airline passengers and crew whose heroic actions may well have saved the lives of many members of Congress and prevented the nation's mood from sinking lower than it did.

Sandra Bradshaw, Marion Britton, Thomas Burnett Jr., William Cashman, Georgine Rose Corrigan.

Dave Lenckus

In the grim days after Sept. 11, Americans learned of heroism that buoyed their national pride. It pointedly showed how everyone—even those who are not emergency workers—can make a difference.

Armed only with news gathered from cell phone calls and the determination not to be any part of an attack against our nation, the passengers and crew aboard United Airlines Flight 93 abandoned conventional wisdom on how to respond during a skyjacking. They rose up and wrested control of the aircraft away from their hijackers.

Jason Dahl, Joseph Deluca, Patrick Driscoll, Edward Felt, Colleen Fraser, Andrew Garcia.

Sadly, they could not regain control of the aircraft, and all aboard perished when it crashed in the Pennsylvania countryside.

Unless further details on the terrorists' plans emerge, we won't know with certainty the target of the commandeered fight. But many speculate—and lawmakers who want to honor those aboard Flight 93 contemplate—that the U.S. Capitol building was the bull's-eye.

By Sept. 20, members of Congress had introduced three bills calling on the president to award Congressional Gold Medals—Congress' highest expression of national appreciation—to the passengers and crew. A fourth bill, H.R. 3054, which also would honor the hundreds of emergency workers who died in rescue efforts, was introduced Dec. 18.

Jeremy Glick, Kristin Gould, Lauren Grandcolas, Wanda Green, Donald Greene, Linda Gronlund.

Eleven days after the attacks, President Bush signed the airline rescue law that Congress had managed to fashion the previous week. But nearly four months later, three of the four Gold Medal bills are stalled. The House approved H.R. 3054 and sent it to the Senate a day after it was introduced. But, for the past month, it has sat in the Senate Banking, Housing and Urban Affairs Committee.

Richard Guadagno. LeRoy Homer, Toshiya Kuge, CeeCee Lyles, Hilda Marcin, Waleska Martinez.

So what's the holdup?

Time? Surely Congress could have set aside some of the time it spent haggling over federal backing of terrorism insurance and other legislation it couldn't agree on since September. What a wonderful gesture of appreciation this honor would have been this holiday season for the families of those 40 passengers and crew.

Lack of support? Not from Congress. When the House got around to it, H.R. 3054 passed 392-2. In the Senate, legislation that considered only those on United Flight 93 had 69 co-sponsors.

Nicole Miller, Louis Nacke, Donald Peterson, Mark Rothenberg, Christine Snyder.

And, many Americans want an even higher honor bestowed on the passengers and crew of Flight 93. Around 102,600 have signed an online petition at *www.petition-online.com/flight93/petition.html* calling for the president to award the 40 individuals the Presidential Medal of Freedom—the nation's highest civilian honor.

Perhaps if members of Congress read some of the comments on the petition, they'd be moved to act more quickly on this overdue honor.

Marcie Baker, signatory 84,972, wrote: "If not for these heroes, then for whom?"

Rob Balentine Jr., signatory 144, wrote: "I only hope I would have had the courage to do the same thing."

Doug Johnson, signatory 55, put it most concisely: "Thank you."

John Talignani, Honor Elizabeth Wainio, Deborah Welsh and three passengers whose families did not want them to be identified.

Senior Editor Dave Lenckus' commentary will appear periodically and can be found at www.businessinsurance.com. He can be reached by e-mail at dlenckus@crain.com.

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Editorial

Keep up pressure on chartering

WE PRAISE Sen. Charles Schumer's decision to introduce legislation that would allow optional federal chartering of insurers.

The New York Democrat's bill, which is overdue, will advance the debate over the need of large multistate insurers—and their customers—for alternatives to the current antiquated system of state-based regulation. At a minimum, it will prod state officials to accelerate the pace of reforms until a federal alternative is available.

The arguments for giving large insurers a choice of federal rather than state charters are legion. As critics of the current system have repeatedly demonstrated, the state regulatory system is inefficient and outmoded for today's global insurance marketplace. Common sense would suggest that insurers that had to deal with a single regulator rather than more than 50 would be in a better position to respond to changing customer demands and market situations and to compete with foreign insurers and competitors in other financial sectors.

The existing state patchwork of rules and regulations may be relevant for smaller local insurers, or those operating in a few states, but it is counterproductive to the large multinational insurers that dominate the commercial lines market.

One glaring example of how the current system creates problems for insurers and buyers can be found in rate and form regulation.

Not long ago, the National Assn. of Insurance Commissioners gave conditional approval to the use of terrorism exclusions in commercial insurance policies under certain circumstances. Although we do not support such exclusions, most states followed the NAIC lead. But at least one large state—California—has rejected the exclusion, and others have not yet endorsed it. This creates a potential coverage conflict for national risk managers and insurers. While the lack of exclusions may be a relief for buyers in those states, and may offer hope to others, the situation plainly illustrates the sort of conflicts that can be expected to continue under the current system.

Defenders of state regulation typically greet calls for optional federal regulation with the same tired refrain that states must be given more time to institute needed reforms and adapt to the changes wrought by 1999's Gramm-Leach-Bliley Act. Their response to Sen. Schumer's initiative has been no exception.

But apart from an initial burst of reform activity in 2000, the states haven't seemed to be in any hurry to implement such reforms as uniform producer licensing standards unless they've been threatened with the possibility of federal intervention. And even when the threat is there, not all states fall into line.

It's time to pass beyond the threat. We aren't under any illusions that the Schumer bill will move swiftly through Congress. Details of the complicated piece of legislation deserve close examination and will no doubt undergo significant change before the measure comes to a vote. Congress doesn't even reconvene until Jan. 23, and we recognize that lawmakers will have more pressing matters on their agenda when they return.

Indeed, we agree with critics of the Schumer bill on one point: Congress' first order of insurance-related business should be passing legislation that would create some sort of federal backup for insurers that face future catastrophic terrorism losses. But even that illustrates the need for a central, federal solution to a problem that the insurance industry faces.

Once Congress answers the terrorism insurance question, though, the optional federal chartering issue should be brought front and center. It wasn't long ago that the very idea of optional federal chartering was considered an inappropriate subject for discussion in polite insurance industry circles.

In the past 18 months or so, influential industry groups such as the American Insurance Assn., the Council of Insurance Agents & Brokers and the American Council of Life Insurers, have changed that and have publicly endorsed the idea of optional federal chartering.

Others should follow suit, including the risk managers of national and multinational companies that would benefit from more-efficient regulation of insurers.

The Schumer bill's introduction shows that the momentum for optional federal chartering is building. It's up to reform advocates to keep the pressure on Congress until optional federal chartering is enacted.

Reforms needed to protect savings

PRESIDENT BUSH IS on target in calling for reforms to protect the retirement savings of 401(k) plan participants.

The president has charged an interagency task force with recommending changes to pension law to reduce the likelihood that employees will lose their retirement savings, as happened to perhaps thousands of Enron Corp. employees in the wake of that company's collapse.

Enron 401(k) plan participants were unusually exposed to the plunge in the value of Enron shares because of two key factors: Enron matched employees' 401(k) contributions in company stock and barred employees from selling those shares until they turned 50. In addition, last year, during a critical three-week period when Enron shares were falling, employees could not sell shares they had purchased because of a "lockdown" the company imposed while it was changing plan administrators.

The result was that thousands of employees could only watch on the sidelines as Enron shares either they had purchased or the company had contributed lost their value.

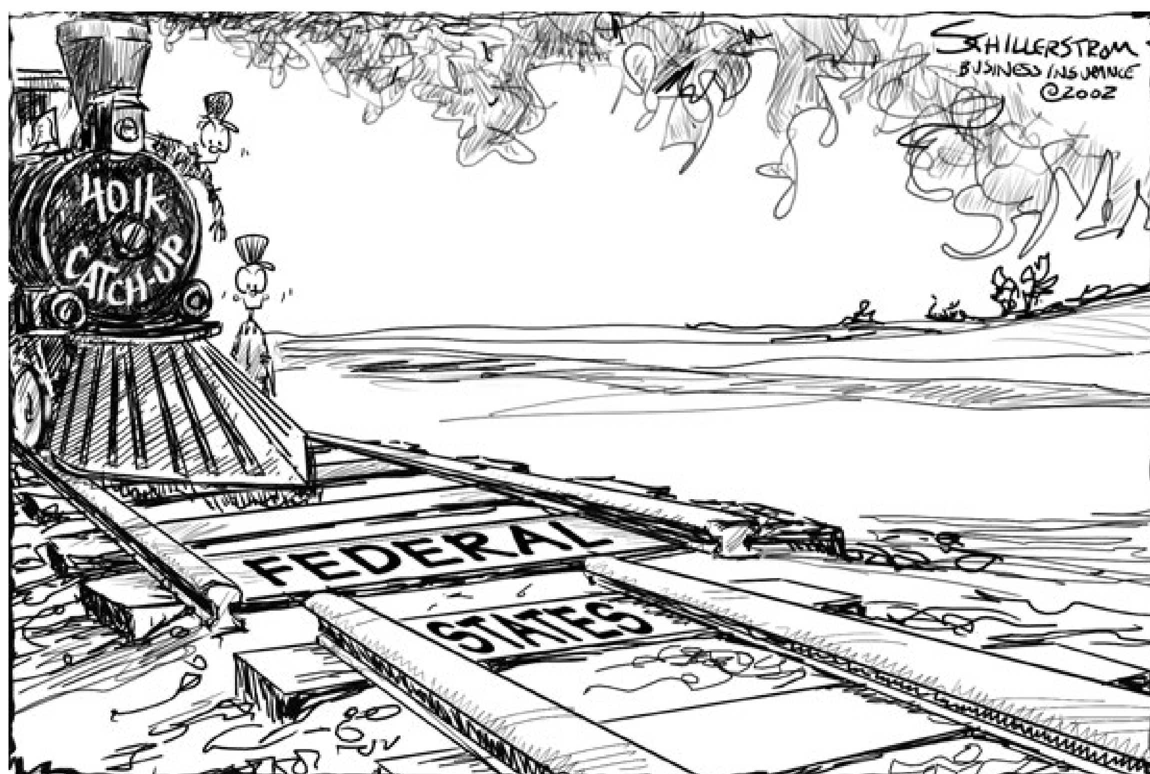
Did the company's actions violate federal pension law? That won't be known perhaps for years, until the numerous lawsuits filed on behalf of participants are resolved.

But long before that, as President Bush said in announcing the creation of the task force, something must be done to ensure that a company's financial problems do not threaten the lifetime savings of its 401(k) plan participants.

Even without a detailed review, the need for certain reforms is obvious. For example, while employees in 401(k) plans should be allowed to invest in company stock and companies should be able to make matching contributions in their own stock, never, as was the case with Enron, should high concentrations of plan assets be held in a company's own stock. And there is no defending a lengthy lockdown period, such as the one Enron imposed, when a company changes its plan administrator.

Ultimately, we hope the task force comes up with a package of reforms that encourages employers to offer and maintain these plans while giving employees the confidence to invest in them.

Schillerstrom



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Gretchen Steichen,
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Property/Casualty Market Report

[Spotlight editor: Gavin Souter]

Insurers imposing rate hikes in every P/C line

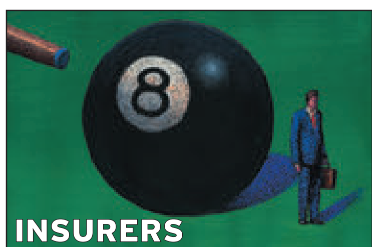
By MARK A. HOFMANN and MEG FLETCHER

The shadow of Sept. 11 stretches ever longer across the property/casualty insurance marketplace, insurers say.

Prices for almost all lines of business had been firming for a year or more before the terrorist attacks, and the losses from the destruction of the World Trade Center and other acts of terrorism on Sept. 11 have greatly accelerated that trend. And the ultimate impact of the attacks on the insurance market might not be apparent for some time.

Double-digit increases for virtually all property and liability coverages are the order of the day, with some accounts—notably multiyear property accounts—seeing triple-digit hikes.

In addition, Congress' failure so



far to approve a federal backstop for terrorism insurance has made insurers wary of writing certain business, and terms and conditions are tightening in many lines. After years of poor results, underwriters now appear to hold the upper hand.

"We clearly have an underwriter's marketplace today, which I think is long overdue. It's a great time for disciplined underwriters with quality capacity," said Nicholas Brown, president and chief executive officer of XL Insurance, part of XL Capital Ltd. in Hamilton, Bermuda.

"We saw prices going up in the 15% to 20% range before Sept. 11. Clearly, areas most impacted are those perceived to have terrorism or (catastrophe) exposure, including property, aviation and some marine business," he said.

"Poor industry performance had prices on the rise for 12 to 18 months prior to Sept. 11. The World Trade Center disaster accelerated the need for underwriters to increase rates and improve other

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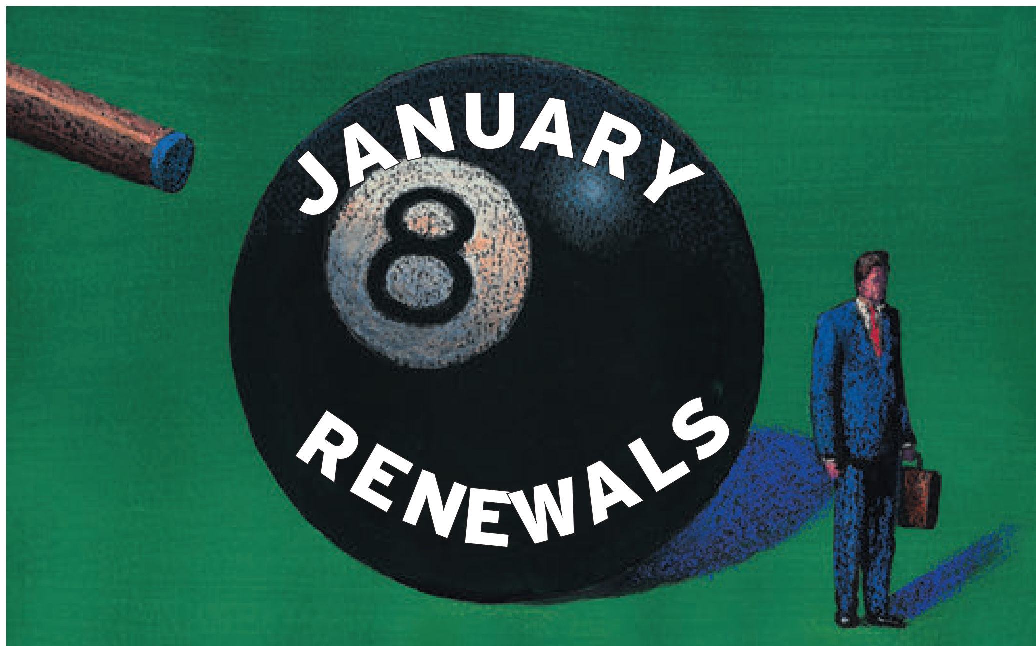

Risk managers placing blame on insurers for renewal woes

By MICHAEL BRADFORD and DAVE LENCKUS

If they had any choice, risk managers might just say they were mad as hell and weren't going to take it anymore.

But in many cases, they are finding they must bite the bullet and pay skyrocketing premiums, or make the hard decision to take on more risk through greater retentions or deductibles. Whatever their choice, they are letting insurers know that they are not happy about the way they are being treated.

Unlike the months before Sept. 11, when the risk management community was complimenting insurers for taking a measured response to their return to underwriting profitability, some risk managers now are bristling about what they see as mistreatment by underwriters.

"For years and years, people in companies, clients and the broker side have been touting loyalty," said Judy M. Lindenmayer, vp-insurance and risk management for Boston-based FMR Corp., which is better known as Fidelity Investments.

But times have changed, she said. Ms. Lindenmayer noted that one insurer imposed a dramatic coverage reduction accompanied by a rate increase of hundreds of percent for a profitable property program that renewed last month for Fidelity International Ltd. "So, loyalty is out the window."

John G. Pinner, assistant treasurer at Mattel Inc. in El Segundo, Calif., said one of the toymaker's large insurers is now saying, in essence, "We're going to get ours." "And I suppose that will be true," he said.

"Insurance companies really are the cause of it," Mr. Pinner said about the current drastic hardening of the market. "What made them think they could operate with 120%, 130% or 140% loss ratios" in the soft-market years? he asked. "So what has happened is, they have gotten to the point where they are undercapitalized and they don't have the capacity." As a result, insurers are drastically raising rates, he said.

Losses stemming from the terrorist attacks of Sept. 11 were "icing on the cake" of a marketplace that was already firming, Mr. Pinner suggested. "What that did was scare the entire reinsurance market away," he said.

Risk managers now find themselves reporting significantly higher insurance costs to senior management, Mr. Pinner pointed out. "No matter how understanding senior management is, they are not going to be happy," he said.

Paul Buckley, treasury director-risk management at Murray Hill, N.J.-based Lucent Technologies Inc., was furious with one of Lucent's former insurers.

The Hartford Specialty division of The Hartford Financial Services Group Inc. profited for five years while writing the unique basket aggregate reinsurance for Lucent's Vermont-based captive, First Beacon Insurance Co., Mr. Buckley said. The insurer had collected close to $1.8 million in premiums over the years it wrote the coverage and never came close to being hit with a loss, he noted.

But on Sept. 5, even before the terrorist attacks changed the insurance market landscape, Hartford sought a nearly fourfold premium increase. The hike was necessary because of the economic turmoil that telecommunications companies face, a Hartford spokeswoman said.

Then, days before the policy's Oct. 1 renewal, Hartford rescinded its renewal offer.

"We absolutely became unglued over that," Mr. Buckley said.

Subsequently, Hartford offered to extend the coverage for 60 days for a prorated threefold premium increase. Mr. Buckley characterized that quote as "ridiculous and unconscionable."

He said Kemper Insurance Cos. and Munich Reinsurance Co. agreed to write the coverage at a 70% increase over the Oct. 1 expiring rate. "I was pleased and thrilled

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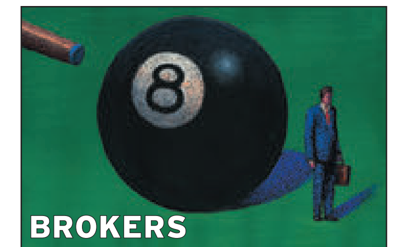
Brokers pressed to meet coverage needs

By SALLY ROBERTS and DOUGLAS McLEOD

As the Jan. 1 renewal period was drawing to a close, brokers had to work overtime to place many of their clients' programs in a difficult market.

The post-Sept. 11 hard market has brought not only higher rates and shrinking capacity but an array of restrictive conditions, brokers report. Double-digit rate increases are the norm virtually across the board.

Although all lines have been affected by these changes, the most difficult to place has been property



coverage, in which capacity is limited, terms and conditions are tighter and premium increases can be as high as 400% in extreme cases, brokers say. Further complicating matters is that coverage for terrorism risks is being excluded from some property policies.

While underwriters, in many cases, are unwilling to provide the same limits they did a year ago, brokers have been able to fill gaps in coverage through layered programs. And, not surprisingly, brokers are seeing renewed interest among clients in alternative risk transfer options.

"It's been difficult," said Mark Angers, executive vp at Lockton Cos. in Kansas City, Mo. "Most of our clients are seeing, depending on their loss experience, anywhere from 10% to 50% increases in premium" for their insurance programs, he said.

Premium increases for large accounts run the gamut, said Tom Rodell, a managing director at Aon Risk Services in Chicago. "There are not many renewals below 20%, and, clearly, there are some with more than 100% increases," he said. Mr. Rodell said the extent of rate increases "depends on how much exposure is more property-weighted than casualty," he said.

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Buyers: Renewals frustrating

Continued from page 10

with how both Kemper and Munich Re, true business partners, stepped up," Mr. Buckley said.

In mid-December, Ms. Lindenmayer was in the middle of renewing the workers compensation and umbrella portions of Fidelity's domestic casualty coverage. Rates will be higher, she said, but because she had not completed the renewals, she could not provide firm figures on the increases.

Still, Ms. Lindenmayer said she was disturbed by the level of rate hikes underwriters were seeking. "It appears to me that insurers are trying to make up overnight for the position they put themselves into. It wasn't risk managers who put them into a position of writing at an underwriting loss," she said.

Mr. Pinner agreed. "I don't think there are many risk managers who would have complained too much if rates in the soft market had been a little higher and loss ratios more reasonable. Now, we've got to make up for all the sins of the past," he said.

Ms. Lindenmayer said that insurers are using the terrorist attacks "to ratchet up increases whether they had a loss or not." That approach will backfire, she predicted.

Comparing insurers that seek 50% or higher increases with those that are willing to smooth out the bumpy insurance-cost road by writing at lower increases over a couple of years, Ms. Lindenmayer said she "may need the 50% guy today, but by this time next year, I won't need him—unlike the other guy who made it smooth for me."

Mr. Pinner, whose domestic property/casualty program renews in February, said he's worried that excess liability coverages could cost as much as 50% more than they did last year.

Risk managers can handle some cost hikes, he said, but when they are around 50% or higher, buyers begin to look at whether they should increase self-insured retentions or deductibles.

"And you can certainly lower your limits," he said. "If you have $500 million in liability limits, maybe you can get away with $300 million." Risk managers are going to have to look at their limits, he said, and decide how much of the risk can be taken in-house or funded another way.

In many cases, though, merely doubling retentions or deductibles doesn't generate enough premium savings to merit taking on the additional risk, Mr. Pinner said.

Dave Parker, the Tucson-based risk manager for Pima County, Ariz., said he managed to soften sizeable rate hikes for various casualty coverages by increasing the county's retentions.

The cost of the county's program that covers general liability, auto liability and public officials' liability excess of the county's self-insured retention spiked 40% this year, with the county increasing its SIR 11.5%, to more than $4.9 million.

The most significant rate hikes—100%—were in the higher layers, with the lower $10 million to $15 million layers costing only 13.5% more, Mr. Parker said.

The cost of the county's medical malpractice liability and hospital professional liability program jumped 56%, with the county increasing its SIR more than threefold, from $300,000 to $1 million.

Pima County's workers comp coverage cost only 10% more, with the county doubling its SIR to $500,000.

David L. Mair, risk manager with the U.S. Olympic Committee in Colorado Springs, Colo., said that insurance buyers "in the short term, are going to have to ride the waves and weather the storm of the hard market."

Mr. Mair said the Olympic Committee was expecting to renew its excess liability insurance at lower limits and at a price that wasn't firm in December. Insurers, he noted, were delaying quotes as they waited to see whether federal action would be taken with respect to terrorism insurance. As it turned out, year-end renewals came and went before Congress acted on proposed terrorism insurance legislation that would have provided insurers with some guarantees.

Mr. Mair said he also expects insurers to charge much more for accident coverage on employees who travel throughout the world.

Rafael Castillo, director, risk management at Coors Brewing Co. in Golden, Colo., said risk managers are particularly worried about property renewals. While his own renewals don't come due until later in the year, Mr. Castillo said some buyers "are having a terrible time," though others are facing more reasonable price hikes.

"It really comes down to particular circumstances—the type of insurance company you're with, your loss history and the type of risk you are in," Mr. Castillo said.

Mr. Parker said Pima County's property coverage shrank dramatically at its recent renewal. Previously, the county carried $750 million of blanket property limits. At its renewal, for an 81% premium hike, the county was able to purchase only $250 million in limits, enough to cover the county's single-largest property exposure. And that coverage was more than double what the county originally was offered, after the insurer made special reinsurance arrangements.

"We can't be made 100% whole if a major catastrophe hits downtown Tucson," Mr. Parker said.

In completing an international property program for FIL, Ms. Lin-

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Buyers: Renewals frustrating

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denmayer also struggled with capacity and pricing challenges that she said she hoped were "not a trend."

Ms. Lindenmayer said she was unable to renew coverage for the replacement value of FIL's international property risks, which generally are highly protected risks. Previously, a single insurer had underwritten the coverage.

Instead, in a time-consuming and costly process, Ms. Lindenmayer had to build a program in three layers. Still, the total limits did not add up to the coverage that FIL had previously. She did pull together limits that would be enough to cover FIL's single-largest international exposure.

Mr. Pinner said he expects Mattel's property renewals to cost 25% to 50% more at the current renewal. "I had said before that it would be around 25%; I think I was being optimistic," he said.

Risk managers don't expect the market to soften any time soon.

Marcia Cutter, senior manager-risk management at Owen Financial Corp. in West Palm Beach, Fla., is looking ahead to property/casualty renewals later in the year. "We're anticipating a challenging renewal," she said, and the company is considering putting together alternative funding programs that could hold down insurance costs.

Mr. Mair said determining how long the hard market will last "may be one of the unanswerable questions." The loss of capacity due to the terrorist attacks left insurers underreserved after years of underpricing. How quickly capital can be replaced, he said, is "anybody's guess."

Insurers: Returning to underwriting

Continued from page 10

terms, such as deductibles," said Dan Eudy, president of Industrial Risk Insurers in Hartford, Conn.

And despite the increases, there has been no major rebellion from policyholders, noted several underwriters.

"Policyholders have accepted the fact that" increases are necessary, said Michael Petruzzello, chief underwriting officer for Hartford Steam Boiler Inspection & Insurance Co., a Hartford, Conn.-based unit of American International Group Inc.

There is a heightened attention in the market to aggregation and accumulation of risks, beyond weather-related catastrophes, and a return to basic underwriting principles, said Marita Zuraitis, executive vp of The St. Paul Cos. Inc. in St. Paul, Minn.

And insurers' attention is on prices that appropriately reflect specific risks.

The performance of property insurance business has been poor because of years of dropping prices, said Judy Blades, executive vp-business insurance for the Hartford Financial Services Group Inc. in Hartford. Ms. Blades said that key insurers' combined ratio for property business in 1999 ranged from 110% to 160%, which she called "awful."

There were signs of change even before Sept. 11, and those changes are becoming pronounced. Commercial property rates have risen about 18% in the United States on average, though increases in the last month have been greater than 30%, said Paul J. Krump, executive vp and chief operating officer-commercial insurance at Chubb Corp. in Warren, N.J.

High-value properties, such as well-known buildings and large manufacturing plants, are seeing increases of 35% to 45%, though the increases are lower for risks away from the East Coast, said Joseph Gilles, executive vp-commercial markets for Liberty Mutual Insurance Co. in Boston.

Wausau Insurance Cos., a Wausau, Wis.-based affiliate of Liberty Mutual, reported increases in the 15%-20% range, with a quarter to half of that due to Sept. 11, said Marty Welch, senior vp-operations. Wausau targets middle-market accounts.

Because they usually are packaged with property coverage, business interruption rate hikes follow the general increase in commercial property and are about 18% in the United States, though larger policyholders are paying more, said Mr. Krump.

Middle-market risks are seeing 15% to 20% increases in business interruption rates, while high-risk properties are seeing hikes of 35% to 45%, Mr. Gilles said.

Rate increases for highly protected risks, which have enjoyed a decade-long soft market, are even more striking. "It's not uncommon to see rate increases of 100% to 200%," said Mr. Krump.

For highly protected risks, some three-year programs are going up by triple-digit increases, said Mike Turner, vp-marketing for Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global. "You're seeing some programs that may renew at a 30% rate increase, and others 75% to 100%" coming off a multiyear program, he said, attributing at least half of the increase to the reinsurance implica-

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Insurers: Returning to underwriting

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tions of Sept. 11.

"Obviously, there's been an exit of capacity and there's been some influx in the Bermuda market," Mr. Turner said. Still, "a lot of markets that have reeled back their capacity" are waiting to see what will happen. He said IRI's decision in October to slash its HPR capacity has "certainly required some customers and brokers to seek alternatives, so FM Global is seeing some offerings that it might not have seen."

Liability increases, though significant, have not been as spectacular as those in property lines.

General liability rates are up about 15%, said Mr. Krump.

Liberty Mutual's Mr. Gilles reported that middle-market accounts are experiencing 18% to 23% increases, while larger risks, such as Fortune 500 and 1,000 companies, are seeing increases of 13% to 18%, primarily due to larger deductibles.

Wausau's Mr. Welch said general liability increases ranged from 18% to 24%, with as much as half of the increase stemming from Sept. 11.

Excess liability rates have also increased by double digits. Mr. Krump reported that excess liability above an umbrella policy is up around 35%, while umbrella policies themselves are up around 20%.

XL's Mr. Brown said that excess liability rates had risen by 25% or more, while Wausau and Liberty Mutual reported increases for that line in the 20%-to-25% range.

Boiler and machinery rates rose by less than 20%, on average, though Hartford Steam Boiler's best customers are receiving increases of 10% or less, said Mr. Petruzzello. "We haven't changed our pricing strategy due to 9-11," he said.

Mr. Krump said those rates were up by about 15%.

Professional liability lines, including directors and officers liability, were among "the more docile" before Sept. 11, said Mr. Brown. Now, however, rates are rising by 25% or more, he said. Environmental liability rates, which weren't affected by the terrorist attacks, are up 10% to 15%, he said.

But surety rates are up significantly, Mr. Brown said. The reinsurance market has been hit hard, and triple-digit increases are common for some accounts.

Workers compensation rates are increasing as well. Mr. Welch said prices had risen by 15% to 20%, with less than a quarter of the increase related to Sept. 11. The increases were prompted chiefly by higher medical costs and a prolonged soft market, he said.

Mr. Gilles said prices were up 14% to 19% nationally, driven mainly by medical cost increases and by growing involvement of attorneys in workers comp cases, especially on the East Coast and in California. But good customers are getting lower rate increases, he said. "Safety and a lower experience modification factor are more important now than ever before."

In addition to raising rates, insurers are tightening conditions. And coverage for terrorism is under intense scrutiny.

"I'm sure that every company now has a terrorism underwriting position, as Hartford does," said Ms. Blades. Hartford, she said, has divided its book into three tiers—highly exposed businesses, such as airports, bridges and tunnels; moderately exposed risks, such as arenas; and low-exposure risks. "We are in process of reviewing our own exclusions to adopt the (Insurance Services Office Inc.'s terrorism) exclusions, and we're in the process of determining how we're going to use those," she said, noting the insurer intends to use selective exclusions.

FM Global is not instituting "an absolute exclusion" for terrorism, said Mr. Turner. The insurer is offering such coverage under a sublimit, "with an eye toward giving a bridge to our customers until a solution is developed in concert with the government."

"We are taking much more care on high-risk property and adding terrorism exclusions," said Mr. Gilles. For example, Liberty Mutual has generally eliminated blanket limits on multiple buildings, giving each building its own limit. And, he added, "people are looking at business interruption more closely."

But on large property risks, virtually 100% have terrorism exclusions, at least until Congress acts, he said. "We believe our policyholders need coverage, and Congress should step up to the plate to provide a backstop for the industry," said Mr. Gilles. "The industry cannot cope with terrorism. We don't have enough capital."

"Capacity certainly has been damaged," and Congress' failure to act has exacerbated the problem, said Wausau's Mr. Welch.

Capacity is certainly shrinking, said Ms. Blades. "This was an event that, for the first time in history, hit every single line of business."

And the full repercussions of Sept. 11 losses are "yet to come. I think you'll see that in the first quarter of the year or the beginning of the second quarter, because a lot of the carriers' reinsurance contracts come up either Jan. 1 or April 1. That's yet to be passed along," she said.

The industry had not yet recovered from several years of poor performance when it was hit with the losses of Sept. 11, said Ms. Blades. Adding recession and other factors on top of that, "we've got another few years of firm market pricing for the industry to be made whole," she said.

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Reinsurance capacity still available—but at a price

Sept. 11 attacks accelerate rate increases, prompt use of terrorism exclusions

By RODD ZOLKOS and JUDY GREENWALD

Negotiations for reinsurance programs renewing Jan. 1 were tough and went long, but when all was said and done, most buyers could find the coverage they sought. That coverage, though, came at higher prices and typically with terrorism exclusions.

"The renewal season actually went fairly well, considering everything that happened," said Richard Di Clemente, president of New York-based THB Intermediaries Inc. Reinsurers took "very, very strong positions on pricing, and, of course, on terrorism exclusions, which have become fairly standard and commonplace."

Average price increases have been 25% to 50%, "but in some cases, depending upon loss history, the increases could have been as much as 100%. But capacity is still available if the pricing is adequate and all the conditions for the renewal are met, especially terrorist exclusions," Mr. Di Clemente said.

Albert P. Amato, senior vp at Greenwich, Conn.-based C.L. Frates Reinsurance Intermediary Inc., which specializes in casualty business, said: "We're still working on (renewals). That must mean it's going pretty well for reinsurers. When the brokers don't have things completed by Jan. 1, we know it's a harder market."

"It always seems to be a late renewal season, but this is a particularly late renewal season," said Henry C.V. Keeling, president and chief executive officer at XL Re Ltd. in Hamilton, Bermuda. "A lot of the casualty business is still outstanding; a lot of the marine and aviation business is still outstanding."

At least some of those delays resulted from "a lot of client denial," Mr. Keeling said, as buyers shopped for better deals or reassessed their programs.

"I think, generally speaking, the brokers did a very good job in terms of dealing with client expectations beforehand," Mr. Keeling said. "But, even so, I think there were some clients who were finding it very difficult to accept what the market had to do."

"Negotiations have been extensive and extended. They've been tough, but the market is certainly there," said John N. Gilbert Jr., president and CEO of New York-based intermediary Holborn Corp. "Rates are up, but reinsurers have sufficient capacity to take care of the needs of the primary companies."

Mark P. Lescault, head of the divisional underwriting office at Swiss Re Americas Corp. in Armonk, N.Y., noted that although there were price increases across all lines of reinsurance business, reinsurers differentiated among risks in their pricing, with the magnitude of the price hikes varying with the exposure. "It's not a one-size-fits-all sort of approach," Mr. Lescault said.

For clients with good information and a good loss history, "reinsurers are dealing very fairly," said Mike Bungert, the president and CEO of Aon Re Inc. in Chicago. The renewal process is "very civilized and very calm," he said.

Rod Thaler, executive vp for Willis Re Inc. in New York, said, "There definitely is a premium put on those intermediaries that worked closely with their clients to develop much more detailed underwriting information in advance" of renewals. "The absence of information this year certainly was construed against ceding companies."

Mr. Lescault said that the trend toward higher reinsurance prices began a year ago, as reinsurers recognized the need to improve their results. Medical malpractice, petrochemical and marine risks were among the lines of business where price deficiencies had been the greatest, he said. Consequently, those lines are now showing greater pricing increases.

"I think it's important to recognize that 9-11 accelerated a trend that was in motion before," said Andreas Beerli, CEO of the Americas division of Swiss Re America in Armonk.

Greg Doyle, executive vp at Guy Carpenter & Co. Inc. in New York, said that with this January's renewals, the marketplace "seemed to be attempting to return to a technical pricing approach."

"Certainly, over the last five or 10 years, there's been a fair amount of deviation off of technical pricing," Mr. Doyle said. Now, though, reinsurers are less likely to vary from the price that the exposure or the cedent's loss experience demands.

Contrary to the expectations of many after the events of Sept. 11, this year's property catastrophe renewals proved to be a "non-event," according to Paul Karon, the presi-

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dent of Benfield Blanch Inc. in Minneapolis. "Rates were up 15% to 20%, but they would have been up 10% anyway," he said.

But "casualty was trickier," Mr. Karon said, and high-end workers compensation capacity "was pricey and…hard to get."

"The workers comp cat market, that (accident and health) market, went away," he said. "That market is hard and dysfunctional, and if you need a couple of hundred million dollars of high-end coverage, you're in a bad spot."

In addition, excess-of-loss reinsurance "was a little bit more difficult," said Stephen Bolland, senior vp at intermediary Gill & Roeser Inc. in New York. He noted that aviation also was a problem area because of a reduction in available capacity.

Surety reinsurers also have had a very difficult year because of poor results and the recent Enron Corp. bankruptcy, Mr. Bolland said.

"A number of reinsurers announced they are pulling out of the market or cutting back significantly," he said.

On the property catastrophe side, the availability of coverage is the result of the capital that came into the market in the final months of 2000, Mr. Karon said. "It's very simple. A bunch of capital was raised and deployed in time for renewal," he said.

Swiss Re's Mr. Lescault said the new capacity "has helped deal with some of the areas where capacity has fallen away."

"So far, what we've seen this renewal season is the new capacity has been very disciplined, both in their pricing (and) in deploying that capacity," Mr. Lescault said. "We're not seeing a drive to market share."

Terrorism exclusions were the norm in Jan. 1 renewals, particularly for heavy commercial business, and they include losses from nuclear, biochemical and chemical terrorist acts, said Guy Carpenter's Mr. Doyle.

Alfred H. Blanton, executive vp at Lawrenceville, N.J.-based JLT Re Solutions Inc., said most major reinsurers are trying to get terrorism exclusions included in their workers comp reinsurance policies.

"The availability of reinsurance without a terrorism exclusion clause is the biggest hurdle for us to get over right now," Mr. Blanton said.

Charles T. Black, president and CEO of Dallas-based EWI Re Inc., said that the terrorism exclusion has been included in most of his company's quotes. "We have been able to get it taken out where it makes sense" in individual cases, he said, although "that's not the norm."

"From a reinsurance standpoint, there's no question that we've looked at terrorism very seriously," said Mr. Lescault.

"We've been able to provide a limited amount of coverage, but not a blanket cover. Certainly, the most highly exposed risks are the ones where you're likely to see terrorism exclusions," Mr. Lescault said.

James P. Bryce, president and CEO of IPCRe Ltd. in Pembroke, Bermuda, said he thinks reinsurers can write terrorism coverage separately if it's priced and tracked properly and there is a government backstop.

"I don't think you can include it like we have in the past, which is basically for free and not tracking it," he said.

Brokers: Tough renewals

Continued from page 10

With capacity diminishing and terms tightening in most lines, brokers have had to hustle to complete placements that in recent years had required relatively little work.

"We had one large property schedule that renewed in November that we, literally, within 48 hours of the anniversary date, didn't have the important lower layers filled," said Craig Van der Voort, the president of the commercial division of Arthur J. Gallagher Risk Management Services Inc. in Itasca, Ill. "We got it done, but not without a lot of work," Mr. Van der Voort said. "Last year, this was not a problem."

Most of the broker's difficulties involve property coverage.

Property rate increases are averaging 70% to 80%, though loss-free accounts are faring somewhat better, said Christopher Treanor, managing director and head of North American global broking for Marsh Inc. in New York. Tough risks or those with poor loss records, though, are seeing even larger increases, Mr. Treanor said.

In Manhattan, high-value properties in prominent locations are seeing rate increases of more than 100%, while property rate hikes outside New York are running at least 25%, said Bruce D. Guthart, the New York-based president of U.S. operations for broker Hub International Ltd.

For high-risk properties, such as chemical manufacturing plants, rates can be up by as much as 300% to 400%, said Gary Mathison, the chief executive officer of Willis Risk Solutions North America in New York.

Much of the upswing in property pricing is tied to loss of capacity, as insurers—often responding to a lack of available reinsurance—have drastically cut back the limits they are willing to offer on any one risk.

Capacity—particularly for windstorm, earthquake and anything with a terrorism exposure—is drying up, because several insurers

See **BROKERS/next page**

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Brokers: Meeting clients' coverage needs difficult

Continued from previous page

"lost their treaties as a result of the World Trade Center loss," said Lockton's Mr. Angers. "We've seen companies that have gone from $100 million in capacity to $25 million in capacity. Even those companies that didn't lose their treaties are much more cautious of the limits they put up," he said.

As a result of the capacity shortage, brokers are putting together more-layered property programs, with insurers taking smaller shares on each layer, Marsh's Mr. Treanor said. Even some middle-market buyers that previously didn't require layered programs now must obtain coverage this way, he said.

Overall limits also are shrinking, brokers say.

Underwriters have become less willing to write blanket limits covering multiple properties for certain large policyholders, Mr. Mathison said. A corporation that was able to buy $5 billion to $7 billion in blanket limits in the soft market may now be able to put together only $200 million to $300 million, he said.

Insurers are tightening terms in other ways as well, brokers say.

Policyholders are retaining more risk, in some cases at insurers' insistence, Mr. Treanor said. In the worst cases, retentions have jumped from six-figure to seven-figure amounts, he said.

And on tougher classes of business, underwriters are, in some cases, demanding higher deductibles, Mr. Van der Voort said. He noted that some commercial middle-market general liability accounts that previously had low retention levels now face minimum deductibles of $10,000.

Brokers say terrorism coverage is being excluded in some property policies, but it has not vanished across the board.

"Some companies are taking a bigger stance on property because of the fear (terrorism coverage) will be taken out of their reinsurance treaties," Mr. Van der Voort said. "Other companies are just going with it."

While primary-layer terrorism coverage is available, extending coverage into higher layers is proving difficult, Hub's Mr. Guthart said.

The most critical issue is the inability to get coverage at certain limits with terrorism included for certain Manhattan properties, Mr. Guthart said. "It's made more difficult for prominent locations," he said.

"If your office is in the Sears Tower, it's not getting terrorism coverage," said Lockton's Mr. Angers.

Terrorism exclusions also are beginning to emerge in casualty policies, brokers say.

Some underwriters are including terrorism coverage on casualty placements at no additional charge if the risk of loss is relatively low. But if the risk is high, underwriters are excluding the coverage and requiring policyholders to buy it back as an endorsement, brokers say.

And in some cases, insurers won't offer the coverage at all.

Overall, excess and umbrella liability capacity is generally available, and buyers can still find overall limits of as much as $2 billion, brokers say.

The limits offered by individual insurers have dropped, though, and "instead of using one or two companies to complete a placement, you are using five or six companies," Mr. Guthart said.

Rates for excess casualty covers are rising anywhere from 25% to more than 100% for tough risks or those with poor loss histories, brokers say.

Outside of the general property/casualty market, the Sept. 11 attacks have perhaps changed the workers comp market more than any other segment of the industry, as insurers that had never contemplated such massive losses at one site reassess their exposures, brokers say.

"Insurance companies have a totally new approach to underwriting" workers comp, Mr. Guthart said. "They are paying attention to accumulations of employees at a single facility."

While state workers comp laws limit insurers' ability to raise rates, the market is tightening in other ways, as insurers seek tougher terms on retrospectively rated plans, cut back policyholder dividends and increase policyholders' loss participations, Mr. Guthart said.

For workers comp self-insurers, the market for mandatory workers comp surety bonds also is hardening significantly (*BI*, Nov. 19, 2001). That makes it tougher for those who haven't self-insured in the past to do so now, brokers say.

"It's not as simple as saying, 'Oh, I'm just going to be self-insured,'" Mr. Mathison said.

Certain professional liability lines that already were experiencing tough conditions before Sept. 11 are likely to worsen, brokers predict.

The collapse of Enron Corp., for example, is expected to exacerbate conditions in the directors and officers liability market, which had already been hit by the bursting of the high-tech bubble, brokers say.

While good D&O risks might see rate hikes of only 25%, the average increase will be more like 50%, brokers say. And companies that are fi-

See BROKERS/next page

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Nonadmitted market seeing increase in business

By MICHAEL PRINCE
and ROBERTO CENICEROS

More business and higher prices.

That's what has characterized the surplus lines market for the January 2002 renewal season. Policyholders are flocking to surplus lines as admitted insurers have backed away from certain types of property and liability business. And rates are increasing by an average of 15% to 20%, with some policies renewing at more than double their expiring rates.

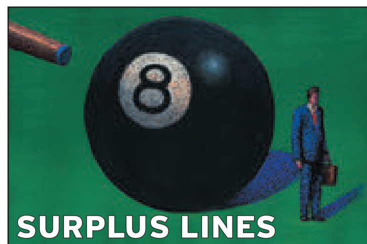
The combination of more business and higher prices is a banner time for surplus lines brokers and insurers. "It's Christmas. This is what we hope for," said John Hahn, the chief executive officer of Tri City Brokerage Inc. in San Francisco. "It's a good time for us."

Throughout 2001, and particularly after the Sept. 11 terrorist attacks, admitted insurers pulled out of numerous lines, pushing policyholders into the nonadmitted market for coverage.

"As a surplus lines company, we see a lot of accounts that are being nonrenewed by other carriers," said Gerard Albanese, senior vp and chief underwriting officer for Shand Morahan & Co. Inc. in Deerfield, Ill. "That is where we have seen a real uptick in business in the last 12 months."

This pattern is expected to continue for the foreseeable future, said Janet Jordan-Foster, executive vp at Steadfast Insurance Co. in New York. "That has been the theme throughout 2001, and we expect it to continue into 2002," she said.

Ms. Jordan-Foster added that policyholders are interested in insurers with good financial strength and experienced underwriting. "The highly rated carriers are definitely benefiting in this market," she said.



And as the standard markets decline certain liability risks or classes, buyers are finding they have to settle for coverage on a claims-made basis available through the surplus lines market, Mr. Albanese said.

For "people who wouldn't have considered claims-made even six months ago or eight months ago, claims-made may be their only alternative today," he said.

A buyer's business class more often determines the rate of increase than that particular policyholder's loss history, insurers and brokers say.

"There are some classes of business and some lines of coverage that are getting hit a lot harder than 15%," said Curt Biersch, executive vp of Swett & Crawford Group in Woodland Hills, Calif.

Transportation, medical malpractice for physicians, construction, nursing homes, property insurance in catastrophe-prone areas and excess liability insurance are all classes that are seeing substantially higher rate increases regardless of the loss history of the individual accounts.

Catastrophe policies such as windstorm and California earthquake coverage are renewing with

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Brokers: Tough renewals

Continued from previous page

nancially weak or in difficult industries may see hikes of 100% or more, they note.

And medical malpractice liability insurance, which has seen increasingly severe claims over the last several years, is expected to become more difficult to place as a result of the decision of The St. Paul Cos. Inc. in December to exit that line of business, brokers note.

"The bottom line is, the full impact of St. Paul's decision hasn't yet been felt," said J. Hyatt Brown, the chairman and CEO of Brown & Brown Inc. in Daytona Beach, Fla. "I think, probably, the area it will have the greatest impact in will not be individual doctor's malpractice but in nursing homes and in hospitals," he said.

Brokers also note that the tough market conditions have spurred renewed interest in alternative risk transfer vehicles. Most notable is an increased interest in captive insurance companies.

"There is no question that everyone is looking at anything to soften the blow," said Lockton's Mr. Angers. "Here in Kansas City, we typically have six to eight captive feasibility studies going on at any one time. We probably have 30 right now," he said.

Mr. Angers also pointed out that the recent Internal Revenue Service ruling on captive premium deductibility (*BI*, June 11, 2001) has increased interest in captive formations.

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Surplus lines: Market seeing more business

Continued from previous page

rate increases of 40% to 50%, said Patricia Roberts, the president and CEO of General Star Indemnity Co. in Stamford, Conn. Much of that increase is going to pay for significantly higher reinsurance rates, Ms. Roberts said.

Among accounts seeking California earthquake coverage, price increases will be much steeper for properties in metropolitan areas, because insurers are especially concerned about writing a concentration of similar risks, Mr. Biersch said.

For example, one major account with multiple properties concentrated in Los Angeles and neighboring Orange County saw its renewal rate for earthquake nearly double, to almost $1.4 million, he said.

Trucking accounts are seeing similar treatment. "Trucking is off the map," Mr. Hahn said.

'Rates are going up because they need to go up' to reflect the frequency and severity of losses.

Patricia Roberts
General Star Indemnity Co.

For example, coverage for one large trucking account expired with an annual policy price of about $150,000, said Gary Tiepelman, senior vp of underwriting for Scottsdale Insurance Co. in Scottsdale, Ariz. The incumbent insurer was taking a large loss on it, Mr. Tiepelman said; to make it profitable, Scottsdale had to quote it at about $500,000.

"That just goes to tell you where the market had been," he said.

The price increases stem, in part, from more disciplined underwriting, with prices being set toward turning a profit after years of underpricing, insurers and wholesalers explain.

"We need to get back to the fundamentals of our business," Ms. Jordan-Foster said.

Furthermore, some business classes are seeing large price hikes. Among these is construction liability coverage.

"That was a tough market at the beginning of last year, and it's not getting any easier, because now there are even fewer markets," Mr. Biersch said. Artisan classes, such as framing contractors and plumbers, are seeing increases of 40%. Meanwhile, rates for commercial builders are up at least 25% on good accounts.

Excess casualty on a nonadmitted basis is up 20% to 70% at January renewals, depending on the class of business, with some accounts with poor loss histories renewing at double or triple the expiring rates, Ms. Roberts said.

"Rates are going up because they need to go up," she said. Pricing must rise "to get it to reflect the frequency we are seeing and the severity we are seeing," she said.

While some prices for nursing home liability coverage is up at least 50%, most is doubling, surplus lines experts say. They note that in Florida and Texas, prices are rising by multiples.

And specialty lines such as errors and omissions liability and directors and officers liability coverage are seeing rate hikes of around 30%, often with a doubling of retentions. D&O for technology companies is renewing at multiples, Mr. Hahn said, because the plunge in stock prices has led to a surge in lawsuits in the past two years.

Much uncertainty in the marketplace surrounds the terrorism exclusion.

"We are only starting to see a smattering of the type of wording that is going to be prevalent in 2002," Mr. Biersch said about the terrorism exclusions. "It is reminiscent of the mid-'80s, when we dealt with asbestos and pollution issues and nobody had the same wording. It is going to make it very interesting, from a concurrency standpoint, on policies where you have multiple carriers and they all have different exclusionary wording."

That concern will be more prominent in the surplus lines market, because risks placed here often require several insurers, writing various layers, to meet their capacity needs. Wholesalers strive to get their customers concurrent wording on the various layers but aren't always successful.

"We are falling backwards as far as maintaining concurrency," Mr. Biersch said. "It's not going to be hard; it's going to be impossible."

The terrorist attacks have also caused insurers to attempt to push through two years of rate increases in one year, Mr. Hahn said. "All the carriers are looking to get healthy in a short period of time," he said.

Before the attacks, the rate increases were sizable but reasonable, Mr. Hahn said. Afterward, though, the increases became massive, he said.

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Aviation, energy among hardest lines in London

Following Sept. 11 terrorist attacks, almost all lines seeing rate increases in market

By CAROLYN ALDRED
and SARAH VEYSEY

LONDON—For London in 2002, it's back to the basics of underwriting, brokering and risk management.

Reduced capacity and increased rates, retentions and exclusions have replaced holiday festivities in London, resulting in a frenzied, uncertain and late renewal season.

"Rates were obviously on the way up before Sept. 11 but have increased dramatically since then," said Callum Stewart, managing director of nonmarine reinsurance business at the Heath Lambert Group. "Sept. 11 caused losses across many lines, so people are having to re-underwrite. Some rates are up by 100% or more."

"Prices are going up in almost every single area of business, even the most obscure areas" in both primary insurance and reinsurance, said Richard Bucknall, chief operating officer of Willis Group Holdings Ltd. in London.

"If risk managers got away with a 10% increase, they would have

thought Father Christmas had arrived. Most risk managers would have paid increases of at least 25% to 30%," Mr. Bucknall said.

Aviation and the energy sector have seen the most spectacular increases—often of several hundred percent—but no sectors have escaped increases.

Neil Maidment, treaty underwriter for Beazley Furlonge Ltd., estimates that rates for the property treaty book of Lloyd's of London syndicate 623, which Beazley manages, have risen by an average of 40%. He added, however, that there are large variations depending on clients' circumstances.

In the United Kingdom, rate increases of "between 20% and 40%" are being applied on standard business with good loss history, while business with problems is seeing rate increases of 100%, 200% and even 400%, said Graham Barr, managing director of Heath Lambert's U.K. broker division.

"We are seeing premium increases across the board, for all segments of business," said Ron Hayes, who is responsible for European retail placement at Marsh in London. Mr. Hayes added that "property, without a doubt, is the class of business that is most affected, especially for large risks," with some rates going up beyond 300% and 400%.

Casualty lines also are affected, said Mr. Hayes, who noted that while most classes of casualty business are seeing increases of 20% to 30%, "certain industry segments, such as chemicals and pharmaceuticals, are being hit much more strongly than other industry types."

Rate increases are just one part of a broader hard-market picture, though. Changing terms and conditions and tighter policy wordings mean that risk managers and ceding insurers are facing substantial price increases for what is often much-reduced coverage.

James Illingworth, managing director of Lloyd's of London managing agency Amlin Underwriting Ltd., estimated that underwriters are seeing, on average, a "50% improvement" in their business, in the form of rate increases and tighter terms and conditions.

"Conditions are changing dramatically," with much higher retentions, Mr. Illingworth said. He could not specify, though, noting that retention levels will vary.

"There is more attention being paid to the scope of coverage and policy wordings," said Bob Stuchbery, underwriting director at London-based Chaucer Holdings P.L.C.

Underwriters and brokers agree that the all-inclusive policies written during the height of the soft market no longer are available and that most policies now are being written either on a coverage-specific basis or with a series of exclusions and sublimits.

Following Sept. 11, terrorism now is likely to be excluded from most commercial insurance and reinsurance.

All the major reinsurers went into the renewal season "with blanket terrorism exclusions," said Heath Lambert's Mr. Stewart. As a result, most underwriters have excluded terrorism, brokers say.

Brokers and underwriters predict, though, that the insurance and reinsurance market for terrorism risks may improve as the situation becomes clearer.

"New markets, such as the new capital in Bermuda, have begun to quote for terrorism. For example, on Canadian business, the Bermudian companies are picking up a lot

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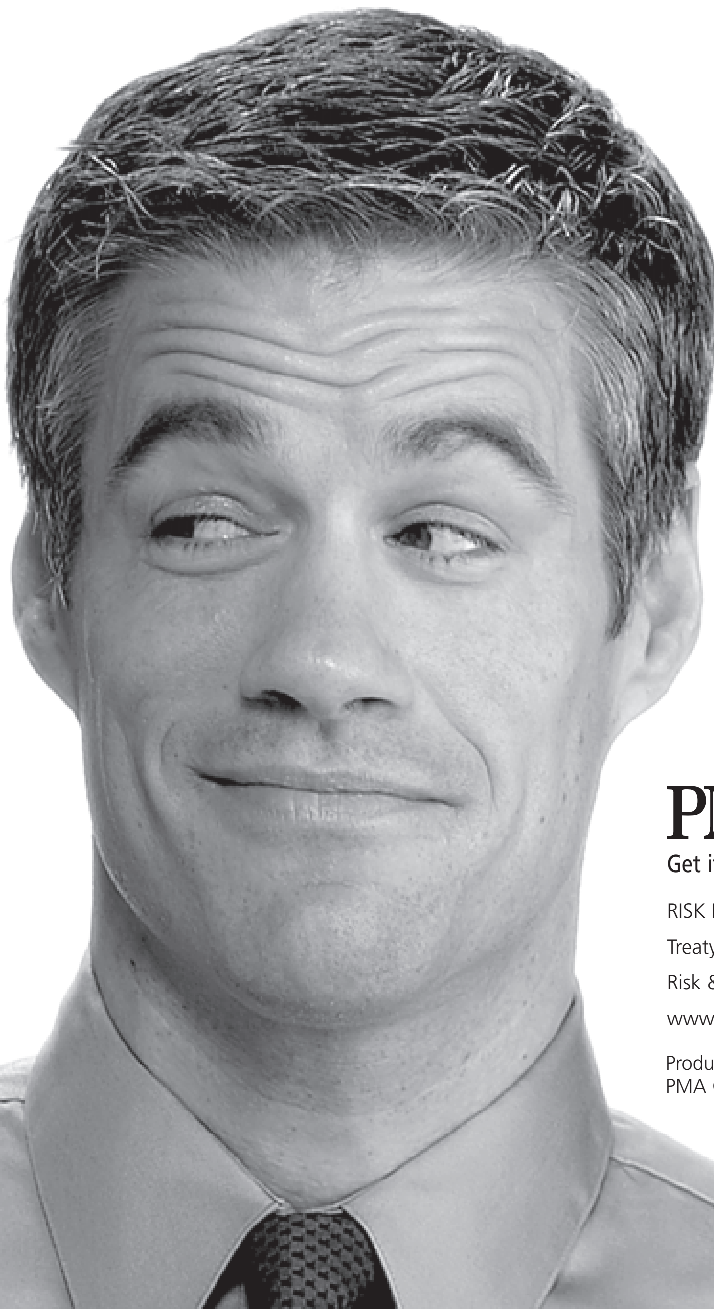

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London: Rate increases, coverage limitations seen

Continued from previous page

of business, because they will write terrorism cover," Mr. Stewart said.

"There are several new facilities and some existing carriers that are starting to write terrorism up to $200 million," agreed Marsh's Mr. Hayes. He predicted that capacity for terrorism coverage would grow as companies see this as an opportunity to increase premium income.

The World Trade Center disaster awakened underwriters not only to the loss potential from terrorism but also to loss potential and aggregation concerns generally. Underwriters now are introducing more exclusions and sublimits, particularly in property policies.

Indeed, the changes in coverage probably have caused more concern to risk managers than have rate increases, said David Gamble, the executive director of the Assn. of Insurance & Risk Managers in London.

"When there is no certainty that cover is available and no clarity about terms and wordings, that unsettles people. In the new year, we are looking forward for a definite improvement in the insurance industry's ability to give us certainty and clarity, so that people can plan going forward," Mr. Gamble said.

Exclusions and sublimits have been introduced, particularly for contingent business interruption coverage and claims relating to computer risks, said Paul Brand, deputy head of underwriting for syndicate 1003/2003, which is managed by Catlin Underwriting Ltd.

Deductibles have increased substantially, particularly for business interruption coverages, and underwriters expect clients to be able to identify their contingency exposures, Mr. Brand said.

Underwriters are requiring far more information from clients, making the renewal process more lengthy and complex than it has been for years, Mr. Bucknall said.

"There is a massive drive for better-quality information. The better information you have, the more you understand your business, the better quotes you'll have," said Marsh's Mr. Hayes.

"The insurance market is looking for companies to take a meaningful retention, backed up by their own in-house risk management," he said, adding that "the role of the risk manager will probably be enhanced."

Finlay Smith, property underwriting manager for Royal & SunAlliance Group P.L.C.'s U.K. commercial business, said he believes that buyers are not facing an impossible task and that there is still plenty of competition in the market for well-managed risks.

"But the buyer must embrace the risk management aspect of the business and demonstrate how they are managing their business. It is risk management in the broadest sense," Mr. Smith said. "Buyers must be realistic about what cover they actually require."

"We've been working with clients to make sure they understand they will have a double whammy—increased rates and increased retentions. So we have been sitting down with clients and talking about the covers they really need," Mr. Barr said.

"I don't think anyone really budgeted for this kind of increase," he said, "so this renewal has put insurance right at the top end of the agenda and has taken people by surprise."

"We have had a lot of calls in particular regarding captives," said Mr. Barr, noting that "those clients with good quality, well-priced captives are well placed."

Clients likely will turn to alternative risk transfer for areas in which traditional coverage is excluded, Mr. Hayes said. He noted, though, that several ART providers have indicated that they now would rather use their capital on traditional property/casualty underwriting.

Meanwhile, uncertainties about reinsurance, changed wordings, requirements for more information and subsequent restructuring of programs have resulted in one of the latest renewals for many years.

The late placing of most reinsurance treaties created a bottleneck, Mr. Barr said. "We were broking major risks into the marketplace in the last week of a very busy quarter," he said.

"The negotiation process is taking much longer," said Catlin's Mr. Brand, who reported seeing long lines at underwriters' boxes at Lloyd's.

Brokers expect the harder market conditions to last several years, despite the new capital already coming into the market.

"Underwriters will continue to make good returns on their capital for another couple of years. A lot more capital can come in before it really starts to soften. It will carry on as a profitable market for the next two or three years," predicted Heath's Mr. Stewart.

"Even a 100% increase is not taking us back to the prices we had 10 years ago. I think we have got at least another two years of this," Mr. Hayes said.

"The new capital will not undermine the determination of insurers and reinsurers," Mr. Bucknall said, "and may bring more orderliness to the market, which is beneficial for clients."

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Argentina market uncertain

Economic crisis raises questions for risk managers, insurers

By ROBERTO CENICEROS

BUENOS AIRES, Argentina—Buffeted by political and economic turmoil, Argentina's commercial property/casualty policyholders and their insurers face many uncertainties.

Problems came to a head last month, when Argentina's government imposed limits on bank withdrawals and impeded access to foreign currency. That provoked civil disturbances in Buenos Aires that lead to at least two dozen deaths and a string of political resignations. New economic measures were announced following the Jan. 2 inauguration of Eduardo Duhalde—Argentina's fifth president in two weeks.

Argentina stopped payment on $135 billion in public debt, making it the largest default ever by a country. Mr. Duhalde also announced plans to create a dual-currency exchange system. Last week, the peso was to begin trading at 1.40 to the dollar for international transactions. The market would determine the peso's value for domestic transactions.

It is the first time since 1991 that the government has moved to abandon a one-to-one peg of the peso to the U.S. dollar. The government also announced a 28% devaluation of the peso and said that debts and contracts with values up to $100,000 would convert from dollars to pesos.

Several of the announced measures were set to begin last Wednesday, then were pushed back to last Friday. Yet their impact is already being felt by the property/casualty market.

Uncertainty reigns over how the economic measures will affect policyholder agreements with insurers, said Jorge D. Luzzi, director of risk management for the Latin American operations of tire manufacturer Pirelli Group.

Risk managers, as of last week, lacked direction from Argentine insurance regulators on whether the conversion of contracts from dollars to pesos would apply to all insurance policies and claims payments, said Mr. Luzzi, who is based in Sao Paulo, Brazil. Mr. Luzzi also is president of the Asociacion Latinoamericana de Administradores de Riesgos y Seguros, the Latin American risk managers' association.

The immediate task for risk managers, meanwhile, is to gain an understanding of their companies' asset valuations in local and foreign currencies, Mr. Luzzi said. Risk managers must learn which assets, such as local factories, could be rebuilt with pesos should a loss occur, and which assets, such as imported technology, would require dollars or other foreign currency to replace.

Risk managers must then rethink deductibles and policy limits as they rework their contracts, he said.

"This will be a lot of work for risk managers,

See ARGENTINA/next page

PHOTO: AP/WIDE WORLD

People line up outside a Buenos Aires bank Jan. 4, after Argentina's currency reforms spurred banks to restrict withdrawals.

Pool Re facing questions on cover adequacy

By CAROLYN ALDRED

LONDON—Insurers and the U.K. government hope to reach an agreement by March 1 on the extent to which the government will act as a reinsurer of last resort for terrorism risks.

The government has already agreed that any solution reached by March will be retroactive to Jan. 1, 2002. That assurance, given late last month by the U.K. Treasury, helped commercial policyholders secure renewals despite moves by reinsurers to exclude terrorism coverage.

The Treasury action helped allay fears that the existing government-backed reinsurance program, which was created to pay losses from attacks by Irish terrorist groups, does not provide adequate protection for events similar to the terrorist attacks of Sept. 11, 2001.

Still, it remains unclear how the reinsurance facility, called Pool Reinsurance Co. Ltd., will be amended and whether the concerns of risk managers and insurers will be fully addressed.

Currently, Pool Re provides reinsurance for property and business interruption losses caused by fire and explosion, but risk managers want the coverage to be broadened to include all such losses resulting from terrorism, said David Gamble, executive director of the Assn. of Insurance & Risk Managers in London.

Risk managers and insurers have questioned whether the definition of "terrorism" used by Pool Re is sufficient for the present circumstances. Under the law that created Pool Re, "terrorism" is defined as "acts of persons acting on behalf of, or in connection with, any organization which carries out activities directed towards the overthrowing or influencing, by force or violence, of Her Majesty's government in the United Kingdom or any other government de jure or de facto."

But because revising that definition would require new legislation, which would belabor the process of amending the coverage, AIRMIC is not pushing for a change, Mr. Gamble said.

"While insurers believe that the definition of 'terrorism' is too narrow and would prefer a broader definition, risk managers would rather Pool Re take a wider range of risks," said Mark Butterworth, risk manager for Prudential Group P.L.C.

See POOL RE/next page

London dismayed by capital flow

Lloyd's taken to task by corporate backer

By SARAH VEYSEY

LONDON—A leading corporate backer of Lloyd's of London has warned the market that it must make big changes in order to remain competitive and ensure its survival. And some other London market executives are expressing concerns that London is losing out to Bermuda and other markets as new capital enters the industry.

In a speech to the Insurance Institute of London last week, Anthony Markel, president and chief operating officer of Markel Corp., blasted Lloyd's and warned underwriters that Lloyd's must make "structural, fundamental, gut-wrenching change" just to survive, "let alone realize its full potential in the new global economy."

Mr. Markel said that syndicates' underwriting results must improve if Lloyd's is to attract new capital. He slammed what he described as "a pervasive institutional arrogance" within the market that he said "belies logic and, frankly, is totally unsupported by results." Glen Allen, Va.-based Markel backs syndicate 3000 at Lloyd's, which has £200 million ($292.6 million) of capacity for 2002.

Mr. Markel added that the market had been tarnished by lawsuits and allegations of mismanagement, and that costs and client service were also areas of concern. "You got a clean slate in 1992 with the formation of Equitas (the runoff reinsurer for Lloyd's pre-1993 long-tail liabilities) and it took you less than a decade to totally screw it up again," he said, according to a transcript of his speech.

> **Lloyd's 'got a clean slate in 1992 with the formation of (runoff reinsurer) Equitas and it took you less than a decade to totally screw it up again.'**
>
> *Anthony Markel*
> *Markel Corp.*

Mr. Markel suggested several steps that the market should take to reform itself and attract new capital. These included reducing costs, improving standards of service and undertaking radical regulatory changes.

Lloyd's declined to comment on Mr. Markel's observations.

Other market practitioners agree that Lloyd's and the broader London market face problems. In particular, they point out that most of the $25 billion in new capital that has entered the insurance and reinsurance marketplace since the Sept. 11, 2001, attacks has been raised in other markets. For example, Bermu-

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World Updates

CGNU, Groupama in talks over CGU Courtage

U.K. multiline insurer CGNU P.L.C. said last week that it is in talks to sell CGU Courtage, its French property/casualty commercial lines unit, to Paris-based mutual Groupama-GAN S.A. No details were disclosed. Paris-based CGU Courtage, which writes large commercial lines business, had gross revenues of 426 million euros ($401.5 million) and net written premiums of 355 million euros ($334.6 million) in 2000, the last year for which full results are available. The sale would leave CGNU's French operation, CGU France, with small commercial lines property/casualty insurance, and long-term savings and asset management businesses.

Toro, La Fondiaria deal hits snag

Toro Assicurazioni S.p.A.'s bid to take a roughly 25% stake in Italian multiline insurer La Fondiaria Assicurazioni S.p.A. suffered a setback last week with the news that La Fondiaria had acquired a 2% stake in Toro's parent, automotive giant Fiat S.p.A. Fiat said last week that it had taken a 2% stake in Florence-based La Fondiaria, and the insurer, in turn, said that it had acquired a similar stake in Fiat. Under Italian law, these cross-holdings mean that neither side can increase its voting rights in the other above 2% for a year. Turin-based Toro earlier this month offered to buy 24.4% of the shares in La Fondiaria from Milan-based manufacturing giant Montedison S.p.A. Montedison said that its board of directors supports the Toro deal, which is valued at about 630 million euros ($563.7 million).

Atrium doubles syndicates' capacity

Atrium Underwriting P.L.C. has doubled the capacity of its two Lloyd's of London syndicates for 2002. Atrium announced that its managed capacity for 2002 is £260 million ($375.7 million), split evenly between nonmarine syndicate 570 and multiline syndicate 609, which has a strong focus in marine business. Atrium also announced the recruitment of two new underwriters to syndicate 609. Gloria Davies has been appointed cargo and specie underwriter. Ms. Davies previously held a similar role at ACE Global Markets. Richard Tomlin, formerly a divisional underwriter for hull and short-tail marine business at Wellington Underwriting Agencies Ltd., has been appointed marine underwriter.

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Argentina: Market facing uncertainty

Continued from previous page

with a lot of potential for mistakes," Mr. Luzzi said. He said he hopes insurance regulators will provide direction in the coming weeks.

It remains to be seen how insurance policies currently in force and containing agreements to pay losses in dollars or dollar equivalents will treat losses now that the peso might have a lower value than the dollar, Mr. Luzzi said.

Theoretically, those policies should still pay losses in dollars, Mr. Luzzi said. But if replacement costs are now less in pesos, then difficult discussions with insurers could follow.

One ironic bright spot is the country's experience with past peso devaluations. Argentina underwent a steep peso devaluation in the 1980s, said Jorge Gonzalez Gale, chief executive officer for Latin America for Aon Risk Services in Buenos Aires.

One of the lessons learned from the previous devaluation is that insurers can implement an index in which policy premium and limits change to account for inflation or drops in currency value, Mr. Gonzalez said. That way, insurers and policyholders are protected from currency risks.

But, as of last week, even the mechanisms for paying premiums—typically made six times annually in Argentina—remained uncertain, Mr. Gonzalez said. Both foreign and domestic insurers are not eager to accept pesos, so they may to stall collections until they learn whether payments can be made in dollars.

Insurers face other difficulties. They are required by law to invest about 35% of their reserves in bonds issued in Argentina, Mr. Gonzalez said. Now many of those bonds are worth less than half the price paid by insurers.

Insurers also may have to pony up capital earned elsewhere to pay their reinsurers because of difficulties accessing currency and requirements that they get approval from the nation's central bank and insurance regulators before sending money out of the country, Mr. Gonzalez said.

In the past when other countries have restricted access to currency, exemptions eventually were made for certain transactions, such as payments for reinsurance, said Keith L. Shroyer, senior vp and chief underwriting office in Hamilton Bermuda for Latin American Re.

"There will have to be an easing of restrictions," Mr. Shroyer said. If insurers and reinsurers cannot access their currency, it will be difficult for them to pay claims, he said.

The devaluation might also mean that insurers will make less money in Argentina than they forecast, Mr. Shroyer said. Yet if they can pay claims in devalued pesos, their loss ratios may not suffer.

At least one insurer, Bermuda-based ACE Ltd., already has indicated that it will temporarily stop underwriting new coverage in Argentina until some clarity emerges, market sources say. Representatives for ACE in the United States and Bermuda could not be reached late last week.

Still, most international insurers with operations in Argentina are in the market for the long haul, observers say.

"When you work in Latin America, you have to take a longer view," said Gary Petrosino, managing director and Latin America zone officer for Chubb Corp. in Miami.

But the situation has caused immediate problems for policyholders. One insurer could not send dollars from Argentina to the United States to pay a half-million dollar claim for an authorized aircraft repair after the government announcement. The Argentine policyholder had sent the aircraft to United States for repairs, and the manufacturer would not release it until the payment arrived.

Policyholders also have put their underwriters on notice for potential political risk claims stemming from the "inconvertibility of currency" related to project-finance loans that are insured, said Ken Horne, senior vp for political risk at Marsh Inc. in New York.

Most of those problems stem from the central bank's foot-dragging when companies seek to withdraw currency, Mr. Horne said. With an average 180-day waiting period to trigger political risk coverage under inconvertibility claims, there may not be any insured losses if policyholders can access their money before the waiting period expires.

"Everything is in a state of flux, so it's difficult to determine what the ramifications will be," Mr. Horne said. For now, he noted, several insurers have stopped underwriting political risk coverage in Argentina.

World Updates

Continued from previous page

U.K. insurers face levy

The United Kingdom's Financial Services Compensation Scheme has imposed a levy of £150 million ($216.0 million) on the country's nonlife insurance industry. The assessment will be used to pay claims made by the individual policyholders of insolvent nonlife insurance companies, including Independent Insurance Co. Ltd., which collapsed last June (*BI*, June 25, 2001). Under U.K. law, corporate nonlife policyholders are not eligible to receive compensation from the FSCS. The FSCS late last year replaced the Policyholders Protection Board as the body that guarantees nonlife insurance claims in the United Kingdom.

ZFS completes Converium spinoff

Switzerland-based Zurich Financial Services Group Inc. said last week that the overallotment of shares was fully exercised in its initial public offering of Converium Ltd., the rebranded Zurich Re. Following the IPO, launched in December 2001, ZFS no longer holds any shares of Converium. Zurich said that the public stock offering raised approximately $1.1 billion net of expenses and Zurich's capital contribution to Converium.

Briefly noted

Ian Findlay, chairman of Lloyd's of London from 1978 to 1979, has died at the age of 83. During his career, Mr. Findlay also served as chairman of the British Insurance Brokers Assn. from 1980 to 1982 and as chairman of London-based brokerage Price Forbes. In addition, he commissioned the Richard Rogers-designed Lloyd's headquarters....Angus Tucker has been appointed business development director of the London-based business insurance consulting arm of **Deloitte & Touche L.L.P.** Mr. Tucker previously was account services director at loss adjuster GAB Robins Ltd. in London....Henry Cooke has been appointed head of **Marsh Inc.**'s Enterprise Risk Transactions practice in Europe. Mr. Cooke, who will be based in London, was formerly co-head of securitization in the debt markets division of Nomura International P.L.C....Chris Forbes has been appointed chairman of Lloyd's managing agency **Chaucer Syndicates Ltd.** Mr. Forbes, who formerly was managing director of Faraday Underwriting Ltd., joined Chaucer as a nonexecutive director in September 2001. He succeeds John Parton, who has retired.

Pool Re: Coverage adequacy questioned

Continued from previous page

Under the Pool Re arrangement, standard commercial property insurance policies in the United Kingdom provide up to £100,000 ($144,500) in limits for terrorism-related property and business interruption losses caused by fire and explosion. Policyholders can buy coverage above that limit from their insurers, which are reinsured by Pool Re.

Until commercial reinsurers introduced a total terrorism exclusion, the coverage provided by Pool Re "dovetailed" with coverage provided by the commercial market, said Steve Atkins, Pool Re's chief executive. But now, there is concern that policyholders will be left with gaps in coverage where terrorism damage is not caused by fire and explosion.

Until the coverage issue is resolved, risk managers will be unable to determine the extent to which they are uninsured against terrorism risks, said Mr. Butterworth.

The London-based Assn. of British Insurers confirmed that it is in discussions with the U.K. Treasury "on the future provision of commercial property insurance against acts of terrorism," which includes determining the scope of Pool Re.

"The aim is to agree (on) a mutually acceptable way forward by March 1, 2002, that will enable commercial property and business interruption insurance to be provided to customers in the U.K. against a wider range of losses from terrorist acts," the ABI said in a statement.

"Any solution must be practical; be commercially and economically viable; it must respect the taxpayer and consumer interest; and should encourage the re-entry of commercial reinsurance in the market," the Treasury said in a statement.

The government "recognizes there are circumstances in which it has a role as reinsurer of last resort to prevent or mitigate market failure," the Treasury said. These circumstances include "where there is a substantial public policy interest in pooling risk; and where the market is currently unable to provide insurance." Nevertheless, the government "will not step in wherever the market does not offer cover," according to the statement.

Still, the government should broaden the Pool Re coverage, Mary Francis, director general of the ABI, said in a statement.

"Pool Re is an outstanding example of how government can work with the private sector to the advantage of the whole community. We should now build upon its achievements," the statement said.

"We are 100% behind (the lobbying) with regards to Pool Re. We are fortunate in the U.K. in having Pool Re, and it gives us a level of protection. However, there are significant gaps. Conventional reinsurance cannot take risks like Sept. 11," said Finlay Smith, U.K. commercial property underwriting manager for Royal & SunAlliance Insurance Group P.L.C.

"It is traditional to see war risk exclusions in the property market. But in the 21st century, the nature of conflict is different. Is it fair to expect commercial companies to pick up the consequences of that sort of conflict?" he said.

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London: Market dismayed by lagging capital flow

Continued from page 27

da startups have raised about $6.56 billion in capital, and existing Bermuda-based companies have raised $3.4 billion, but U.K. companies and Lloyd's entities have raised just $1.97 billion in new capital, according to an analysis by Standard & Poor's Corp. in New York.

Indeed, despite Lloyd's record capacity of £12.3 billion ($17.63 billion) for 2002, some market practitioners fear that London is losing out to Bermuda and other markets with regard to new capital.

"With a more positive long-term backdrop, some of that (new capital) would have come to Lloyd's," Mr. Markel said in his speech to the IIL.

Callum Stewart, managing director of nonmarine reinsurance business at London-based broker Heath Lambert Group, expressed dismay that more capital is being pumped into Bermuda than into London. Some business that has traditionally been led in London is now being led in Bermuda because of the influx of new capital there, Mr. Stewart said.

> **'The London market has always shown resilience and always seems to bounce back after difficult times....Except at the present moment, there is plenty of capital flowing elsewhere.'**
>
> *John Gilbert*
> *Holborn Corp.*

"For example, on Canadian business, the Bermudian companies are picking up a lot of business, because they will write terrorism cover. Terrorism is not seen as a big risk in Canada," he said, adding that a lot of Canadian business has traditionally been underwritten in London.

Heavy regulation of insurers in the United Kingdom could be dissuading new capital from setting up shop there, he said.

"Since last year, there has been an exodus from the London company market," said Mr. Stewart, citing some of the big-name departures, including Liberty Mutual Insurance Co., The St. Paul Cos. Inc., CNA Financial Corp. and Copenhagen Reinsurance Co. Ltd. "The regulatory environment must be a reason for that. It is a serious situation," he said.

Mr. Stewart added that high-profile insurance company failures, such as the collapse of Independent Insurance Co. Ltd. last June, were unlikely to help the situation, as regulation would only to be tightened in the wake of such failures.

John Gilbert, president of New York-based reinsurance brokerage Holborn Corp., shares some of Mr. Stewart's concerns.

"The London market has always shown resilience and always seems to bounce back after difficult times, and I hope this'll be no exception. Except at the present moment, there is plenty of capital flowing elsewhere," he said.

Mr. Gilbert said that one of London's great advantages is that it is a subscription-based market with a variety of strong financial organizations in close proximity to one another.

But, "The other markets are not far behind....you can walk around Hamilton, Bermuda, in a very short space of time," he said.

Mr. Gilbert agreed that the regulatory environment in London needed to change for the market to attract a significant amount of new capital.

Others, though, see no current cause for concern about London's future.

"Obviously, they are competition, but (the new Bermuda companies) are not yet doing the larger, complex risks," said James Illingworth, managing director of Lloyd's managing agency Amlin Underwriting Ltd. Those risks, Mr. Illingworth noted, have traditionally come to London.

And Marie-Louise Rossi, chief executive officer of the London-based International Underwriting Assn., said she was optimistic about the position of the London market. "Ten years ago, a lot of capital went into Bermuda, and a lot of people said, 'This is the death knell of the London market.' But what actually happened was that that capital traded in Bermuda for a couple of years and then came to London and set up offices here," she said. Ms. Rossi pointed out that large Bermuda players such as ACE Ltd. and XL Capital Ltd. have London offices and are active in the London market.

"I see no reason why that situation should not happen again," Ms. Rossi said.

In today's insurance market, there is no need for capital and expertise to physically be located in the same place, she said.

A spokesman for Lloyd's said that the market had attracted roughly the amount of capital that would be expected. "If you look at the statistics in terms of new capital created worldwide, (Lloyd's) has got about 5% of it. We represent about 5% of the world's business," he said, noting that, therefore, the market had attracted its expected share.

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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
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.)

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NOTICE IS HEREBY GIVEN, that the seventh annual meeting of the Scheme Creditors (as defined in the Schemes of Arrangement) of the above named companies ("the Companies") convened pursuant to Clause 44.2 of the Schemes of Arrangement made between the Companies and their respective creditors, which came into effect on 26 April 1994 will be held at 10.30am on 23 January 2002 at the offices of Plumtree Court, London EC4A 4HT, for the purpose of receiving the Joint Scheme Administrators' report on the conduct of the affairs of the Companies.

Scheme Creditors may attend in person or they may appoint another person whether a Scheme Creditor or not as their proxy to attend in the place, Scheme Creditors must lodge the instrument appointing the proxy, at Plumtree Court, London EC4A 4HT, UK, not less than seven days before the meeting.

M C BATTEN *Joint Scheme Administrator*

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Organizations wishing to bid must meet certain minimum pre-qualifying criteria to submit a proposal, for example:

- Offer POS, PPO and indemnity products statewide in California with worldwide coverage available and offer an indemnity product in New Mexico with worldwide coverage available.
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- Currently have applicable statewide networks in place in California (POS, PPO, behavioral health, pharmacy).

A list of all pre-qualifying criteria can be obtained by calling:

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The deadline for proposal submission is 12:00 noon (PST), March 8, 2002. Commission or service fees of any kind will not be payable by the University.

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Comings & Goings

Mr. Grace

Mr. Adams

Mr. Hite

Patrick J. Grannan has been elected president and chief executive officer of Milliman USA Inc., an international consulting and actuarial firm based in Seattle. Mr. Grannan, who previously served as chief operating officer, succeeds **Robert L. Collett**, who became president of Milliman in 1990 and was named CEO in May 2001. Mr. Collett will assume the post of vice chairman of Milliman USA and will continue to serve as chairman of Milliman Global, the worldwide organization of which Milliman USA is a member. Mr. Grannan will divide his time between Milliman's Seattle and Philadelphia offices.

In other industry changes:

J.R. Pegues was named senior vp, marketing and business development, at IntraCorp in Philadelphia. In this newly created position, Mr. Pegues will evaluate and shape strategies for the company to expand its position in the fields of health care and disability management. Mr. Pegues joined Intracorp from Austin, Texas-based Launch-Sequence Inc., where he was CEO.

HealthAxis Inc., a Dallas-based insurance technology firm, named **John Loeser** acting chief technology officer, succeeding **John Wall**, who is leaving the company to join a noncompeting technology firm. Mr. Loeser had served as chief technology officer of HealthAxis' Web Technologies line of business.

Georgia State University in Atlanta appointed **Martin F. Grace** to the James S. Kemper Professorship of Risk Management and Insurance. Mr. Grace, who joined the Georgia State faculty in 1987, is the first professor to hold the endowed chair.

Brokers:

Deborah S. Urban has been named vp and owner of Corporate Insurance Management Inc., an Alexandria, Va.-based insurance brokerage and risk management consulting firm. Ms. Urban, who has been with the organization for 13 years, most recently served as manager of its information technology department.

Chicago-based broker Acordia Inc. named **David Lippincott** vp and international marketing director of HLA Global, an international alliance that Acordia formed with London-based broker HLF Insurance Holdings Ltd. Mr. Lippincott, who will oversee HLA Global's North American Operations Group, previously was a senior vp with Aon Corp. in Chicago.

Douglas K. Adams was promoted to president of broker Adams & Son Inc. in Auburn, N.Y. Mr. Adams, who is the fourth generation of his family to run the commercial insurance broker, succeeds Charles R. Adams, who continues to serve as chairman.

Richard B. Hite was promoted to chief operating officer of Seibert-Keck Insurance Agency in Akron, Ohio. Mr. Hite previously was responsible for Seibert-Keck's new business and acquisitions.

Hub International Ltd. has named **R. Craig Barton** president of its Canadian operations. Mr. Barton also serves as president of Barton Insurance Brokers Ltd., a Hub International subsidiary based in Toronto.

Insurers:

Wellesley Hills, Mass.-based Sun Life Financial has made several executive changes as a result of the acquisition by its parent, Sun Life Financial Services of Canada Inc., of Keyport Life Insurance of Boston and Independent Financial Marketing Group of Purchase, N.Y. They are:

- **Phillip Polkinghorn**, formerly president of Keyport, has been named vp in Sun Life's retirement products and services division. He will share responsibilities with Ron Fernandes, current vp of that division. These are the highest-level officers in that division.
- **Davey Scoon**, vp and chief financial officer of Sun Life, has been named chief administrative and financial officer of the company, assuming additional responsibilities.
- **Peter Demuth**, formerly vp and chief counsel of Sun Life, will become chief strategy and business development officer, also assuming additional responsibilities.
- **Paul LeFevre**, formerly Keyport's chief operating officer, will continue his association with Sun Life Financial as a strategic consultant based in Boston.
- **Robert Spadafora** will remain as president of IFMG, which will continue to operate as an independent organization.

Meanwhile, Keyport will be integrated into Sun Life over the next 18 to 24 months, a company spokesman said.

Reinsurance:

Chicago-based CNA Re has made several staff changes:

- **Michael Toman** was named executive vp with responsibility for overall leadership of treaty property/casualty business, including standard lines, global catastrophe and surplus lines business units. He previously was with PXRE of Edison, N.J.
- **Thomas Duffy** was named executive vp, responsible for development of pricing processes and methodologies. Previously, he was an executive vp in CNA's U.S. insurance operations.
- **William Heberton**, senior vp of CNA Re, will have additional responsibilities leading a newly formed specialty lines business unit composed of professional liability, financial reinsurance and surety product lines.
- **John Jenkins** has joined CNA Re as senior vp of surplus lines from HartRe, where he also was a senior vp.

Citigroup: P/C doesn't fit on banks' ledger

Continued from page 3

ing,' but I think when people looked underneath at the returns that were typical of the property/casualty business and of the underlying fundamentals of the market, they hadn't much appetite" for the business, said Mr. McNees.

Ken Reynolds, managing director of the Washington-based American Bankers Insurance Assn., an affiliate of the American Bankers Assn., said in light of property/casualty insurers' typically low returns and relatively high volatility, "it's not a surprise, frankly, that they're divesting that part of the business. The greater surprise was when the Citicorp-Travelers combination happened in the first place, and it may be the reason there aren't any others that are following that example."

"There had been a lingering question…all along as to the desirability by banks for owning insurance underwriters," said Michael Smith, an analyst with Bear Stearns in New York, pointing to insurers' lower returns. "I've always believed…that there are some synergies between the banks and insurance companies, but that ultimately the bank probably would rather simply be an intermediary" rather than an underwriter, said Mr. Smith.

Sean F. Mooney, senior vp at reinsurance intermediary Guy Carpenter & Co. in New York, said, "I think they played to the press a little bit" when it came to the notion of a financial supermarket. "I don't think they believed in their hearts that the key to the success of those businesses was going to be one-stop shopping, the integration of financial services."

Terry Tyrpin, senior vp at the National Assn. of Independent Insurers in Des Plaines, Ill., said the Travelers spinoff suggests "companies are starting to see some inconsistencies with the concept of a totally financially integrated industry, at least in the context of property/casualty companies."

"It may be that they realize that property/casualty insurance companies don't fit into the equation of the financial services enterprise model where you can cross sell these products," Mr. Tyrpin said. Life insurance products may match up well with banking products because of their investment dimension, but property/casualty products do not, he added.

Foreign financial services firms may be the primary players that still have an appetite for the property/casualty business and market entry opportunities, said Tillinghast's Mr. McNees. While Mr. Weill's move "will be something that will cause reflection, I don't think that it will, at the end of the day, cause a re-evaluation or significant impact on their decision whether…to jump into the U.S. market through a property/casualty acquisition."

Property/casualty underwriting may claim more of the banking industry's interest in the future. Michigan's commissioner of Financial and Insurance Services, Frank M. Fitzgerald, said an evolutionary process is at work here. Although initially, the focus will be on personal lines, "there are ultimately commercial implications for this sort of convergence of services, and I think that in some ways, that may be the more profitable side both for insurers as well as for financial institutions."

Other observers also say the initial convergence with banking is likely to be in personal lines as well as in Main Street businesses. And in the property/casualty area, deals with agencies and brokers may hold more interest.

Banks may continue to buy specialized insurance companies rather than take the "shotgun approach" represented by the Travelers acquisition, with its multiple business lines, said Mark Charron, principal with Deloitte & Touche L.L.P. in Hartford, Conn. But these are more likely to be consumer-oriented banks buying personal lines companies than commercial banks, which are more likely to be interested in agencies, Mr. Charron said.

John Ward, of the Cincinnati-based Ward Financial Group, said by continuing to market Travelers Property/Casualty Insurance, Citigroup has made a conscious effort on the property/casualty insurance side to move from an underwriting, or manufacturing, strategy to a distribution strategy "and it would not surprise me if other players in the industry follow suit."

"I think it will help the commercial buyer because there is a trend towards more options among more companies distributing the product," he added.

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ADA: High court ruling limits federal act's scope

Continued from page 1

ployment law practice group at the Chicago-based law firm of Baker & McKenzie.

"The Supreme Court created a very demanding standard for workers to bring a successful ADA claim when their impairment involved problems in performing manual tasks, and therefore applies to millions of jobs involving factory and blue-collar positions," he said.

The National Council on Disability, an independent federal agency, viewed the decision differently. In a statement, the NCD said that it was "deeply troubled" by the court's action. NCD Chairwoman Marca Bristo said the decision "would prevent many individuals whom Congress intended ADA to cover from receiving its protection that they may need to secure and maintain employment."

In the case heard by the Supreme Court, Ella Williams developed repetitive motion disorders, including carpal tunnel syndrome, while working on an assembly line in Toyota's Georgetown, Ky., plant. Toyota transferred her to a less demanding job, but later expanded her duties. The disorders returned, and Ms. Williams sought relief under the ADA, arguing that her employer had failed to make adequate accommodation for her.

'The court understood that the ADA...was intended for people with significant limitations.'

Stephen Bokat
National Chamber Litigation Center

A district court supported Toyota but a three-judge panel of the 6th U.S. Circuit Court of Appeals ruled in favor of Ms. Williams. The appellate panel said that Ms. Williams' inability to perform a "class" of manual activities related to her job amounted to a disability under the ADA despite her ability to carry out routine personal and household chores.

Toyota appealed, and the high court ruled in the employer's favor on Jan. 8. The appeals court had applied the wrong standard in the *Williams* case, wrote Justice O'Connor. The ADA requires that claimants go beyond submitting medical evidence of a diagnosis of impairment by requiring them to "offer evidence that the extent of the limitation caused by their impairment in terms of their own experience is substantial," she wrote. "An individualized assessment of the effect of such an impairment is particularly necessary when the impairment is one such as carpal tunnel syndrome, in which symptoms vary widely from person to person."

The requirement that an individual be prevented from performing a variety of tasks associated with life's central activities to meet the ADA's definition of disability extends beyond the workplace to cover claims made regarding such matters as public transportation and public accommodation, wrote Justice O'Connor. The case was remanded to the appeals court for reconsideration.

"It's a wonderful decision for employers," said Brian Ashe, a partner in the San Francisco office of Chicago-based law firm Seyfarth Shaw.

"What the court has said is that employees now have to show that they're disabled in such everyday tasks as brushing their teeth or bathing or performing household chores—things that everybody does on an everyday basis. The court made it clear that such impairments also have to be permanent or long-term; so, for example, an employee who breaks his or her leg and is going to be on crutches for six weeks is not going to be considered disabled under the ADA," he said.

The court ruled that the ADA was intended to protect people who faced significant limitations in their everyday lives, said Stephen Bokat, executive vp of the National Chamber Litigation Center in Washington.

"The court understood that the ADA was not meant to create a loophole for people with routine limitations or minor injuries but was intended for people with significant limitations," Mr. Bokat said.

Baker & McKenzie's Mr. Maatman said the decision was not all bad news for plaintiffs.

"There is a silver lining in the gray clouds for plaintiffs because the court took pains to indicate that disability cases are factual in nature and symptoms vary widely from person to person. So, in one sense, if you can get by the demanding standard, a plaintiff has a better chance to avoid summary judgment," he said.

Toyota Motor Manufacturing, Kentucky, vs. Ella Williams, U.S. Supreme Court; No. 00-1089. Decided Jan. 8, 2002.

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Films: Dispute escalating over film-financing claims

Continued from page 3

able to repay Chase, the suits allege. In addition, the insurance policies allow Chase to make claims three years after a film's release date, when pictures normally need up to seven years to fully exploit their commercial prospects from theatrical release to video sales and rentals, pay-TV and network TV broadcasts, the insurers argue.

"Even in the face of box-office success, many of the films have purportedly generated losses close to 100% of the insured policy limits," General Star says in its complaints.

This is true of the claims Chase has made so far on the two Paramount slates, dubbed Paramount IV and Paramount V. The bank has filed a full-limits claim of $21.2 million under a primary policy for "Star Trek: Insurrection," along with nearly full-limit claims of $12.9 million for "A Civil Action" and $4.4 million for "A Simple Plan."

Insurers charge that Chase's London broker, Heath Insurance Broking Ltd., and a consultant consistently overestimated revenues and underestimated impending losses on films already released, even as they were negotiating coverage on new slates of pictures.

On an early series of five Paramount films, for example, Heath projected that one would produce a small loss while a second would break even and three would bring in net profits that would offset the earlier loss, the suits allege. In fact, Chase has filed claims on all five films totaling more than $30 million. One of these is for "The Truman Show," a hit with a worldwide box-office gross of $248.4 million that Heath projected would bring in enough net profits alone to offset losses on earlier films, insurers say.

> **'Even in the face of box-office success, many of the films (that Chase financed) have purportedly generated losses close to 100% of the insured policy limits.'**
>
> *General Star International Indemnity Ltd.*

Heath has denied wrongdoing in the film finance deals.

Chase, meanwhile, responded last month with its own suit in New York State Supreme Court. The bank's complaint simply asserts that it has made claims on the three Paramount IV and V films and that AXA, General Star and seven other insurers have refused to pay, breaching their insurance contracts.

Chase has also filed a motion in federal court to have the AXA and General Star complaints removed to state court, where they would be heard by the same judge who has handled litigation over "The Crew." The judge, Ira Gammerman, ruled against insurers on several issues in that case, including barring an argument that the film policies, in virtually guaranteeing losses, were nonfortuitous and thus violated New York law.

AXA and General Star are expected to file motions to remove Chase's lawsuit to federal court.

As the latest suits were being filed in New York, a London High Court judge handed AXA a victory in separate litigation over two other money-losing film deals. Judge Jules Sher voided AXA's reinsurance of HIH on two slates of made-for-TV movies produced by Flashpoint Ltd. in partnership with two other companies, 7.23 Productions L.L.C. and Rojak Films Inc.

A U.K. appellate court had earlier ruled that the producers' representations that they would make a certain number of films under the program were warranties. Judge Sher ruled that they had breached these warranties by making fewer films than planned and that this voided the reinsurance coverage, even though HIH has already paid $31 million in claims.

Deadline nearing for directories

Business Insurance will publish its annual directories of case management services providers and prescription benefit managers on Feb. 11.

To be included in the case management services provider directory, your company must directly sell case management services on an unbundled basis directly to corporate or institutional employers. *BI* defines case management as coordinating and monitoring treatment for catastrophic, complex or prolonged illnesses and injuries.

To be included in the prescription benefit managers directory, your company must provide general prescription benefit management services to corporate and institutional employer clients on an unbundled basis (independently of other services your organization offer). This would not include providing services only to third-party vendors, such as insurance companies or HMOs.

If your company qualifies for either directory and has not received a questionnaire, please download one from the directory area of *Business Insurance*'s Web site, *www.businessinsurance.com* or request one by contacting Directory Editor Kevin Edison at 312-649-5279. The extended deadline for inclusion in both directories is Jan. 25.

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Pact: Insurers lose challenge to asbestos agreement

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District Judge Sarah S. Vance threw out the suit, finding that nothing in Babcock's bankruptcy reorganization plan breached its settlement with insurers, including a proposal to assign insurance recoveries to an asbestos claims trust.

A lawyer for Babcock described the decision not only as victory for the engineering firm but also a setback for London insurers that saw the action as a test case for rescinding settlements with other asbestos defendants that have sought bankruptcy protection in the face of rising claims.

"This is a pretty clear statement by the court that coverage-in-place agreements of this nature are not voidable by virtue of the policyholder's bankruptcy, and Lloyd's is not going to be able to walk away from its obligations," said John M. Sylvester, a lawyer with Kirkpatrick & Lockhart in Pittsburgh, which represented Babcock.

"I hope that the court's decision will make Equitas think twice before charging ahead in other bankruptcies," Mr. Sylvester added, referring to the runoff reinsurer formed to cover Lloyd's syndicates' pre-1993 long-tail liabilities.

A spokesman for Equitas said it is reviewing Judge Vance's order and has not decided whether to appeal. The spokesman declined to comment on whether Equitas plans to challenge coverage-in-place agreements in other bankruptcies.

Babcock, a unit of New Orleans-based McDermott International Inc., was among the first of many longtime asbestos defendants to file for Chapter 11 protection in response to an unexpected surge of new asbestos personal injury claims that began in the late 1990s.

The filing followed a decade in which Babcock managed the settlement of thousands of asbestos claims under a coverage-in-place agreement with London insurers that resolved coverage issues and set out claims handling protocols.

Soon after Babcock's bankruptcy filing, though, Lloyd's underwriters and Turegum sued to rescind the agreement, filing complaints against Babcock in U.S. Bankruptcy Court for the Eastern District of Louisiana in New Orleans and, separately, against McDermott in U.S. District Court in New Orleans. The case was heard in the district court.

The London insurers charged that Babcock intended to breach the agreement during its reorganization by transferring claims handling to a trust, allowing insurers no say in claims management and potentially exposing them to immediate claims for their policy limits.

Babcock also breached the coverage agreement—which included a confidentiality provision—by disclosing the existence of the agreement to asbestos claimant representatives and by negotiating settlements with the claimant groups after the Chapter 11 filing without insurers' involvement, the London underwriters alleged.

'There are too many unknowns about operations under the plan of reorganization... to permit this kind of speculation to rise to the level of a claim for relief.'

U.S. District Judge Sarah S. Vance

In her ruling earlier this month, though, Judge Vance rejected all of these contentions and dismissed the complaint.

Though Babcock and its creditors have not agreed on a final plan of reorganization, a proposed plan submitted by the company outlines two scenarios, the judge noted. In one, Babcock would create an asbestos claims trust and assign its rights under the coverage-in-place agreement to the trust, but only as long as the terms of the assignment do not violate the agreement with insurers. In the second scenario, no trust would be created and Babcock would continue managing claims with insurers' involvement.

Neither scenario shows an intent to breach the agreement or exclude underwriters from a say in claims management, Judge Vance found.

"Underwriters' arguments are not based on any unequivocal conduct or statements of intent by (Babcock or McDermott) but only on their own predictions of how a trust that has not been agreed upon would operate under a plan that has not been confirmed," the judge wrote. "There are too many unknowns about operations under the plan of reorganization, including the trust, to permit this kind of speculation to rise to the level of a claim for relief."

In any case, the judge observed, the coverage-in-place agreement does not prohibit its assignment and Babcock has, in fact, assigned claims management duties to a third-party vendor from the inception of the agreement, with insurers' acquiescence.

Babcock's disclosure of its coverage agreement to claimant representatives also was not a material breach of the deal's terms, despite a confidentiality clause, Judge Vance found. If Babcock had not voluntarily turned over the agreement, claimants could have won a court order requiring its production, and the agreement explicitly authorizes disclosure pursuant to a court order, the judge wrote.

"Although underwriters may have considered confidentiality important, the need for confidentiality was not the 'root' of the agreement," she added.

Judge Vance also rejected charges that Babcock wrongly excluded insurers from negotiations with claimant groups after the bankruptcy filing.

Babcock had wide discretion in settling claims under the agreement and underwriters never directly participated in settlement talks with claimant lawyers, trial testimony showed. The agreement itself shows that the parties intended for Babcock and McDermott to assume responsibility for claims handling, Judge Vance noted.

"There is nothing on the face of the (agreement) setting forth the form or extent of underwriters' involvement in settlement negotiations with claimants or prohibiting Babcock and McDermott from initiating settlement negotiations with the claimants without underwriters' direct involvement," she concluded.

Exclusions: Uniformity lacking

Continued from page 1

Many insurers maintain that some terrorism exclusions are needed in the short run to help guarantee solvency in the event of future terrorism losses, and to encourage insurers to write business they might otherwise avoid.

Most members of the NAIC have endorsed exclusionary wording as a way to help commercial lines policyholders obtain at least minimal terrorism coverage via endorsements or separate policies, though California and New York both voted against the NAIC measure last month.

The actions of those two states are significant. Admitted insurers in 1999 wrote nearly $160 billion in gross direct premium in California and New York alone, compared with $738 billion in all other states in that year, the latest for which such figures were available.

In rejecting ISO's filings last week, California Insurance Commissioner Harry W. Low said he was concerned about, among other things, limitations of coverage and the definitions of what constitutes terrorism in the exclusions proposed for commercial lines and homeowners policies. In a statement, Mr. Low said that "the term 'terrorism' has been broadly used to define everything ranging from vandalism to hate crimes" and that the exclusion's trigger—$25 million in damage industrywide—is "unreasonably" low. ISO's options include seeking a hearing on the rejected filings or submitting new ones.

In New York, Insurance Superintendent Gregory Serio is currently negotiating with around 50 companies about the wording of proposed terrorism exclusions, a department spokeswoman said.

The lack of uniformity among states is one significant problem for policyholders and insurers in the rapidly hardening market, some say.

'The current chaos (with regard to terrorism coverage) will be a nightmare for entities that operate in multiple states and countries.'

Robert W. Esenberg Berkley Risk Administrators Co. L.L.C.

"The current chaos will be a nightmare for entities that operate in multiple states and countries," said Robert W. Esenberg, a consultant for Berkley Risk Administrators Co. L.L.C. in Virginia Beach, Va., and a former president of the Risk & Insurance Management Society Inc.

In the long run, though, most risk managers and insurers hope that Congress will address the coverage problem by creating a federal backstop for terrorism insurance. Congressional efforts to create such a mechanism stalled when lawmakers recessed late last month (*BI*, Dec. 24/31, 2001).

California's rejection of the exclusion "points back to the need for congressional action that supersedes state action," said Michael Phillipus, risk manager of Houston-based Pennzoil-Quaker State Co. Mr. Phillipus, who is vp-external affairs for RIMS, said risk managers should lobby for such action, including providing information about negative market experiences to the U.S. Government Accounting Office.

But, Jeffrey W. Pettegrew, vp-insurance and risk management with Westaff Inc. in Walnut Creek, Calif., predicted that such congressional action "will only happen if another major terrorist act occurs with horrific losses." In an election year, Congress may prove even less likely to act if federal lawmakers think that state regulators have stabilized the situation by approving exclusions.

But some observers question the appropriateness of terrorism exclusions.

"For the consuming market to acquiesce to such an exclusion is inappropriate at this time," said Arthur Bostwick, a former president of RIMS who retired in 1998 as risk manager for Stone Container Corp. in Chicago. "This is a case of insurance industry overreaction to a single event," he said.

J. Robert Hunter, director of insurance for the Washington-based Consumer Federation of America, supports California's rejection of ISO's terrorism exclusion. He noted that "larger risks should be able to negotiate terms with insurers" using typical manuscript policies, while smaller risks do not need such coverage.

USI: Venture to boost outsourcing services

Continued from page 2

grams, said Mr. Mizel.

USI held the No. 9 spot in *Business Insurance*'s 2001 ranking of the world's largest insurance brokers, based on $359.7 million in brokerage revenues in 2000. Ceridian reported $1.18 billion in revenues for the same period.

The relationship includes a five-year agreement to cross-market products and services to current and prospective customers. Ceridian has also made a $15 million investment in USI.

Mr. Mizel and Mr. Holcombe said both companies had been seeking to provide single-source business services. USI was searching for a partner "that would create the kind of convergence with a distribution system, with a USI, where you could get the maximum traction," said Mr. Mizel.

While USI considered banks as possible partners, such institutions don't always see themselves as "a real provider of insurance-related financial services," Mr. Mizel said. It became clear, he said, that the right partner was a company such as Ceridian, which meets the human resource outsourcing needs of middle-market companies.

USI and Ceridian, which have similar customer bases, "felt, by combining efforts, we could provide a full range of services to the customer," said Mr. Holcombe, who noted that USI's customers will be able to make use of Ceridian's 401(k) processing and flexible spending account administration services.

For the future, USI is thinking in terms of offering its clients banking services and mutual funds, said Mr. Mizel.

"Ultimately, within three to five years, this will be a significant play in terms of USI, and, we think, a very important component of Ceridian's strategy," he said.

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FTR [Week of 1/7-1/11]

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.

PHOTO: REUTERS

The Bush administration wants businesses to lobby Congress on a backstop for terrorism coverage.

White House urges appeal to Congress

The Bush administration wants businesses to tell Congress of the woes they face because of terrorism-related dislocations in the insurance market. The administration's appeal came last week in a conference call involving representatives of the White House, the Treasury Department, the insurance industry and the larger business community. Sources familiar with the teleconference said the White House believes that more evidence of economic hardship is needed to persuade Congress to act on administration-backed legislation that would create a federal backstop for terrorism insurance.

Losses, reserve boost to hit ACE results

ACE Ltd. anticipates its fourth-quarter net operating income will fall below expectations because of an aftertax increase of $80 million in European property losses and a $50 million boost to loss reserves primarily in international casualty operations. A spokeswoman for Hamilton, Bermuda-based ACE said that "rather than any particular loss," there was "an increase in severity and frequency" of losses in the company's European commercial property book. And, "there was no real triggering or defining event" that led to the increase in casualty loss reserves, she said.

Online Poll [1/7 - 1/11]

Should Congress pass legislation to provide federal subsidies of COBRA premiums for employees laid off since Sept. 11?

Yes 42.9% No 57.1%

Take part in our weekly poll at *www.businessinsurance.com*

NAIC releases staff pay details

Annual salaries for the five highest-paid staff members of the National Assn. of Insurance Commissioners range from $157,764 to $263,304, as of the end of 2001. Catherine J. Weatherford, the Kansas City, Mo.-based executive vp of the NAIC, will be paid $263,304, up 8% from a year earlier. Chris Evangel, managing director of the New York-based Securities Valuation Office, will get $248,063, up 5%. David Wetmore, director of federal and international relations in the Washington, D.C., office, will get $185,394, up 6%. Mark Peavy, a life and health actuary in Kansas City, will be paid $159,952, up 4%.Gary Gumming, chief information officer, will get $157,764, up 6%.

PHOTO: GETTY

Bond issues for two Brazilian banks includes coverage for currency inconvertibility.

Zurich unit covers Brazilian political risks

Zurich North America has provided political risk coverage for two recent bond issues by Brazilian companies through its Zurich Emerging Market Solutions groups. In both deals, the use of political risk insurance was credited with enabling the issues to obtain ratings higher than Brazil's foreign currency debt rating. In one, Zurich provided political risk insurance for a $150 million 10-year issue by the Grand Cayman branch of Banco Bradesco S.A., which will use the proceeds to finance the bank's activities in Brazil. The political risk policy covers currency inconvertibility and expropriation of funds. In the second deal, Zurich covered political risks associated with a $500 million, 10-year issue by Companhia Brasileira de Bebidas guaranteed by the issuer's parent, Companhia de Bebidas das Americas.

Yahoo!, CIGNA to offer online services

Members of CIGNA Corp.'s health care and retirement plans will soon be able to access personal plan information through customized Web sites set up through Yahoo!. The 16 million participants in CIGNA's plans will be able to review their medical claims, locate health care providers, order medication, access retirement plan information, conduct fund transactions, access retirement education materials and receive personalized health and investment news through the Yahoo! Web portal. The service to be provided by Sunnyvale, Calif.-based Yahoo! will offer members a more customized site compared to CIGNA's current site, *www.cigna.com.*

Gerling Global Re gets capital infusion

Gerling Global Reinsurance Corp. of America is getting a $150 million boost to its capital as it discontinues writing a handful of relatively small lines of business. GGRCA, the main U.S. operating unit of Cologne, Germany-based Gerling Global Reinsurance A.G., said it will receive the capital as a combination of cash and a restructuring of certain transactions with its parent. The U.S. unit had shareholders' equity of $706 million as of Sept. 30, 2001, using generally accepted accounting principles. Gross written premiums totaled $765 million as of Sept. 30, a GGRCA spokeswoman said. The new capital will "enable GGRCA to maximize business opportunities in the current reinsurance market environment," Gerling announced. The reinsurer also will discontinue writing surety, fidelity and credit reinsurance. These products accounted for little of GGRCA's business, she said.

Briefly noted

Max Re Capital Ltd. has taken a $50 million stake in **DaVinci Re Holdings Ltd.**, a recently formed property catastrophe reinsurer managed by Renaissance Underwriting Managers Ltd. in Bermuda. A further $25 million in DaVinci shares was sold to an unidentified investor.... RenaissanceRe Holdings Ltd. is adding $100 million in capital to **Glencoe Insurance Ltd.**, bringing capital assets for the Bermuda-based insurer and reinsurer to $200 million. The capital will allow Glencoe to expand its reinsurance and program business and to increase its primary property coverages.... **Integrated DisAbility Resources Inc.**, a disability reinsurer and claims manager, has been bought by Charter Oak Capital Partners, a private equity firm, for an undisclosed amount. Previously, IDR was owned by Kemper Insurance Cos. Separately, IDR has itself bought rival Duncanson & Holt Services Inc. from UNUM Provident Corp....Holocaust survivors and their heirs have until Feb. 15 to file claims with the **International Commission on Holocaust Era Insurance Claims**, New York Superintendent of Insurance Gregory V. Serio said in a statement Tuesday. ICHEIC was formed in 1998 by the National Assn. of Insurance Commissioners, European insurers and regulators, Jewish organizations and the state of Israel.

IRS: Payroll tax reduction barred

Continued from page 3

guage, benefits experts note that, essentially, the IRS is saying that it is not legal to get pretax treatment twice on the same dollars—once for salary reduction contributions and once for employer reimbursement of those contributions.

"The contributions have been excluded once from taxes, and you can't take two bites from the same apple," said Sharon Cohen, an attorney with Watson Wyatt Worldwide in Washington.

"Effectively, it is double-dipping," said Mark Hamelburg, an attorney with William M. Mercer Inc. in Washington.

It isn't known how many employers adopted such plans, though consultants say many of their clients have been approached by promoters, some with claims administration backgrounds, over the last year or so.

"This has been widely promoted to large and small employers," Mr. Hamelburg said.

Even before the IRS ruling, consultants had been warning clients approached by marketers that the design was not supported by tax law.

'You can't take two bites from the same apple' in pretax treatment of benefit contributions.

Sharon Cohen
Watson Wyatt Worldwide

"The promoters are arguing that the employer can reimburse the employee's pretax premium payment on a pretax basis. But it's a longstanding principle of federal income tax that a taxpayer is not entitled to receive double tax benefits on the same income or deduction," according to a report Mercer issued last May.

It is easy to see the tax advantages of the plan. Take the case of a health plan in which coverage costs $300 a month. Employees, through salary reduction, pay 20% of premiums, or $60 a month.

Then the employer redesigns the plan so that the employee, again through salary reduction, pays the full $300 monthly premium. The employer then reimburses the employee for $240 a month.

Through the restructuring, neither the employer's nor the employee's share of the premium has changed. But the employee's taxable income has been reduced by $240 a month, or $2,880 for a full year, compared with $60 a month, or $720 a year, in the original plan.

The result: compared to the original plan, the employee's taxable income would be $2,160 less in the restructured plan, which, in turn, would reduce the 7.65% payroll tax paid by employers by more than $165. Employees would then enjoy identical tax savings.

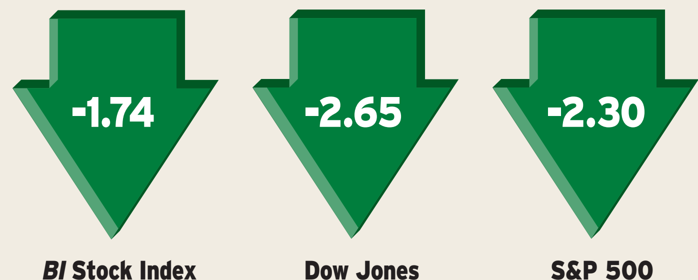
For employers with thousands of employees, the payroll tax savings of a restructured plan would have been significant.

But, as Mercer noted in its report, "unfortunately, the scheme doesn't work, proving once again that what sounds good too good to be true usually is."

BI Stock Index [1/7 - 1/11]

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



BI Stock Index	Dow Jones	S&P 500
-1.74	-2.65	-2.30

Largest gains

Company	%
SCOR	20.24
Humana Inc.	10.82
AFLAC Inc.	9.03
United Fire & Casualty	7.71
Gainsco Inc.	7.69

Largest losses

Company	%
Meadowbrook Insurance Co.	-10.00
Fremont General Corp.	-8.57
Mutual Risk Management Ltd.	-8.15
AXA-UAP Group	-7.04
Odyssey Re Holdings	-6.55

Weekly change by market segment

Segment	%
Brokers	0.32
Insurers/Reinsurers	-0.83
Managed Care Organizations	3.31

Source: CNET Investor (investor.cnet.com)