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FAILED TERRORIST ATTACK RAISES CONCERNS OVER AIRPORT SECURITY / PAGE 3

CATASTROPHE BOND SALES RISE IN 2009 AS ISSUERS REDUCE PRICES / PAGE 3

In Brief

Marsh to buy HSBC unit, NIA Group

Marsh Inc. said it will pay £135 million ($219.3 million) to acquire London-based HSBC Insurance Brokers Ltd. HIBL has 30 offices with 1,400 employees in the United Kingdom, Middle East and Asia. New York-based Marsh is funding the acquisition with cash and stock. The deal, subject to regulatory approval, is expected to close in the first quarter of 2010. In addition, unit Marsh & McLennan Agency L.L.C. bought Paramus, N.J.-based NIA Group L.L.C. for an undisclosed sum. NIA ranked as the 34th-largest brokerage of U.S. business in 2009, based on brokerage revenues of $69.7 million.

Property/casualty profits improve: Verisk

U.S. property/casualty insurers' net income rose to $16.2 billion in the first nine months of 2009 from $4.4 billion for the same

See **IN BRIEF** page 22

SPOTLIGHT 2010 PEOPLE TO WATCH

As a new year begins, who will be the personalities who make the news in risk and benefits management in 2010? *BI* takes its annual look at figures who are likely to make the headlines over the coming year as economies worldwide strive to recover and insurers in the U.S. and Europe prepare for major reforms. **PAGE 9**

LANDOV

AIG may hold off on its planned sale of unit Chartis Inc., according to reports. Meanwhile, AIG's top legal officer, Anastasia Kelly, resigned last week following a federally imposed salary cap.

P/C INSURERS

AIG may wait on Chartis spinoff

Reported move fueled by economic troubles, say market observers

By COLLEEN McCARTHY

NEW YORK—American International Group Inc.'s reported decision to hold off on an initial public offering of property/casualty unit Chartis Inc. is understandable given financial market conditions, several observers say.

Regardless of its ownership, Chartis has a long way to go before it fully recovers from the calamity that struck its parent during the financial crisis, they say.

Meanwhile, Anastasia Kelly, AIG's vice chairman for legal, human resources, corporate affairs and corporate communications, resigned last week as the insurer continued to deal with controversies over executive pay.

Late last month, Bloomberg, citing people familiar with the situation, reported that AIG CEO Robert Benmosche signaled that he wants to keep the unit and told the firm's employees that he considers Chartis a core holding.

A spokesman for AIG declined to comment.

Chartis, formerly AIU Holdings Inc., was formed last year through combining AIG's domestic and foreign property/casualty insurance businesses. AIG's previous CEO, Edward Liddy, said in April 2009 that the insurer was accelerating the unit's separation for a sale or public offering of a minority stake, although no date was set. At the time, AIG also said any decision on its future would depend on market conditions.

Analysts say any plans AIG has to keep Chartis likely are driven in part by continuing difficult economic

See **CHARTIS** page 20

HEALTH CARE REFORM

Reform moves closer, details remain unclear

Pending reconciliation, Senate bill finds favor with more employers

By MARK A. HOFMANN

WASHINGTON—House and Senate negotiators are about to start hammering out a final health care reform bill, a process some experts say they expect to be completed sooner rather than later.

While the House and Senate health care reform bills present problems for employers, the measure the Senate approved Dec. 24 appears more palatable, observers say. Both measures have to be reconciled into one final bill, which analysts say is likely to pass.

Negotiators prepare to merge the two health care bills.

Before the Senate bill came to a vote, Democratic leaders agreed to drop a provision that would have created a public option, or government-run health insurance plan, and a proposal to expand Medicare to allow individuals as young as age 55 to purchase coverage through Medicare. These changes allowed Democrats to pick up support needed for the measure to pass. The bill approved in November by the House, however, includes a public option.

The Senate bill also was revised in other ways. The original version imposed a $2,500 cap on employees' contributions to flexible spending accounts starting in 2011. The revised bill retains the cap, but it will rise to match Consumer Price Index increases for urban areas, starting in 2012.

Another Senate bill revision will benefit employers in high-turnover industries that impose significant waiting periods before new employees can enroll in corporate health plans. Under the previous version, employers with waiting periods between 31 and 90 days would have paid a penalty. Under the revised bill, an

See **REFORM** page 22

HEALTH CARE BENEFITS

COBRA subsidy extension complicates benefits admin

By JERRY GEISEL

WASHINGTON—Eleventh-hour congressional action extending a COBRA premium subsidy law assures continuation of the subsidy for millions of laid-off workers and their families, but also more work for employers.

Ending weeks of uncertainty, Congress gave final approval and President Obama signed into law late last month a Department of Defense spending bill that includes provisions extending COBRA premium subsidies.

Under the measure, H.R. 3326, the nine-month 65% premium subsidy—established by an economic stimulus measure Congress passed early last year—would be extended by six months to 15 months for employees involuntarily terminated from Sept. 1, 2008, through Dec. 31, 2009.

In addition, workers who lose their jobs through Feb. 28, 2010, would be eligible for the 15-month subsidy. Without an extension, employees who lose their jobs after Dec. 31, 2009, would not have been eligible for the subsidy.

The extension of the subsidy will provide significant financial relief to employees who lose their jobs and group health insurance during the first two months of this year, as well as the hundreds of thousands of individuals who have collected the subsidy for nine months and had lost or were soon to lose the subsidy.

"Losing one job's is difficult enough. But losing one's health care along with it and worrying about being able to get treatment

See **COBRA** page 21

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NEWSPAPER

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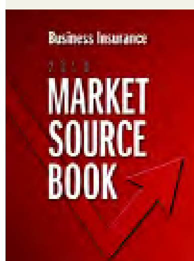

Business Insurance's 2010 Market Sourcebook, a collection of data from all directories produced by *BI* in 2009, is available for purchase online. For details and pricing information, go to *www.BusinessInsurance.com/Directories*.

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INTERNATIONAL

Lloyd's 2010 capacity to hit record: Analysts

Weak British pound, new market entrants help drive increase

By STUART COLLINS

LONDON—Lloyd's of London is set to offer a record £23 billion ($36.7 billion) in insurance and reinsurance capacity in 2010, analysts say.

The significant increase comes as rates in many lines are softening and the economy is expected to lessen demand for some lines. But the majority of extra capacity is to compensate for the weakness of the British pound against stronger currencies such as the U.S. dollar, and reflects growth opportunities in niche lines, underwriters and analysts say.

Capacity for the Lloyd's market is estimated to be £22 billion to £23 billion next year—as much as a 27% increase from 2009—said Chris Klein, London-based global head of business intelligence at Guy Carpenter & Co. L.L.C. Guy Carpenter produces the estimate based on a poll of Lloyd's managing agents.

As much as 40% of the increase is due to changes in the foreign exchange rate for the British pound against the U.S. dollar, Mr. Klein said. Lloyd's 2010 capacity is based on an exchange rate of $1.50 to £1, compared with $1.99 to £1 in 2009, he said.

The remaining 60% of additional capacity reflects new entrants to the market, organic growth and expected premium rate increases, he said.

"Lloyd's is feeling bullish on organic growth opportunities," Mr. Klein said.

Lloyd's has doubled its capacity since 2001. The market has enjoyed relatively high financial strength ratings and has posted accumulated profits of £14.7 billion ($23.46 billion) from 2001 through the first half of 2009, he said.

> **27%**
> Capacity for the Lloyd's market is estimated to be £22 billion to £23 billion next year—as much as a 27% increase from 2009.

Moody's Analytics, a unit of Moody's Investors Service, estimated Lloyd's 2010 capacity would rise 27% to almost £22.8 billion ($36.38 billion). Twenty percentage points of the increase reflect changes in foreign exchange rates, while just one percentage point—£165 million ($263.3 million)—relates to four new syndicates due to start underwriting in 2010, said Robert Smith, director-insurance at Moody's Analytics in London.

The remaining increase in capacity reflects expectations of new business and rate increases in certain lines, such as marine and aviation, he added.

Lloyd's capacity figure indicates what the market could, rather than will, underwrite, Mr. Smith said. And syndicates usually factor in a margin above what they expect to write in case rates increase after a large loss, he added.

Established players at Lloyd's such as Hiscox syndicate 33 have increased capacity from £750 million ($1.2 billion) in 2009 to £1 billion ($1.6 billion) in 2010 to reflect changes in exchange rates, said Robert Childs, London-based chief underwriting officer and chairman of Hiscox USA. "But I find no justification to have large numbers of new entrants into a market that is perceived to be softening," he said.

Increases in capacity for foreign exchange rates mean Lloyd's underwriters will be able to maintain line

See **LLOYD'S** page 19

RISK MANAGEMENT

AP PHOTO

A law enforcement officer guards an entrance near the parked Northwest Airlines flight at Detroit Metropolitan Airport after a failed terrorism attack.

Foiled attack heightens airport security scrutiny

By JUDY GREENWALD and JEFF CASALE

Airline passenger security is primarily the responsibility of the Transportation Security Administration and procedural changes in light of a failed terrorism attack will remain in its hands, experts say.

While airlines could enhance their security procedures beyond the TSA requirements, they are unlikely to do so in light of their own fragile financial condition, observers say.

However, the TSA also works closely with airport management, one airport manager said.

Airline security is receiving intense scrutiny since the Christmas incident in which Nigerian Umar Farouk Abdulmutallab allegedly failed to set off explosives aboard a Northwest Airlines flight

See **SECURITY** page 18

RISK-LINKED SECURITIES

Cat bond activity jumps in '09 as issuers slash prices

By COLLEEN McCARTHY

NEW YORK—A strong fourth quarter pushed 2009 catastrophe bond activity to about $3.5 billion, which experts say signals a healthy comeback for the sector.

A dramatic drop in cat bond pricing combined with strong investor demand boosted issuance, experts say.

"There is a lot of optimism. We've seen a very good fourth quarter with virtually all of the deals upsized from their original target," said Markus Schmutz, of insurance-linked securities at Swiss Reinsurance Co.'s Capital Markets division in New York.

A total of 18 cat bond transactions in 2009 demonstrated a strong recovery for a market that had stalled during the financial crisis, many experts say. Issuance volume stood at roughly $3.5 billion at year-end—exceeding the $2.7 billion issued in 2008 but off sharply from the record $7 billion issued in 2007, according to data from New York-based reinsurance broker Guy Carpenter & Co. L.L.C. and investment banking arm GC Securities Ltd.

Seven catastrophe bonds totaling about $1.5 billion were issued in the fourth quarter of 2009 vs. zero bonds in the same period in 2008 as investors shied away from the market.

Fourth-quarter 2009 also produced some of the most favorable conditions for sponsors this year, with pricing for insurers to issue cat bonds declining as much as 25% compared with the start of the year, said Swiss Re's Mr. Schmutz. Cat bond spreads that determine the price for sponsors tightened considerably as investors were willing to accept lower returns, he said.

> **'Investors are very pleased with the way cat bonds have performed this year, and we're seeing a lot of new money come into the sector.'**
> Al Selius, Securis Investment Partners L.L.P.

Also driving down costs for insurers was strong investor demand. Compared with other asset classes, "investors are very pleased with the way cat bonds have performed this year, and we're seeing a lot of new money come into the sector," said Al Selius, head of New York operations for Securis Investment Partners L.L.P., a London-based insurance-linked securities investment firm.

In addition, some $660 million in maturing bonds was reinvested in the sector during the fourth quarter, said Chi Hum, global head of distribution at GC Securities Ltd. in New York. "Investors are basically flush with cash and they need to put that

See **CAT BONDS** page 18

D&O LIABILITY

Backdating case dismissal raises hopes for accused execs

Some say ruling on criminal charges may affect civil suits

By ZACK PHILLIPS

SANTA ANA, Calif.—A federal judge who dismissed criminal charges in a stock option backdating case citing "shameful" prosecutorial misconduct has raised the hopes of corporate defendants accused in other backdating cases, legal observes say.

The Dec. 15 ruling by U.S. District Judge Cormac J. Carney was notable for the dramatic terms in which he excoriated prosecutors for witness intimidation and other misconduct in bringing securities fraud charges against William J. Ruehle, chief financial officer of Irvine, Calif.-based technology firm Broadcom Corp., legal observers say.

"To submit this case to the jury would make a mockery of Mr. Ruehle's constitutional right to…a fair trial," the judge said. "The lead prosecutor somehow forgot that truth is never negotiable."

Judge Carney not only dismissed the indictment against Mr. Ruehle in connection with undisclosed options backdating, he also dismissed an indictment against company co-founder and former Chief Executive Officer Henry T. Nicholas III, whose trial had not yet begun.

In addition, the judge vacated a guilty plea by Henry Samueli, another Broadcom co-founder, saying the executive was intimidated into pleading guilty by government treatment that was "shameful and contrary to American values of decency." The judge also dismissed a civil suit that the Securities and Exchange Commission brought against Broadcom and encouraged the SEC not to refile the suit.

AP PHOTO

Henry Samueli, a co-founder of Broadcom, was intimidated into pleading guilty, a federal judge ruled.

Backdating options is not illegal; it is the failure to disclose and properly account for the backdating that could result in criminal charges.

Criminal prosecutions and civil litigation related to options backdating have resulted in heavy losses for companies and their directors and officers liability insurers. Mostly, those losses stem from considerable defense costs associated with the high volume of such cases, but some cases also have resulted in significant settlements, said Kevin LaCroix, a Beachwood, Ohio-based partner with executive liability intermediary OakBridge Insurance Services L.L.C., who has blogged about the Broadcom case.

In September, Broadcom and its D&O insurers agreed to a $118 million settlement of a shareholder derivative suit over backdating. D&O insurers funded the entire settlement, including $40 million from the company's excess Side A-only underwriters (*BI*, Sept. 14, 2009)

On Dec. 17, Comverse Technology Inc. and former directors and officers settled a backdating securities class action for $225 million, $60 million of which is to be paid by former Chief Executive Officer

See **BROADCOM** page 17

REUTERS

Insurers in the European Union that outsource services to countries such as India that do not impose a value-added tax could see their tax liabilities rise.

INTERNATIONAL

E.U. tax rule may increase insurers' outsourcing costs

Change in method of calculating VAT may add to expenses

By MICHAEL BRADFORD

BRUSSELS—Some European insurers and reinsurers could see their tax bills rise significantly under changes to the way value-added taxes are charged on business outsourced to non-European Union countries.

The additional costs could be enough to cause combined ratios to creep up and give insurers fiscal headaches when they can ill afford more expenses, experts say.

A new E.U. "place of supply" rule that went into effect Jan. 1 requires VAT to be charged based on where the recipient of services is located. That reversed the previous requirement that the tax be assessed in the place where the service was rendered.

The rule creates a new tax liability for E.U. businesses that outsource services to countries such as India that have no VAT. Insurers and reinsurers that outsource to countries with lower VAT rates than their home countries also will see their tax bills increase.

While the rule won't affect insurance transactions, which generally are exempt from VAT, insurers that outsource services such as administrative, clerical, technological and others that are nonfinancial will feel the pinch.

The new rule is the latest VAT concern for insurers. In October, the Luxembourg-based European Court of Justice ruled that Swiss Reinsurance Co. is responsible for €2 million ($2.9 million) in VAT on a portfolio transfer seven years ago of 195 life reinsurance contracts.

The reinsurer transferred the portfolio from a German subsidiary to the Zurich-based parent. The court ruled that the transfer was not an exempt insurance transaction and therefore was subject to Germany's VAT.

Insurers and reinsurers are

See **VAT** page 17

CAPTIVES

Captive formations edge up in 2009

Several domiciles see increased activity in fourth quarter

By RODD ZOLKOS

As 2009 came to a close, an apparent net gain in captive formations in many domiciles had some regulators thinking the interest in captives might signal economic recovery.

While the economic downturn and paralysis in the credit markets stalled many prospective parent companies' interest in forming captives late in 2008, 2009's fourth quarter was closer to the norm in several domiciles.

"Now things are essentially back to normal" compared with a year ago, when "we were basically dead in the water," said David F. Provost, deputy commissioner of captive insurance in the Vermont Department of Banking, Insurance, Securities & Health Care Administration.

In the final weeks of 2009 in the Vermont Captive Division, "Most of what we had we expected from people we were talking to," said Mr. Provost, who added in a mid-December interview that the division was essentially done taking applications for 2009 licenses.

MICHAEL MARCOTTE

David F. Provost of Vermont said the state saw the number of captive formations return to normal last year.

Vermont expected to end the year with 36 to 38 new licenses issued in 2009 vs. 16 in 2008, and already was set to begin processing applications for 2010 licenses. "We'll actually have a good start to (2010), too," Mr. Provost said.

"Some of these are construction companies, so I've got to think that's a good reflection of their thoughts for the future," Mr. Provost said. "Everyone else is saying they're through the bottom (of the downturn) and things are at least predictable."

In South Carolina, Jeff Kehler, program manager of alternative risk transfer services in the South Carolina Department of Insurance, offered a similar view.

"I am very encouraged," Mr. Kehler said. He recalled telling attendees at September's South Carolina Captive Insurance Assn. conference, "It's my opinion new captive formations are a leading economic indicator."

Interviewed in mid-December,

See **CAPTIVES** page 21

BI to host Risk Management Summit in NYC

Top risk management professionals at the largest U.S. and European companies will gather March 8-9 in New York to attend the first *Business Insurance* Risk Management Summit.

The invitation-only conference will feature networking, timely general sessions, and strategic discussions with peers and insurance industry leaders.

Topics and format for the summit were developed with the assistance of an advisory board comprising senior risk management professionals at some of the world's largest companies.

Also featured during the Risk Management Summit is a dinner for recipients of *Business Insurance's* inaugural Innovation Awards, a new program that recognizes leadership and innovation in products and services designed for professional risk managers.

Sponsors of the inaugural Risk Management Summit include Zurich Financial Services Group, Aon Corp., Chartis Inc., Dempsey Partners L.L.C., Liberty Mutual Group Inc., Lloyd's of London, Marsh Inc. and Sedgwick Claims Management Services Inc.

For information on the Risk Management Summit, the Innovation Awards or sponsorship opportunities, please visit *www.BusinessInsurance.com/RMSummit.*

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Aon Broking initiative streamlines service

By SALLY ROBERTS

CHICAGO—Aon Corp. said it is aligning its retail, wholesale broking centers, global specialty and facultative reinsurance operations under a new strategy called Aon Broking.

The coordinated approach, which Aon late last month called "the most significant step" it has taken in broking, will improve overall client service, executives of the Chicago-based brokerage said.

Warren Mula, chairman of U.S. retail at ARS, has been named to the additional post of CEO for retail and specialty broking within ARS; Elliot Richardson, CEO of Aon Benfield Fac, has been named to the additional post of CEO of the Aon Broking hubs and of ARS' facultative broking operations.

Both report to Steve McGill, chairman and CEO of ARS.

Mr. Mula said Aon Broking does not replace Aon's existing capabilities but unifies them more under clear-cut management oversight.

"Broking will continue to take place at the local-office level around the world, but with seamless oversight and coordination," he said.

To facilitate better teamwork, the new strategy will eliminate any "disincentives" that may have existed in the past between Aon's global wholesale centers in London, Singapore and Bermuda and its local retail offices, Mr. Mula said. Rather than having to share commission or fee revenue, all revenue will remain in the local retail offices where the business originated beginning Jan. 1.

THINKRISK: Pat Ryan, former Aon execs launch managing general underwriting agency. **PAGE 20**

"This allows us to make sure the best people and the best markets are always being considered for every opportunity," Mr. Mula said, noting that he expects "quite a bit" more business will be placed in Bermuda and London as a result.

Underpinning the strategy is Aon's technology platform, Global Risk Insight Platform, which provides information about Aon's insurance placements by industry, geography and local insurance market in real time.

About 50% of Aon's annual $40 billion in premium flow—excluding affinity and captive management business—already is tracked through GRIP and tracking the rest is expected within six months, Mr. Mula said.

"The world insurance marketplace is very dynamic and it's not terribly well coordinated" in terms of what one underwriter offers vs. another, Mr. Mula said. "This gives us the opportunity to shrink the world on a real-time basis and monitor the activity that is taking place."

That's good news for clients and for Aon, according to Meyer Shields, an analyst with Stifel, Nicolaus & Co. Inc. in Baltimore.

By knowing the specific terms and conditions and compensation arrangements on all of its insurance placements, Aon will be able to use its "scale and influence in the market, in a perfectly legal way, to get the best terms and conditions for their clients" and themselves, Mr. Shields said.

He noted that this is something that he thinks will manifest with other brokers as well.

"The technology is now available for management of these brokers to know how much influence they have with the carriers and to use that as much as they possibly can," he said.

Nominate 2010's top risk managers

Business Insurance invites readers to nominate candidates for the annual Risk Manager of the Year award and Risk Management Honor Roll by Jan. 15.

BI and the Risk & Insurance Management Society Inc. are partnering on the annual honors.

Nominations require a summary of a candidate's most recent accomplishments and factors that make him or her worthy of the award. An independent panel of former winners and risk management professionals will screen the nominations.

Winners will be profiled in the April 26 issue of *Business Insurance* and awards will be presented during the RIMS annual conference and exhibition in Boston held April 25-29.

For nomination forms, please visit *www.BusinessInsurance.com/RMOY*.

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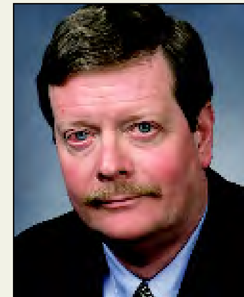
Commentary

Cautionary tales of Tiger and ERM



MARK A. HOFMANN

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

Will 2010 see continued progress toward the adoption of enterprise risk management approaches in public and private endeavors?

That's a question I've been pondering the past few weeks. At least a couple of news stories involve ERM issues, even though "enterprise risk management" appeared nowhere in the tales. And that should be of little surprise, given there is more than one definition of ERM in the risk management profession itself.

The general public doesn't even know the term ERM exists, but people are well aware of the saga of Tiger Woods. Here's a guy who had it all and effectively threw it all away. The stupidity of his "transgressions" beggars the imagination. With his personal life in shambles and sources of endorsement income drying up, the world's most famous golfer is in seclusion.

But what about the PGA Tour?

Here's where enterprise risk management comes into play. The tour became dependent on a superstar in a way no other sport can; no amount of extramarital betrayal on the part of, say, the best quarterback in the National Football League or top slugger in Major League Baseball would wreak existential harm on the sport itself.

But for a PGA Tour sans Tiger, the harm looks considerable. As someone who almost never watched golf on TV or even thought about attending tournaments before the rise of Tiger, I have the feeling I'm probably going to be watching a lot less golf this year.

This raises the ERM issue. While Tiger's success raised the status and revenues of the PGA Tour, its players and the organizations sponsoring PGA events, his downfall quite possibly threatens the future value that might have been created.

How can an organization like the PGA Tour deal beforehand with the possibility that its major draw will implode? In fact, can it plan ahead? Can there be contingency plans and, if so, what sort? How does the organization deal with a significant, and possibly long-term, loss of revenue and reputation?

I don't pretend to know the answers, but those are the types of questions I'm sure some ERM practitioners have been asking since the story broke.

Loss of revenue factors into the second exercise in enterprise risk management I've gleaned from the headlines of late. That is the continuing growth of the national debt. Deficits, scary as they are on a year-by-year basis, can be relatively short-term phenomena. Remember, it wasn't long ago that the country ran a surplus, thanks to the miracle of divided government. But when deficits build up year after year regardless of economic conditions, the problem becomes structural and truly frightening.

Could enterprise risk management supply some of the tools to deal with a growing national debt? I say "some of the tools"

> **The general public doesn't even know ERM exists, but people are well aware of the Tiger Woods saga.**

because there is no way a professional discipline alone can bring discipline to as undisciplined a group as Congress. After all, these are the people who spent prodigiously in good and bad times and, in doing so, helped bring about the bad times in which we're mired.

A good dose of enterprise risk management couldn't hurt here. While it wouldn't magically pay off the debt, an enterprise risk management approach could help identify areas in which government intervention isn't justified. It also could point out the risks of continuing to rack up debt increasingly held by foreign creditors—not all of which are kindly disposed to the United States—and suggest options for decreasing that exposure.

Enterprise risk management is no panacea, and I know some people who question whether it really exists. But anything that gets people and the institutions they've built to look at risk from multiple angles, with an eye to building value, is a most welcome thing. As comedian Ron White reminds us, "You can't fix stupid." Maybe if you look at risk from the right angle, you can prevent stupid from causing harm.

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Business Insurance OPINIONS

Flood program should be extended for good

HERE'S A NEW YEAR'S resolution for Congress: Extend the National Flood Insurance Program on a long-term basis.

For too long, Congress has extended the program by dribs and drabs, most recently last month when lawmakers tacked language that extended the program though February onto a defense appropriations bill. That means another short-term extension is likely in the next few weeks.

Let's face it, the government is in the flood insurance business and there's no reason to believe it will be getting out soon, if ever. Every few months, lawmakers go through the charade of extending the program at the last minute, always raising the possibility that they won't pass the legislation in time.

> *The government is in the flood insurance business and there's no reason to believe it will be getting out soon, if ever.*

It doesn't have to be that way. The reason for the short-term extensions is that the House wants to add windstorm to the program while the Senate doesn't. In this case, the Senate's right.

While we can sympathize with the concerns of supporters of expanding the program, doing so would only add to the financial burdens borne by the program.

A better approach would be to extend the current program as is on a long-term basis. It can be done. After all, in 2008 the Senate approved a measure that would have extended the NFIP well into 2013, although the House didn't follow suit. A long-term extension would give lawmakers ample time to examine the NFIP thoroughly and make reforms as needed.

Another short-term fix simply adds to the possibility that the program won't get extended before its expiration date, and lawmakers will have only themselves to blame for the chaos that could ensue.

Be hopeful but prepared for anything in new year

AS WE CLOSE THE DOOR on 2009 and look ahead to the opportunities awaiting us in 2010, we are reminded of the important role risk managers and employee benefit managers perform in protecting their organizations' people.

2009 will be remembered as a year of note, for what happened and what didn't occur. For example, while Congress introduced landmark health care reform legislation and we saw the beginnings of a global economic recovery, it was fortunate the past year had few catastrophic losses and the widely expected hardening of the insurance market never materialized. The continuation of the soft market is probably just as well, because most businesses remained financially challenged.

But it's important to note that challenges continue. Late last month, a disturbing airport security breach almost resulted in a terrorist bombing on board a flight in Detroit. The next major catastrophe may occur at any time. Chronic diseases still pose a considerable threat to lives and generate a majority of health care claims.

We begin 2010 hopeful of better times, but we acknowledge that protecting lives is a job that never ends.

WRITE

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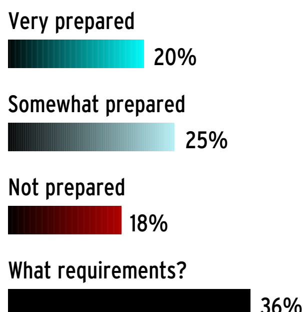
THIS WEEK'S RESULTS

Q How prepared are you for the reporting requirements under the MMSEA law?



Response	Result
Very prepared	20%
Somewhat prepared	25%
Not prepared	18%
What requirements?	36%

NEXT WEEK'S QUESTION

Q: What's your view of the health care reform legislation now awaiting reconciliation?

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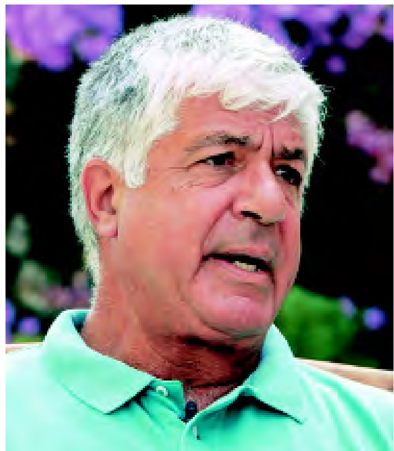
2010 PEOPLE TO WATCH



One of the simple truths about the insurance industry is that it's a people business. Many interesting people work in the industry and related fields, but not all of them are widely known. Some of them in any given year will create significant news.

Business Insurance for many years has published issues looking back at the prior year's top news stories and looking ahead at what the new year may bring. That is the spirit in which we offer the People to Watch for 2010. The profiles that follow identify 10 people whom *BI* believes will make big news this year for risk managers and employee benefit managers.

The People to Watch is an annual feature comprising individuals whom *BI* editors have chosen as worthy of out attention. We may be wrong, of course. But we think these 10 will be worth watching.

SPOTLIGHT

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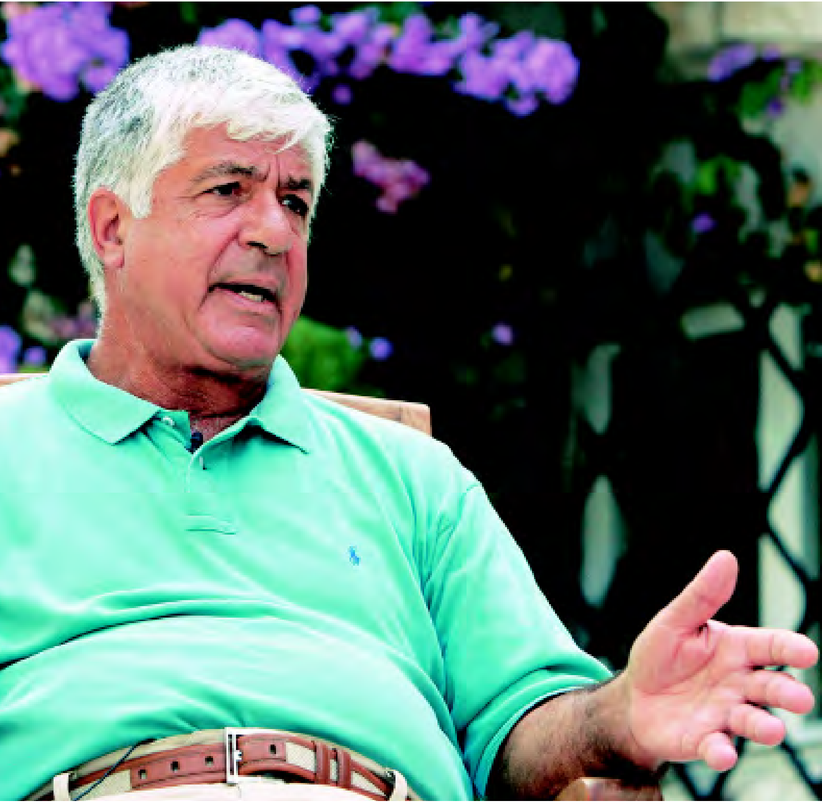
NEXT SPOTLIGHT Jan. 11: Property/Casualty Market Report & Legislative Roundup



REUTERS/LANDOV

Robert H. Benmosche

President and Chief Executive Officer

American International Group Inc.

New York

HIS ROLE: Robert H. Benmosche took the reins at American International Group Inc. in August, becoming the insurer's third chief executive officer since its multibillion-dollar bailout in 2008. The former MetLife Inc. CEO is charged with the daunting task of steering the insurer through its ongoing asset sales to repay the federal aid, while simultaneously rebuilding the AIG franchise. A $10 million dollar pay package approved in November for Mr. Benmosche likely will keep him in the role for five years, analysts say.

WHAT'S AHEAD: Ongoing restructuring activities, either through selling entire units or stakes in the company's businesses. In December, the insurer said it closed two transactions with the Federal Reserve Bank of New York that reduced its government debt by $25 billion. Meanwhile, AIG reportedly is preparing to list its Asian life insurance unit, American International Assurance Co., in an initial public offering that could raise between $10 billion and $20 billion. AIG also reportedly is again soliciting bids for aircraft leasing business International Lease Finance Corp. Mr. Benmosche expressed confidence AIG can repay its debt, but he recently told the Financial Times it may take two years to do so.

WHAT TO WATCH: After waging a battle over pay curbs with U.S. pay czar Kenneth Feinberg, it appears some of Mr. Benmosche's concerns are being heard. In December, Mr. Feinberg approved paying retention bonuses to top AIG executives deemed "particularly critical" to the organization. He also made some exceptions to $500,000 salary caps imposed on AIG's highest-paid employees. The next hurdle will be an agreement on compensation structures for 2010, which could happen in February. Observers also are watching developments related to AIG's property/casualty business, rebranded in August as Chartis Inc., which they expect AIG to sell or spin off through an IPO, although no date has been set. Mr. Benmosche also may ramp up dialogue with former AIG leader Maurice R. Greenberg. In November, Mr. Greenberg, AIG's former Chief Financial Officer Howard Smith and AIG settled all legal disputes stemming from Messrs. Greenberg's and Smith's 2005 departure.

—By Colleen McCarthy

Tom Bolt

Underwriting Performance Director, Franchise Performance Board

Lloyd's of London

London

LLOYD'S OF LONDON

HIS ROLE: Named to the marketwide post of underwriting performance director in March 2009, Mr. Bolt succeeds Rolf Tolle as Lloyd's leader of its Franchise Performance Board. Mr. Tolle retired at the end of 2009 after seven years of overseeing Lloyd's syndicates' business plans. Mr. Bolt most recently was managing director of Marlborough Underwriting Agency Ltd. He has more than 25 years of experience in insurance and reinsurance.

WHAT'S AHEAD: As insurers and reinsurers worldwide cope with continuing soft market conditions and an economic downturn hindering investment income, Lloyd's is likely to have a tough time growing its profits. In 2008, Lloyd's pretax profits fell more than 50%, to £1.9 million ($3 million), and the rate of return on the marketplace's conservative investments fell by more than half, to 2.7%. Ensuring strong performance of Lloyd's 92 syndicates in this environment will be difficult.

WHAT TO WATCH: Although he is roundly praised by Lloyd's market executives as an excellent choice to lead the Franchise Performance Board, Mr. Bolt has some large shoes to fill. During his tenure, Mr. Tolle won over skeptics of Lloyd's 2003 initiative to ensure that syndicates stick to their underwriting plans and was credited as a key leader in Lloyd's resurgence. Mr. Bolt's challenge will be to maintain a similar level of collaboration with underwriters and keep Lloyd's on track.

—By Regis Coccia

David Eslick

Chairman and Chief Executive Officer

Marsh & McLennan Agency L.L.C.

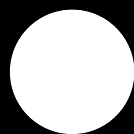
New York

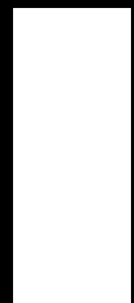
HIS ROLE: After announcing the formation of Marsh & McLennan Agency L.L.C. in October 2008, Marsh Inc. the next January hired veteran agency builder David Eslick to run the middle-market initiative. The agency, which is being run separately from the large-account Marsh brokerage operation, serves the property/casualty, risk management and employee benefit needs of companies that generally have less than $100 million in revenue. Mr. Eslick, who most recently was chairman, president and CEO of USI Holdings Corp., spent most of 2009 formulating Marsh & McLennan Agency's hub-and-spoke strategy and shopping to find the right acquisitions to build out a national platform.

WHAT'S AHEAD: It took more than 13 months, but Marsh & McLennan Agency made its first acquisition in November 2009 with the purchase of Houston-based agency Insurance Alliance, which is serving as the agency's Southwest regional hub. In December, it acquired Paramus, N.J.-based NIA Group L.L.C., which will serve as its Northeast hub. Mr. Eslick said he has identified nine or 10 regions in which he would like to acquire agencies to act as a hub. Mr. Eslick has said the agency has a "pipeline" of "spoke" acquisitions lined up ready to join once a regional hub is established.

WHAT TO WATCH: There is little doubt that Marsh & McLennan Agency is on its way to becoming a dominant force in the smaller-account space. The agency will make several acquisitions in 2010 that will give it significant size and scale. Parent Marsh & McLennan Cos. Inc. has said it will issue up to $500 million in stock to fund future deals. Ultimate success, however, will result from acquiring the right firms and integrating them. While Marsh has had an inconsistent record in the smaller-account market, this time it has hired an outsider with expertise in the small- and midmarket account space to run the agency. It also set up a separate board that will include key leadership from acquired agencies in an effort to preserve those firms' cultures.

—By Sally Roberts





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Business Insurance

AP PHOTO

Joshua Gotbaum

Director-designate

Pension Benefit Guaranty Corp.

Washington

HIS ROLE: President Obama has nominated Joshua Gotbaum, an operating partner at private equity firm Blue Wolf Capital Management L.L.C., as director of the Pension Benefit Guaranty Corp., the nation's private pension plan insurer.

WHAT'S AHEAD: After years of steady improvement in its financial position, the PBGC was battered by huge losses from failed pension plans it took over and saw its deficit nearly double in 2009, rising to $22 billion. That dramatic leap in the agency's deficit rekindled fears among some members of Congress that a taxpayer-funded bailout may be necessary to prevent the PBGC from one day defaulting on the benefit guarantees it has made to participants in failed pension plans.

WHAT TO WATCH: The PBGC and pension plan issues were on the congressional back burner as the House and Senate for much of 2009 were consumed with health care reform legislation. Senate confirmation of Mr. Gotbaum is almost certain. After confirmation, his challenge will be to convince legislators that it is time to develop and consider ways to address the PBGC's long-term deficit.

—By Jerry Geisel

Maurice R. Greenberg

Chairman and Chief Executive Officer

C.V. Starr & Co. Inc.

New York

HIS ROLE: Continuing to build C.V. Starr's managing general agency and investment business and continuing to speak out on the condition of American International Group Inc., which he helped build into one of the world's largest and most influential insurers before resigning in 2005.

WHAT'S AHEAD: Mr. Greenberg, former chairman and CEO of AIG, reached an agreement late last year with AIG to settle all pending legal disputes, an agreement that also covered disputes involving C.V. Starr & Co. Inc. and Starr International Inc., which are former AIG affiliates now under Mr. Greenberg's control. The settlement allows Mr. Greenberg to focus his considerable energies on building up those businesses. At the time of the settlement, Mr. Greenberg said he looked forward to helping AIG "in trying to preserve and restore as much value as possible for all of AIG's stakeholders."

WHAT TO WATCH: Given his desire to preserve and restore value for the stakeholders in the company he once led, of which he remains a significant one himself, Mr. Greenberg appears likely to take a more active role helping AIG to improve its position. As part of doing so, expect Mr. Greenberg to continue criticizing the terms of the federal government's bailout of AIG and to urge restructuring of its government debt to make the company more attractive to investors.

—By Mark A. Hofmann

REUTERS/LANDOV

BUSINESS WIRE

Liam E. McGee

Chairman and Chief Executive Officer

Hartford Financial Services Group Inc.

Hartford, Conn.

HIS ROLE: Appointed to lead The Hartford in October, Liam E. McGee will seek to continue the turnaround of the Connecticut-based insurer, whose woes stemmed from variable annuities and investment losses. The insurer lost $2.75 billion in 2008 and $1.44 billion for the first nine months of 2009. As it struggled to contain its problems, The Hartford accepted cash injections from German insurer Allianz S.E., the U.S. Troubled Asset Relief Program and, through an equity offering, investors betting on its eventual recovery. In June, longtime Chairman and Chief Executive Officer Ramani Ayer announced plans to retire and stepped down a few months later when Mr. McGee, a former Bank of America Corp. executive, was recruited to take the reins.

WHAT'S AHEAD: While the stock market reacted positively when The Hartford reported narrower losses for the third quarter of 2009, challenges remain. The Hartford, which turns 200 this year, is one of the few remaining large multiline insurers and is expected to continue to seek safer investments on its life insurance side than those that caused its problems during the financial crisis of 2008. In addition, the insurer, like several other financial institutions, drew criticism for accepting federal government bailout funds.

WHAT TO WATCH: With little direct experience in insurance, Mr. McGee is expected to bring an outsider's perspective to Hartford's problems. While several analysts say his experience as an executive of a complex financial institution generally will be an asset for Hartford, they acknowledged that Mr. McGee's lack of an insurance background could restrict his ability to act quickly to redirect the insurer. While the insurer has shown signs of a turnaround, its path to full recovery largely will have to be mapped by Mr. McGee.

—By Gavin Souter

David Michaels

Assistant Secretary of Labor
U.S. Occupational Safety and Health Administration
Washington

HIS ROLE: President Barack Obama selected David Michaels to serve as assistant secretary of labor and head of the U.S. Occupational Safety and Health Administration. An epidemiologist, Mr. Michaels, who began his new role in December, brought expertise in worker exposure to chemicals as well as Washington experience by serving as assistant secretary for environment, safety and health at the Department of Energy, which included responsibility for safety at nuclear weapons facilities.

WHAT'S AHEAD: Employers are waiting to see how Mr. Michaels carries out Obama administration promises of greater worksite rule enforcement and faster adoption of new worker protections, including a potential rule for how deadly combustible dust is handled. Overall, employers are curious to learn whether stepped-up OSHA enforcement efforts will fall mostly on employers that have no safety programs in place.

WHAT TO WATCH: OSHA wants employers to maintain more extensive records of musculoskeletal disorders. How will the data eventually be used? Could it lead to a workplace ergonomics standard? Also unknown is whether stepped-up enforcement will come at the expense of programs in which OSHA and employers cooperate to develop safety programs.

—By Roberto Ceniceros

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President Barack Obama

President
United States of America
Washington

HIS ROLE: After less than a year in office, President Obama is poised to sign major health care reform legislation, provided House and Senate negotiators successfully merge two very different bills. In addition, Mr. Obama also may be in a position later this year to put his signature on financial services regulatory reform legislation.

WHAT'S AHEAD: Having largely left Congress to craft health care reform legislation, the day likely will arrive in 2010 when Mr. Obama signs a reform measure. Although major differences remain between the measures passed by the House and Senate, Democrats, so far, seem determined to do what it takes to get some kind of bill to the president's desk. A financial services regulatory reform measure also appears likely to pass, though the shape of reform is hazy. The House has passed a bill that would, among other things, establish an insurance office with the Treasury Department, an initiative favored by key senators as well. But the Senate Banking, Housing and Urban Affairs Committee has not yet begun marking up legislation, raising the prospect that a final bill won't be agreed upon anytime soon.

WHAT TO WATCH: If and when health care reform is passed, the hard work of implementing the changes will begin and the success or failure of those efforts likely will be linked directly to the president. While Mr. Obama likely will act as an instigator rather than an architect of financial services reform, failure to implement some form of meaningful reform would be regarded as a defeat for the administration.

—By Gavin Souter

U.S. Rep. Nancy Pelosi

Speaker
U.S. House of Representatives
D-Calif.

HER ROLE: As speaker of the U.S. House, Rep. Nancy Pelosi's role is setting the schedule for consideration of legislation. She also is the House's top Democrat and, as such, tries to maintain party discipline.

WHAT'S AHEAD: After three House committees passed health care reform bills, Speaker Pelosi was able to keep momentum going, leading to House passage of a reform bill in November. Speaker Pelosi was able to defuse just enough opposition—such as softening a new tax on higher-income individuals—to enable the bill to squeak through on a 220-215 margin.

WHAT TO WATCH: Assuming that a legislative conference committee is able to iron out differences between the House and Senate health care reform bills, Speaker Pelosi's challenge will be to sell the final bill to House Democrats. That could be a tough sell as a compromise bill almost certainly will not contain a public option, which many House Democrats strongly back.

—By Jerry Geisel

XINHUA/LANDOV

James Wrynn

Superintendent
New York State Insurance Department
New York

HIS ROLE: New York Insurance Superintendent James Wrynn joined the department in August 2009 after three months as executive director of the New York State Insurance Fund. The NYSID regulates all insurance business in the state.

WHAT'S AHEAD: Mr. Wrynn has expressed strong interest in reviving the defunct New York Insurance Exchange, an idea first proposed by his predecessor, Eric Dinallo. The NYIE would be a Lloyd's of London-style marketplace in which buyers could purchase insurance and reinsurance and capital providers could form syndicates. The original exchange closed in 1987 due to a soft market and other factors, but Mr. Wrynn and other department officials think conditions now are more favorable to the exchange, and plan to meet soon with industry officials to gauge interest and gather feedback on the idea. Mr. Wrynn also will work on developing and enforcing new regulations on broker compensation. Mr. Wrynn also has said department officials are looking at whether to amend settlement agreements with Marsh Inc., Aon Corp. and Willis Group Holdings Ltd. banning the collection of contingent commissions.

WHAT TO WATCH: Mr. Dinallo likely will be involved in any debate involving the future of insurance regulation and has testified before federal and state legislators on the rescue of AIG, regulatory reform hearings and other topics. Mr. Wrynn wants to make the NYIE revival a reality, but some industry officials have expressed skepticism that such a project could work. On broker compensation, the Independent Insurance Agents & Brokers of New York Inc. said in December that it was prepared to sue if the department implements the compensation regulation, which the department will have the authority to adopt on Jan. 16.

—By Zack Phillips

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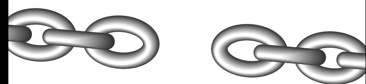

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For details on listing your company, contact Monique at 212-210-0129 or mmurray@businessinsurance.com

UP CLOSE Comings & Goings

PETER ROSSOW

NEW JOB TITLE: Chicago-based managing director for New York-based management consultant Alvarez & Marsal L.L.C.

PREVIOUS POSITION: Chicago-based senior manager with New York-based Ernst & Young L.L.P.

GOALS FOR NEW POSITION: My goals are going to focus on continuing to build the insurance and risk management practice, providing service within the firm that will not only augment the firm's overall suite of services but will generally (provide direction to clients, thus continuing) to build our practice internally and also to create a stream where new clients can come to us and help expand our firm.

FIRST JOB MARKET EXPERIENCE: I worked as an insurance analyst for Clark Equipment Co. in the late '80s....One of my first tasks at that job was to turn all of our logged data into electronic files, a Lotus 1-2-3 spreadsheet. That took months.

CAREER HIGHLIGHT: I was fortunate to serve on a few insurance and risk management committees and I truly enjoyed that, being a part of the industry. I served on the board and as the chair for one of the (Risk & Insurance Management Society Inc.) committees. I was the treasurer and webmaster for the Chicago chapter of RIMS.

WHAT YOU WANTED TO BE GROWING UP: I wanted to be a veterinarian. That dream isn't dead. I would love to retire one day and get a degree to become a veterinarian. I would love to take care of animals into retirement.

HOBBIES: I am an avid upland bird hunter, an avid runner and a motorcyclist.

CAN'T-MISS TV SHOW: ESPN. I also like watching "Mega Disasters." You'll probably only get that out of an insurance guy.

E-MAIL OR PHONE, AND WHY: I prefer face-to-face. I have been known to get on a plane to go and meet someone face-to-face. E-mail is horribly impersonal. The phone is better. But the business world is becoming very anonymous and getting away from face-to-face, and I just don't think that's the best thing for business.

Comings & Goings ONLINE

VISIT *www.businessinsurance.com/ComingsandGoings* for a full list of this week's personnel moves and promotions. Check our Web site daily for additional postings and sign up for the weekly e-mail.

TO SUBMIT ITEMS

Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to:

Mike Tsikoudakis
Business Insurance
360 N. Michigan Ave.
Chicago, Ill. 60601-3806
mtsikoudakis@businessinsurance.com

POSTING THIS WEEK

ASSOCIATIONS:
- Risk & Insurance Management Society Inc.

INSURERS:
- Farmers Insurance Group of Cos.
- Torus Insurance Holdings Ltd.

OTHER PROVIDERS:
- Aon eSolutions
- Sedgwick, Detert, Moran & Arnold L.L.P.

REINSURANCE:
- PartnerRe Ltd.

VAT: E.U. tax rule may increase insurers' costs on outsourced services

CONTINUED FROM PAGE 4

particularly affected by the new E.U. rule because, unlike many other types of businesses, they will be unable to offset the VAT. Because financial services companies are exempt from European VAT, insurers do not hold VAT numbers. The numbers allow companies that are charged the tax to offset it with the amount of VAT they charge others.

If no loopholes exist that would allow insurers and reinsurers to skirt the new VAT rule, "it is likely to be of significant importance to the majority of European insurers," said Vasilis Katsipis, general manager-analytics at A.M. Best Europe Ltd. in London.

British insurers may be particularly affected because they tend to outsource services more heavily than those located in continental Europe, Mr. Katsipis said. German insurers that outsource to Eastern European countries also could see expenses rise as a result of the change, he said.

Mr. Katsipis and others said it is unclear how much the change could cost the insurance and reinsurance markets. The Assn. of British Insurers said it could not provide an estimate of the potential expense to U.K.-based companies, many of which outsource to India.

The costs could be high, given that VAT rates are generally double digits in Europe. The rate in Britain, for example, is 17.5%.

Richard Asquith, managing director of TMF VAT & IPT Services, a unit of London-based TMF Group, said the cost to British insurers alone could run several hundred million pounds.

Mr. Asquith said some U.K. insurers have tried to create VAT grouping structures whereby insurers' related companies can offset the irrecoverable VAT liability. But E.U. officials are looking to undermine that approach because of perceived abuses whereby some insurers have used companies not fully bound to them and, therefore, VAT grouping structures may not be effective in avoiding the tax, he said.

The VAT rule change is "fairly significant," said Tony Lynne, director-indirect taxes at KPMG L.L.P. in London. "It will clearly have some impact on the attractiveness of non-E.U. locations," he said, but insurers and reinsurers likely will view the rule as "painful but not a deal breaker."

He acknowledged, though, that if some insurers already have concerns about the quality of services provided by outsourced operations, the addition of VAT could make them reconsider the relationship.

Not all companies will take a significant hit from the VAT changes.

Swiss Re acknowledged that it will be affected by the change, but the impact "will by no means be material," the Zurich-based reinsurer said in a statement.

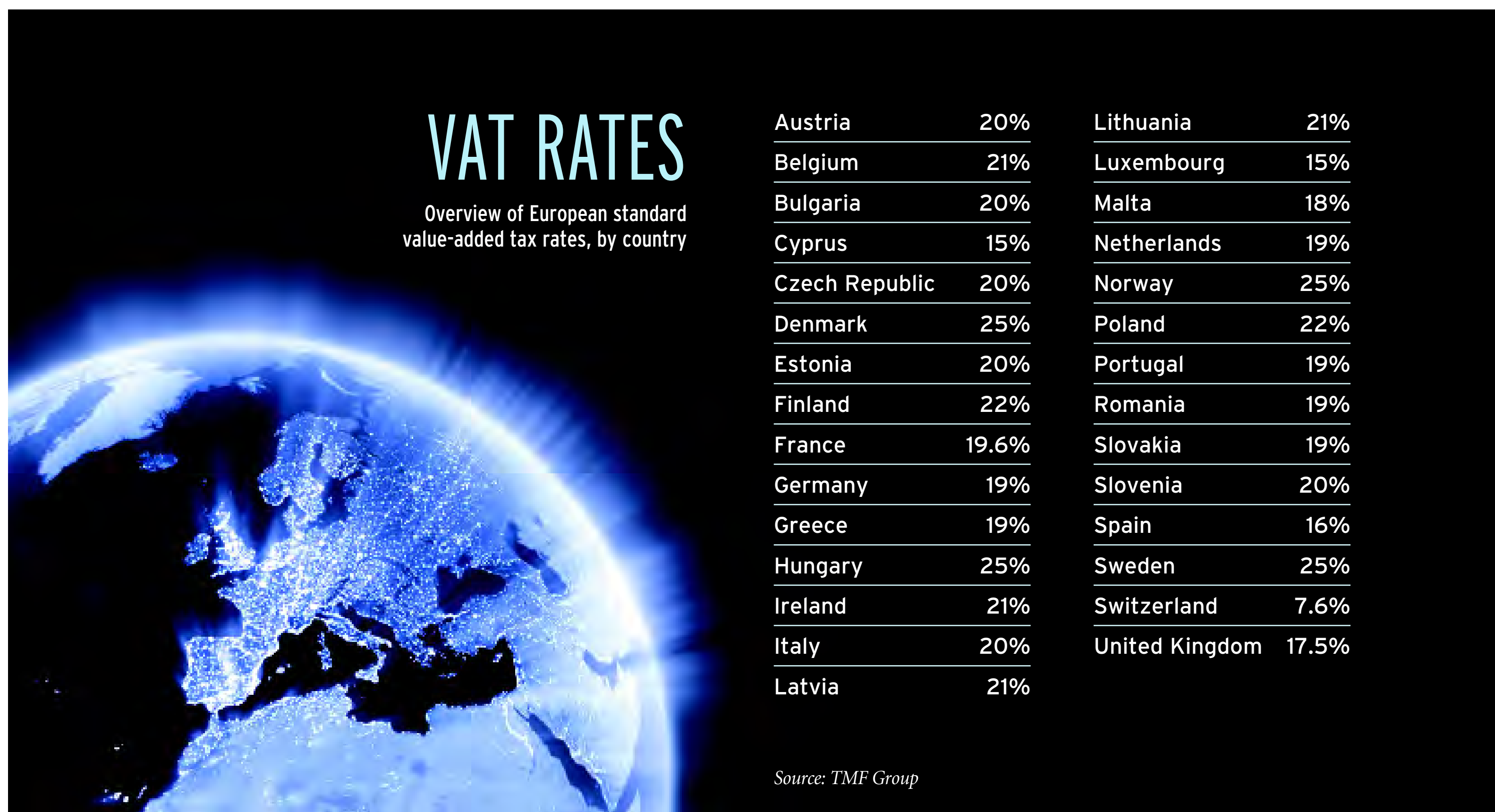
"We have anticipated the costs that may be incurred in some of our European locations for some time, and have been able to prepare for the additional VAT costs that this will imply," Swiss Re said.

Even small additional costs are a burden in today's economy, Mr. Katsipis said.

"It's bad timing for the industry," he said. "After a somewhat bad 2008, they can do with all the profit they can get."

He said the additional VAT will add to management expenses that already amount to about 10% of insurers' net earned premiums incurred by insurers. "It could bump up combined ratios by something like 0.5% to 1% for some nonlife companies."

Mr. Katsipis said insurers traditionally outsourced back-office functions, but have begun to contract with providers for more highly paid services such as actuarial analysis and information technology functions in recent years.



VAT RATES

Overview of European standard value-added tax rates, by country

Country	Rate
Austria	20%
Belgium	21%
Bulgaria	20%
Cyprus	15%
Czech Republic	20%
Denmark	25%
Estonia	20%
Finland	22%
France	19.6%
Germany	19%
Greece	19%
Hungary	25%
Ireland	21%
Italy	20%
Latvia	21%
Lithuania	21%
Luxembourg	15%
Malta	18%
Netherlands	19%
Norway	25%
Poland	22%
Portugal	19%
Romania	19%
Slovakia	19%
Slovenia	20%
Spain	16%
Sweden	25%
Switzerland	7.6%
United Kingdom	17.5%

Source: TMF Group

Broadcom: Dismissal boosts accused executives

CONTINUED FROM PAGE 4

Jacob "Kobi" Alexander, who reportedly fled the country to avoid prosecution.

Though Judge Carney based his Broadcom decision on specific actions by prosecutors, his ruling could have wider implications, some observers say.

"The skepticism Judge Carney showed (toward the prosecutors' case) may create a shift in the way these cases are viewed," Mr. LaCroix said.

"This truly is a turning point, I believe, that will be heard throughout the country," attorney Gordon Greenberg, who represented Mr. Samueli, said in response to the judge's ruling.

The Broadcom dismissals were the latest loss for prosecutors. In August, the 9th U.S. Circuit Court of Appeals also cited prosecutorial misconduct in overturning the backdating conviction of former Brocade Communications Systems Inc. CEO Gregory Reyes. In October 2008, former McAfee Inc. General Counsel Kent Roberts was acquitted of backdating-related charges.

"These are some of the most high-profile cases the government has brought in options backdating—Roberts, Reyes, Samueli, Ruehle," said Thomas O. Gorman, Washington-based co-chair of the white collar securities section at Porter Wright Morris & Arthur L.L.P. and former senior counsel in the SEC's enforcement division. "For the government to have to be overreaching and coercing testimony really suggests the underlying merits are not there."

Judge Carney voiced similar sentiments, saying it would be difficult for the SEC to prove the executives intended to break securities laws based on the evidence at Mr. Ruehle's trial.

"The accounting standards and guidelines…were not clear, and there was considerable debate in the high-tech industry as to the proper accounting treatment for stock option grants," Judge Carney ruled. "Indeed, Apple and Microsoft were engaging in the exact same practices as those of Broadcom."

While several observers doubted the ruling would affect civil litigation related to backdating, Mr. LaCroix said he expected the remaining civil cases against Broadcom executives who did not sign the September agreement to be dropped.

"Judge Carney clearly was skeptical of the government's ability to prove there was a culpable state of mind and that's clearly something you'd want to try to work with if you were a defense lawyer," Mr. LaCroix said.

The ruling should prompt federal prosecutors to review backdating cases and evaluate whether to proceed with such cases, observers said.

"I think it behooves the government to sit down and take a hard look at these cases," Mr. Gorman said.

If prosecutors were to drop backdating-related charges, that would help defendants in civil litigation, Mr. LaCroix said. Criminal charges make it more difficult to defend civil suits and embolden plaintiffs, he said.

"If you take away the element of the parallel criminal case, it could put the resolution of those remaining (civil) cases in a different light," Mr. LaCroix said.

Prosecutors said in court that they respectfully disagreed with Judge Carney's ruling.

AP PHOTO

A judge, citing prosecutorial misconduct, dismissed backdating charges against former Broadcom Corp. CEO Henry R. Nicholas III.

Towers Perrin, Watson Wyatt shareholders approve merger

By JERRY GEISEL

Shareholders of Towers, Perrin, Forster & Crosby Inc. and Watson Wyatt Worldwide have overwhelmingly approved a merger of the two consulting firms.

The shareholder approval comes after clearance by U.S. antitrust authorities and the European Commission.

Stamford, Conn.-based Towers Perrin and Arlington, Va.-based Watson Wyatt expected the merger to take effect Jan. 1. The combined firm will operate under the name Towers Watson & Co.

The merger will create the world's largest employee benefits consulting firm, with annual revenues of about $3 billion.

Watson Wyatt has about 7,500 employees and operates in 33 countries, while Towers Perrin has more than 6,300 employees and operates in 26 countries.

The two firms are especially well-known for their expertise in retirement plan and health care consulting. In addition, Towers Perrin offers risk management and reinsurance brokerage services.

"We look forward to completing this transaction, which will create a leading global professional services firm with an enhanced portfolio of services across a range of financial, risk and people management areas," Watson Wyatt Chief Executive Officer John Haley said in a statement. Mr. Haley will be CEO of the combined company.

Security: Foiled terrorist attack intensifies scrutiny of safety measures

CONTINUED FROM PAGE 3

as it approached Detroit.

An al-Qaida branch claimed responsibility for the attack, which President Barack Obama called a "systemic failure" of the nation's systems to thwart extremists.

The incident led to calls for enhanced security, but "the TSA has taken away the security responsibility from the airlines to screen passengers," said Douglas R. Laird, president of Reno, Nev.-based Laird & Associates Inc., an aviation industry security consulting firm.

In addition, while the airport is responsible for "the rules regarding how high the fence should be" and whether the lighting is adequate, the TSA conducts inspections to make sure its rules are followed, Mr. Laird said.

Jeffrey Price, a principal with Arvada, Colo.-based aviation management training and consulting firm Leading Edge Strategies, said, "Some of this will fall on the shoulders of the airlines with respect to implementing different procedures as TSA develops them, but I really think a lot of this is going to fall on TSA and less on airports and airlines."

"U.S. air carriers are responsible for their security even when conducting an international flight, but still, there's only so much they really can do, and they're really at the mercy of the country they're departing from in terms of security measures," Mr. Price said. "TSA does inspections and makes sure that the airlines are (complying with) the minimum security requirements by international standards, but there's not much else that is done right now.

"What may change in the future is, U.S. air carriers may be required to implement more of their own security measures at the checkpoints for these international flights, rather than letting the international community do all the screening. I could see that being a potential change," he said.

The industry's finances likely would significantly affect how much airlines would be willing to do beyond what is required, some observers say.

Charlie LeBlanc, president of Houston-based risk management services firm ASI Group Inc., said, "I think they can give input (to the TSA), but you're also dealing with an industry that has been affected by the economy, so...if airlines come up with different ideas of trying to secure (airplanes), is the government going to look at them to pay?"

Observers point to El Al Israel Airlines, which uses security measures that include thorough checks of each passenger and opening every carry-on bag, but say U.S. airlines are unlikely to follow El Al's approach.

"I don't know if American-flag carriers are willing to take that step because of the cost implications of that. They would much rather have TSA take those steps," Mr. LeBlanc said.

Amir Lechner, a partner at New York-based ThreatRate Risk Management, agreed. "They will wait for the TSA. I doubt anybody will do anything they are not forced to do."

Mr. Lechner said it would not be economically feasible for the much larger U.S. airlines to introduce the same security measures as El Al. The huge airlines carry so many passengers that "it doesn't make any sense," he said.

Henri Chase, managing principal at Frederick, Md.-based Integrity Consulting Solutions L.L.C., also said he does not believe U.S. airlines will follow El Al's approach. He said U.S. passengers "aren't going to sacrifice their time or their convenience for that level of security, unfortunately."

In a statement, Fort Worth, Texas-based American Airlines Inc. said, "American Airlines has not changed any of its onboard customer policies." A spokesman for Chicago-based United Airlines Inc. said it is complying with TSA directives.

Robert Baker, professor in Prescott, Ariz.-based Embry-Riddle Aeronautical University's global security and intelligence program, said one thing airports can do is "provide more awareness training," teaching their employees to promptly report if they "saw someone in the wrong place or acting strangely."

In addition, when airports do new construction, they can "make sure they provide adequate space for the new technologies in passenger screening," Mr. Baker said.

Jim Keane, general manager of operations safety, safety and inspection for the Port Authority of New York and New Jersey, said, "Airport security is a multiagency function and involves close cooperation" between the Port Authority, which operates area airports, and the TSA.

"Whenever we become aware of a threat either here or abroad, as happened on Christmas Day, we immediately enhance security at all the airports we operate," which are John F. Kennedy International and LaGuardia in New York; Stewart International in Newburgh, N.Y.; and Newark Liberty International and Teterboro airports in New Jersey. "In this case, that enhanced security included adding additional policy patrols and canine units," said Mr. Keane.

New York Gov. David Paterson also deployed National Guard units to JFK, said Mr. Keane, who also is second vp of the Washington-based Airports Council International-North America's Insurance and Risk Management Committee.

In a statement, ACI-NA President Greg Principato said, "ACI-NA several months ago initiated an industry/government effort to review current procedures and policies. This type of review is needed and, I believe, reform in the basic statute enacted after the Sept. 11, 2001, attacks is overdue."

Mr. Principato said airports "strongly support the president's call to focus on moving toward a more technology-intensive security regime."

AP PHOTO

Sisters Teagan (left) and Tori Tullio watch jet traffic on the field at Detroit Metropolitan Airport days after a foiled terrorist attack prompted stricter security.

Cat bonds: Insurers take the lead in securing coverage for peak perils

CONTINUED FROM PAGE 3

money back to work," he said. GC Securities estimates another $2 billion in maturing bonds will be redeployed in the first half of 2010.

The influx of additional capacity has resulted in generally larger deals at better prices, observers say. One of the largest deals of 2009, a $500 million cat bond placed by Travelers Indemnity Co., originally was marketed to investors with a target total of $250 million. When it closed last month, it doubled in size due to strong investor demand. The bond, Longpoint Re II Ltd., provides the Hartford, Conn.-based insurer with multiyear reinsurance protection against U.S. hurricane risks.

Two other fourth-quarter bonds were upsized, including Swiss-based Flagstone Reinsurance Holdings Ltd.'s bond, Montana Re Ltd., from $120 million to $175 million. The bond covers U.S. hurricane and earthquake risks for three years.

In addition, Zurich-based Swiss Re's bond, Successor X Ltd., increased from $60 million to $150 million by the time it closed last month. The bond covers losses from California earthquakes and U.S. Atlantic hurricanes.

Insurers and reinsurers covering peak perils, including U.S. hurricane, U.S. earthquake and European windstorm risks, dominated the 2009 deals. While experts expect demand for what is known as the "big three" perils to drive market growth, other deals in 2009 sought protection from losses related to Japanese earthquakes, Mexican catastrophes and California earthquakes.

Observers say several trends emerged in 2009 that point to a shift in the market. For example, in previous offerings, reinsurers largely dominated cat bond issuance, but in 2009, primary insurers backed about 60% of the bonds.

"The primary companies are looking towards the cat bond market to be a core part of their capacity source and they are using the capital market as a way to diversify and balance out their traditional reinsurance," Mr. Hum said. For insurers "that have to hedge an inbound book of business, having an alternative source of capacity is huge; it's strategic," he said.

Meanwhile, reinsurers are being more "opportunistic," Mr. Hum said. "We didn't see reinsurers start to participate in the market in 2009 until the pricing really became favorable."

In addition, Mr. Hum said many sponsors looking to integrate cat bonds into their overall program have sought additional flexibility. For example, Travelers' bond is structured in two tranches and features a "dual maturity" issuance. The $250 million Class A notes provide three years of protection against certain U.S. hurricanes and $250 million Class B notes provide similar protection for a four-year period. "It gives them more flexibility and allows them to better manage through the pricing cycle," Mr. Hum said.

GC Securities acted as a joint underwriter on the deal, along with Deutsche Bank Securities and Swiss Re Capital Markets.

As for 2010, observers say they are optimistic and the pipeline for potential deals is strong.

"Now that spreads have returned to precrash levels, we would envision volumes returning to precrash levels," said Peter Nakada, Hackensack, N.J.-based managing director for Newark, Calif.-based modeling firm Risk Management Solutions Inc.

Mr. Nakada estimated 2010 volume could be $6 billion to $8 billion.

Market Moves

Clements International opens office in London

WASHINGTON—Clements International, an insurer for U.S. expatriates and U.S.-based international organizations, says it plans to open an office in London.

Clements' first European location aims to broaden its reach and expand its broker networks, the insurer said in a statement.

"It's a natural progression to open in London where we can interact more closely with our customers and partners," Chris Beck, president of Washington-based Clements, said in the statement.

The specific London location and launch date are awaiting regulatory approval, Clements said.

Horseshoe Group expands to Cayman Islands

HAMILTON, Bermuda—Horseshoe Group, a Hamilton, Bermuda-based management and consulting firm for insurers and reinsurers, has expanded to the Cayman Islands.

Horseshoe Services (Cayman) Ltd., in association with Cayman Trust Ltd., a provider of offshore jurisdiction and corporate services in the Caribbean, aims to offer administration services for catastrophe bonds and special-purpose vehicles, the company said in a statement.

Services include setting up charitable trusts, acting as registered office, maintaining statutory register, preparing financial statements, monitoring collateral levels, answering investor queries and coordinating with sponsors.

The company plans to deliver SPV administration services by managing insurance-linked investment structures such as sidecars and transformers.

"It was a natural progression for the Horseshoe Group to have resources available in Cayman where the great majority of the catastrophe bond activity takes place," Andre Perez, CEO of Horseshoe Group, said in the statement.

While awaiting its insurance manager license from the Cayman Islands Monetary Authority, Horseshoe Services said it would service noninsurance SPVs.

Horseshoe Services offices are at Landmark Square, 1st Floor, 64 Earth Close, P.O. Box 715, Grand Cayman KY1-1107, Cayman Islands.

J.C. Restoration establishes claims management unit

ROLLING MEADOWS, Ill.— J.C. Restoration Inc. has launched a claims management unit.

The division aims to help property claims adjusters with joint loss inspections, preparing estimates, documenting reserves and consulting.

Joel Hossli, previously director of marketing, has been named director of the claims management division of the Rolling Meadows, Ill.-based disaster restoration company.

"This dedicated position allows us to properly serve the adjuster as well as the end user of our services," said Steve Rost, general manager of J.C. Restoration.

J.C. Restoration is a member company of Wood Dale, Ill.-based Disaster Kleenup International Inc., a North American network of property damage restoration contractors.

THBI, Higginbotham form partnership

AUSTIN, Texas—Texas Healthcare & Bioscience Institute, the Austin, Texas-based resource provider for member companies in the biotechnology, medical device and pharmaceutical industries, has made Fort Worth, Texas-based Higginbotham & Associates Inc. its preferred insurance broker.

The arrangement aims to gives THBI member companies access to Higginbotham's life sciences insurance and risk management unit for enhanced loss control services, the company said in a statement.

Chubb Group of Insurance Cos. and Monitor Liability Managers L.L.C. underwrite the insurance programs through an agreement with the Biotechnology Industry Organization's group purchasing program. THBI is a member of Washington-based BIO.

Kay Tieman, senior account manager for Higginbotham's life sciences practice, joined the firm in August 2009 and is leading the new partnership with THBI.

TO SUBMIT ITEMS

MARKET MOVES
BI's Market Moves column reports on activities by insurance industry companies and related entities.

PRODUCTS & SERVICES
BI's Products & Services column reports on new product offerings.

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Lloyd's: 2010 capacity set to hit record

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sizes for U.S. dollar-denominated business, said James Vickers, London-based chairman of Willis Re International. But if growth for exchange rates is stripped out, Lloyd's 2010 capacity will not be significantly higher than 2009, he said. "Buyers should not view this increase in Lloyd's capacity as a wall of new capacity," he said.

The 27% increase in capacity is not unduly concerning, even though rates in many lines of insurance are not expected to rise in 2010, Mr. Smith said.

"The increase in capacity is mainly down to the changes in exchange rates and new business coming to Lloyd's. But there could be issues on the margins, especially among the weaker syndicates where there is concern over (underwriting) controls and what is being written," Mr. Smith said.

Kiln Ltd. expects the capacity it manages at Lloyd's to be 28.9% higher in 2010, or £1.6 billion ($2.55 billion). About half the increase reflects changes in exchange rates, but Kiln also has planned for a 16% increase in gross written premiums on the same rates of exchange in 2010, said Richard Lewis, group director of underwriting for Kiln in London.

Five percentage points of this is "head room" that will allow Kiln to write more business if rates become more attractive after a large loss, he said. Kiln expects organic growth as it expands into new areas in 2010, he added.

For example, the insurer started to underwrite space insurance in 2009, opened an office in Brazil, and launched a new unit to underwrite esoteric risks such as cyber liability and reputational coverages, Mr. Lewis said.

But Kiln does not want to grow disproportionately, and so is unlikely to write more U.S. or European catastrophe reinsurance in 2010, unless rates increase, he said.

Beazley P.L.C., which plans a new property treaty reinsurance syndicate in 2010, is not planning significant growth, said Adrian Cox, London-based head of specialty lines for the Lloyd's insurer. Most of Beazley's increase in capacity next year is due to changes in foreign exchange rates, he said.

> **'Buyers should not view this increase in Lloyd's capacity as a wall of new capacity.'**
> James Vickers, Willis Re International

Beazley will continue to grow its U.S. midmarket professional lines business, but growth rates are slowing as the market has become more competitive, he said.

The Lloyd's insurer also is cautious about lines exposed to potentially higher claims because of the economic slowdown, such as employer practices liability, and this will limit premium income, said Mr. Lewis.

But there also are opportunities to grow in 2010, he said. There is demand for errors and omissions and directors and officers liability coverage, and Beazley expects to grow new product lines such as liability coverage for the technology sector and environmental liability, he added.

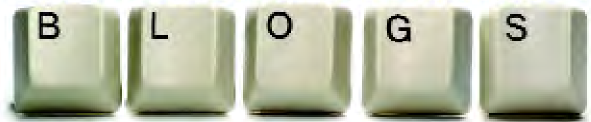
Brit Insurance Holdings N.V., which plans to increase capacity in 2010 to £745 million ($1.2 billion) from £525 million ($837.7 million) in 2009, does not expect to grow its U.S. reinsurance book, said Jon Turner, chief executive of Brit Reinsurance and active underwriter of syndicate 2987.

Brit Insurance, like most Lloyd's managing agents, expected a period of rate hardening and increased business opportunities in 2010, he said. But a benign year for catastrophe losses in 2009 means many Lloyd's syndicates have "pulled back" their plans, he added.

The majority of Brit Insurance's capacity increase reflects changes in exchange rates, Mr. Turner said.

There are growth opportunities even in a soft market, said Nick Ferrier, head of business development at Liberty Syndicate Management Ltd. in London, a unit of Liberty Mutual Group Inc.

Liberty continues to diversify its book of Lloyd's business, which has a high proportion of U.S. and European catastrophe exposures, he said. Liberty's increase in 2010 capacity, which mainly is due to changes in foreign exchange rates, also allows for anticipated organic growth, said Mr. Ferrier.



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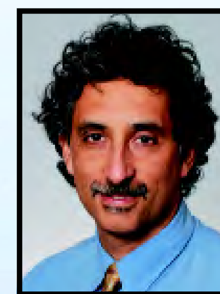
Broker Buzz
by Sally Roberts



Comp Time
by Roberto Ceniceros

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Coca-Cola gets approval for captive benefits funding plan

By JERRY GEISEL

WASHINGTON—The Coca-Cola Co. has received tentative authorization from the Labor Department for its groundbreaking approach to funding retiree health care benefits through a special trust and its captive insurance company.

The tentative authorization, which will be published in Tuesday's Federal Register, came after months of discussions between Labor Department officials and Coca-Cola, its consultants and legal advisers.

"We are extremely pleased this step has been completed," Coca-Cola said in an e-mailed statement.

"We are thrilled. We were always confident that this would happen," said Kathleen Waslov, a senior consultant with Towers Perrin in Boston, Coca-Cola's consultant on the project.

In order to help win Labor Department approval, Coca-Cola addressed several issues, including how the arrangement would benefit plan participants. Benefit enhancements include guaranteeing coverage within certain ranges.

The lengthy review process—the Atlanta-based beverage giant filed its application in January—was not surprising, given the complexity of the transaction and the fact that it is the first of its kind, Ms. Waslov said.

Under its plan, the company would use assets in a voluntary employees' beneficiary association to purchase medical stop-loss policies from Prudential Insurance Co. of America to pay claims over the expected lifetimes of roughly 4,000 retirees and dependents. Coca-Cola established the VEBA in 2006 and contributed $216 million to the trust.

The medical stop-loss coverage would pay claims that fall between an attachment point and an upper limit.

In its application, Coca-Cola said the attachment point for all retirees would be $100. For those younger than 65, the upper limit would be $5,800; for retirees 65 and older, the upper limit would be $3,500. Those figures may change slightly when the proposal is finalized.

Prudential, in turn, would use the premium it receives from Coca-Cola to reinsure the risk with Red Re Inc., a South Carolina captive insurer and one of three captives owned by Coca-Cola.

Benefit experts say there are significant financial advantages to Coca-Cola's funding approach and that other employers will follow after the transaction receives final approval.

Coca-Cola still is waiting for a private letter ruling from the Internal Revenue Service involving tax issues related to the transaction.

Chartis: AIG may wait on unit's spinoff

CONTINUED FROM PAGE 1

conditions and delaying a sale or IPO may be temporary until conditions improve.

"Even with a recovery in the financial markets, the prospects are not good. Valuations for property/casualty companies are very low by historic standards, and the asset sales environment is very difficult right now," said Mark Lane, a research analyst with William Blair & Co. in Chicago.

If Mr. Benmosche views "Chartis as a core business going forward, then he's saying he's not prepared to give up 20% of that business at an inadequate valuation," said John Wicher of John Wicher & Associates Inc. in San Francisco. "It strikes me as good leadership."

Despite pressure to repay the U.S. government for the late 2008 bailout to avert AIG's near-collapse, "you don't want to see bad decisions being made, and a healthy property/casualty business is in the best interest of both" shareholders and customers, Mr. Wicher said.

Observers say the move seems consistent with Mr. Benmosche's broader approach to divestitures. Since he took over AIG in August 2009, the CEO has slowed the pace of asset sales to try to generate higher values for the units to repay AIG's approximately $182 billion rescue package.

Cathy Seifert, an equity analyst with Standard & Poor's Corp. in New York, said AIG is "between a rock and hard place." Because Chartis is one of AIG's more valuable assets, "to the extent they can retain the unit and hold onto franchise value, it is a good thing," she said. However, "we can't overlook the fact that they still need to repay the government."

The potential plan change for Chartis also underscores the difficulty that AIG is experiencing in executing its rebranding campaign, observers said. The insurance unit was renamed twice last year to distance itself from AIG, settling in July 2009 on a name that AIG said was derived from the Greek word for "map." In November, when the Chartis name was added to roughly 30 units, Chartis wrote to customers that it was an "important step" in advancing the goal of achieving operational independence.

Despite inching away from AIG, Chartis still faces numerous challenges, observers say. Since the government bailout, limits on executive compensation and lingering concerns about the insurer's financial strength have caused some employees and customers to leave.

> **'Everyone knows Chartis is AIG, and I think they have to go out and earn their stripes, so to speak, in the marketplace.'**
>
> Bill Bergman, Morningstar Inc.

"Rebranding is much more than just changing your name; you have to gain respect for your brand," said Bill Bergman, an analyst with Morningstar Inc. in Chicago. "Everyone knows Chartis is AIG, and I think they have to go out and earn their stripes."

AIG may build more value for the Chartis unit by focusing "on the health of the business, rebuilding relationships with brokers and serving clients," Mr. Bergman said.

Several observers said the lack of clarity surrounding Chartis also is a concern.

"Buyers really want to know they have a long-term relationship with their insurer, and right now the situation seems very fluid," said S&P's Ms. Seifert.

A December survey by Barclays Capital Inc. found that about 80% of large commercial insurance buyers have part of their exposures insured with Chartis compared with 90% six months earlier. Of those with coverage through Chartis, about 75% planned to keep their business with Chartis, up from 41% six months earlier, the survey found. Many buyers however, continue to reduce their counterparty exposure to AIG by diversifying their programs to include other insurers, the survey said.

The "faint-of-heart" customers already have left AIG, said David Wood, a policyholder attorney and partner with Anderson Kill Wood & Bender P.C. in Ventura, Calif.

"The buyers that have stayed with Chartis know what they are getting. They understand the relative health of AIG's insurance units regardless of the name, or whether or not it is tethered to its parent," Mr. Wood said.

Meanwhile, last week, Ms. Kelly, AIG's chief legal officer, resigned in reaction to a federal pay cap imposed on executives at firms that took government bailout funds.

According to an AIG statement, "Ms. Kelly resigned for 'good reason' under the terms of AIG's executive severance plan based on the reduction in her base salary that was mandated by the Special Master for Executive Compensation for TARP Recipients."

Previously, according to the Wall Street Journal, AIG investigated five executives who threatened to resign over the pay limits imposed by the U.S. government. Four of them later rescinded their threats, according to the paper.

Imperial Sugar settles property claim in 2008 refinery explosion

By ROBERTO CENICEROS

SUGAR LAND, Texas—Imperial Sugar Co. says it has settled a property insurance claim in the February 2008 explosion at its Port Wentworth, Ga., refinery for a total of $345 million.

But the Sugar Land, Texas-based sugar producer still faces directors and officers litigation related to the explosion that killed 14 people and injured 36 others, its 2009 annual report shows. A lawsuit filed in January 2009 against 12 current and former directors and officers, however, has been stayed pending an ongoing investigation by independent directors.

Imperial also faces 45 lawsuits filed by employees or their families and 28 third-party lawsuits related to the explosion that the U.S. Chemical Safety Board said was fueled by sugar dust.

Trials for two of 45 worker lawsuits have been set for May 2010, the company said.

Imperial said in its annual report that it believes it has adequate workers compensation and liability insurance for the worker and third-party lawsuits after paying a $500,000 deductible.

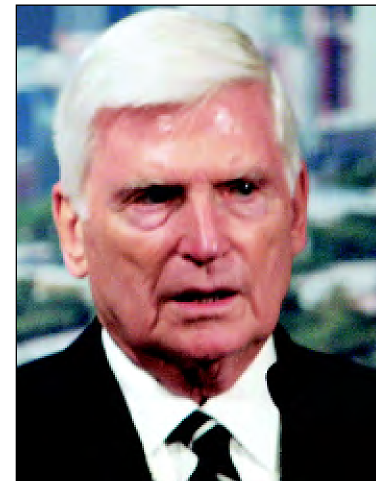
But Imperial's work comp insurer notified the company that it anticipates charging it about $6.4 million due to "certain loss-based assessments the carrier expected to receive from the state of Georgia's Subsequent Injury Trust Fund," according to the annual report. According to the Georgia State Board of Workers' Compensation documents, New Hampshire Insurance Co., a unit of New York-based American International Group Inc., provided workers compensation coverage for Imperial Sugar. AIG declined to comment.

Imperial Sugar's workers comp policy requires it to reimburse the insurer for such an assessment, records show. The company said it is investigating a possible abatement and is unable to determine its ultimate liability for the trust fund assessment.

It also faces hearings in 2010 related to its appeals of U.S. Occupational Safety Health Administration citations totaling nearly $9 million, its annual report shows.

In a Monday statement, Imperial said it had settled a property insurance claim and expects a final $45 million payment in January 2010. Its property coverage for the explosion totals $350 million in limits and includes replacement cost coverage and business interruption insurance.

Imperial Sugar said it expects to complete reconstruction of the Port Wentworth facility next month.



REUTERS

Patrick G. Ryan, Aon Corp.'s founder and former chairman, has launched a managing general underwriter.

Ryan, former Aon executives launch Thinkrisk

BY SALLY ROBERTS

KANSAS CITY, Mo.—A little more than a year after retiring from Chicago-based Aon Corp., Patrick G. Ryan, the broker's founder and former chairman and CEO, has joined three former Aon executives to launch a new managing general underwriting agency.

Kansas City, Mo.-based ThinkRisk Underwriting Agency L.L.C. will specialize in errors and omissions liability insurance for the converging areas of media, technology, advertising, privacy and network security. It will underwrite for Cincinnati-based Great American Insurance Group, a unit of American Financial Group Inc., and plans to open for business in February.

Mr. Ryan, who retired from Aon in August 2008, has made an undisclosed investment in ThinkRisk and will serve as the agency's chairman.

ThinkRisk founders Chad Milton, Leib Dodell and Debra McClenahan, all of whom have ties to Aon, will run the day-to-day operations of the agency.

Mr. Milton most recently served as national practice leader for Marsh Inc.'s media and intellectual property division. Prior to that, he was a senior vp with Media/Professional Insurance, a former unit of Aon now owned by AXIS Capital Ltd. Mr. Dodell previously was CEO of Media/Professional, while Ms. McClenahan was CEO of Aon Underwriting Managers before being named chief administration officer for Aon Re Americas.

In a statement, Mr. Ryan said his investment in ThinkRisk "reflects what I see as a real need to manage modern liability challenges. ThinkRisk's founders identified a significant gap in today's insurance business and can provide a unique, seamless suite of coverages to complement these changing times, industries and business practices."

During his time away from the industry, Mr. Ryan was chairman and CEO of Chicago 2016, the unsuccessful bid to bring the Summer Olympic and Paralympic Games to Chicago.

COBRA: Subsidy extension creates administrative problems

CONTINUED FROM PAGE 1

for oneself and one's family, or fearing bankruptcy in the event of injury or illness is something Americans should not have to cope with in this difficult time," Rep. Joe Sestak, D-Pa., said in statement. Rep. Sestak previously introduced a COBRA premium subsidy extension measure, a portion of which was incorporated into the military spending bill.

While laid-off workers will benefit from the extension of the premium subsidy, the extension also will mean more work for employers and their COBRA administrators.

For example, many employers in late November began sending bills to COBRA beneficiaries whose eligibility for the subsidy ran out, asking beneficiaries to pay the full December premium rather than 35% of the premium.

Those employers now will have to calculate the overpayments and decide either to offset future COBRA premium payments by the amount of the overpayments or issue refund checks.

A more complicated procedure involves beneficiaries whose eligibility for the subsidy ended in November and who didn't pay the full unsubsidized December premium.

Under the legislation, those individuals—if they paid their 35% share of the premium in the month prior to losing the subsidy—will have a right to pay 35% of the premium later and receive retroactive coverage. Beneficiaries could receive retroactive coverage if they pay the 35% share within 60 days of the bill's enactment or, if later, 30 days later after their former employer sends them notice that describes the new 15-month premium subsidy.

That will require employers and COBRA administrators to identify beneficiaries whose eligibility for the subsidy ended, send them the required notice and, assuming they pay the required premium, retroactively restore their COBRA coverage.

Some employers and plan administrators may ease this complication by expediting notice to participants about the subsidy extension and sending out a revised billing statement, said Karen Frost, a health and welfare outsourcing leader for Hewitt Associates Inc. in Lincolnshire, Ill.

COBRA premiums aren't due until 30 days from the start of a monthly coverage period. So, if they received rapid notice, beneficiaries would have time to make their December premium payments reflecting the 65% federal subsidy.

The legislation also requires employers to send a special notice to all premium subsidy-eligible beneficiaries who are on COBRA beginning on or after Nov. 1, 2009, describing the 15-month premium subsidy.

"That will create work. Language will have to be developed for the notification document. And you will have to identify everyone affected and send them the notification. That is not a small effort," said Linda Anderson, benefit administration consultant at Towers Watson & Co. in Chicago.

On the other hand, the legislation ends a problem created by the original subsidy law. That law required individuals to satisfy two conditions to be eligible for the premium subsidy: They must have been involuntarily terminated from Sept. 1, 2008, through Dec. 31, 2009, and they must have been eligible to receive the subsidy during that period.

That second condition was not widely understood and may have resulted in employees laid off in December not being eligible for the subsidy.

That could happen in situations where employers allowed laid-off employees to continue regular group coverage through the end of the month. As a result, those individuals would not be entitled to the subsidy because their COBRA eligibility didn't begin until Jan. 1, 2010, one day after the cutoff date.

The military spending bill ends what some experts say was a fairness issue by amending the law to tie subsidy eligibility to the date of involuntary termination.

And any additional work the legislation creates is a fraction of the burden employers incurred under the original law, Ms. Anderson noted. In that case, employers had to locate and provide notice of the COBRA subsidy to former employees who, in some cases, hadn't worked for them in half a year, while employers, at first, did not have official guidance on what constituted involuntary termination.

The new COBRA subsidy extension, though, may not be the last, especially if unemployment remains high.

"This may not be the end of it," said Rich Stover, a principal with Buck Consultants L.L.C. in Seacaucus, N.J.

The likelihood of a future extension will depend on where the unemployment rate goes in the coming months, said Ms. Anderson of Towers Watson.

Statistics are not available on how many laid-off employees took the subsidy. But a congressional Joint Committee on Taxation report, developed when Congress approved the initial subsidy, estimated that the subsidy would benefit about 7 million laid-off workers and their families at a cost of about $25 billion.

One survey found that the subsidy resulted in a surge in COBRA enrollment rates. Hewitt Associates reported last August that the COBRA opt-in rate for terminated employees more than doubled after the subsidy program.

From March 1, 2009—when the subsidy generally first became available—through Nov. 30, 2009, monthly COBRA enrollment rates for laid-off employees averaged 39%, according to a Hewitt analysis of COBRA enrollment among 200 large employers.

By contrast, from Sept. 1, 2008, through Feb. 28, 2009, an average of 19% of involuntarily terminated employees were enrolled in COBRA.

"There is no question that the subsidy has made a difference. It has been of huge value," Hewitt's Ms. Frost said.

With nonsubsidized COBRA premiums often about $400 a month for individual coverage and $1,200 a month for family coverage, the subsidy slashed health insurance premium costs for beneficiaries when they no longer had a regular source of income.

CHANGES TO COME

What the COBRA provisions in the Department of Defense Appropriations Act will do

- Extend the nine-month, 65% federal COBRA premium subsidy by six months
- Extend subsidy eligibility to employees who lose their jobs through Feb. 28, 2010
- Allow beneficiaries whose nine-month subsidy has run out to receive retroactive coverage
- Require employers to notify current and future COBRA beneficiaries of the new 15-month subsidy

Captives: New formations edge up in 2009 despite poor economy

CONTINUED FROM PAGE 4

Mr. Kehler noted that South Carolina issued 11 licenses in 2008 for 10 captives and one special-purpose vehicle. "And we'll do 14 or 15 (in 2009), so that's positive," he said.

"Here, with this economic recession, the construction and finance areas are all supposed to be in the tank," Mr. Kehler said. But among the captives South Carolina licensed in 2009 are three for construction businesses and three for banking companies. Of captives the state anticipated licensing before year's end, five are "either in the service area or manufacturing," he said. "That's all positive stuff."

"Some of these that we're licensing are the largest companies in the world," Mr. Kehler said. "The preponderance of new captives that we're doing are very large companies." Also in 2009, South Carolina licensed a captive for a large regional construction company, "So it's really kind of covering the spectrum," he said.

The final 2009 license the state anticipated issuing was for a retail company with the bulk of its operations in South Carolina, Mr. Kehler said.

Steve Kinion, director of the Bureau of Captive and Financial Insurance Products in the Delaware Department of Insurance, said his office also was busy during 2009's final quarter.

"I'm a little more optimistic in terms of the number of applications we've had vs. expectations," Mr. Kinion said of 2009. "I do think 2011 will be a better year than 2010."

"We're seeing an agency captive," Mr. Kinion said. "We're especially proud of this one because it's a locally grown agency in Dover." An agency captive is a captive typically formed by an insurance agency or broker to reinsure a portion of their clients' risks.

He said the state also is seeing interest from prospective captives looking at forming under the state's serial entity law. Delaware is one of seven states with such a law, an approach often used in the mutual fund industry to allow mutual fund companies to segregate various asset groups.

In the captive setting, Mr. Kinion said, the serial entity structure could be used to segregate different lines of coverage. The advantage of the serial entity approach vs. a segregated cell structure is that only one license is required for the serial entity instead of needing to obtain multiple licenses or approvals for different cells, he said.

Mr. Kinion said Delaware also has seen interest from captives looking to redomesticate from offshore domiciles.

"One of my favorite terms in the past couple of months has been 'optics,'" he said. "Captive managers have approached us about moving their offshore captives onshore. They're doing that because their clients are asking them about the perception of being offshore."

With growing interest in using captives for employee benefit programs, Delaware Insurance Commissioner Karen Weldin Stewart said in December that she planned to seek legislation this month allowing the formation of branch captives in the state to facilitate offering benefits falling under the Employee Retirement Income Security Act for companies with offshore captives.

In Kentucky as the year came to a close, Russell Coy II, captive coordinator in the Kentucky Department of Insurance, said, "It's mixed. Things have picked up. Of course, we've kind of been steady all along."

"There are people interested in talking about the concept but then saying, 'Eh, let's talk about it next year,'" Mr. Coy said in mid-December. "There are some people that think we're at the start of the recovery and other people who still think it's batten-down-the-hatches time."

Mr. Coy said the Kentucky office saw significant interest in captive formation in the final months of 2009, but also saw some existing captives that "might want to shut down the lights and turn in their license, particularly in construction."

Captive interest varies by industry sector, he said.

Kentucky will have its 10th anniversary as a captive domicile in 2010, and the state hopes to have 100 captives in time for that anniversary, Mr. Coy said.

"Right now we're at 86 and we do have enough (applications) to take us over" the 100 mark, Mr. Coy said.

News In Brief

CONTINUED FROM PAGE 1

period last year, said Verisk Analytics Inc., parent of Jersey City, N.J.-based Insurance Service Offices Inc. Verisk said the driving force behind the increases in insurers' net income and rate of return was net losses on underwriting, which fell to $3.2 billion from $19.8 billion through the first nine months of 2008. The combined ratio for property/casualty insurers improved to 100.7% for the first nine months of 2009 compared with 105.5% during the first nine months of 2008. Meanwhile, net written premiums for the first nine months dropped 4.5% to $321.2 billion compared with a year ago.

Restaurant chain settles sex bias suit for $19M

Outback Steakhouse agreed to pay $19 million to settle a class action lawsuit charging sexual discrimination against thousands of women at hundreds of its corporate-owned restaurants nationwide, the Equal Employment Opportunity Commission said. The EEOC said the restaurant chain discriminated against its female employees with respect to terms and conditions of employment and denied them equal opportunities for advancement so they could not be promoted to its restaurants' higher-level profit-sharing management positions. The EEOC also alleged that women were denied favorable job assignments, particularly kitchen management experience, which is required for employees to be considered for the top management job in the restaurants. The EEOC said the $19 million in monetary relief will be administered through a claims process in which an administrator will send letters to all female workers employed at corporate-owned Outbacks since 2002 who have at least three years of tenure.

U.S. to fund part of air crash settlement

The U.S. government is paying part of damage settlements stemming from the Aug. 27, 2006, crash of Comair Flight 5191 at Lexington Bluegrass Airport, according to recently released documents. The crash, which killed 49, occurred when the Comair regional jet mistakenly attempted to take off on the wrong runway, which was too short for a plane of its size to get airborne. The only air traffic controller working at the time turned his back on the jet after clearing it for takeoff and did not see it taxi onto the wrong runway, according to the National Transportation Safety Board. According to an agreement between Comair and the U.S. Justice Department, negotiating on behalf of the Federal Aviation Administration, the U.S. government agreed to pay 22% of the damage settlements in connection with the crash.

Markel president, COO resigns

Paul W. Springman, the president and chief operating officer of Markel Corp., is resigning to pursue other interests, the company said. Mr. Springman, who has been on a leave of absence from the Richmond, Va.-based specialty insurer since October, left effective Jan. 1.

Cat losses fall in '09: Munich Re

Economic and insured natural catastrophe losses in 2009 were lower than in 2008, largely due to a below-average Atlantic hurricane season, but several extreme weather events still caused $22 billion in insured losses worldwide, according to an analysis by Munich Reinsurance Co. Last year featured 850 "destructive natural hazard events" worldwide, the reinsurer said. Those events caused $50 billion in economic losses and $22 billion in insured losses, compared with $200 billion in economic losses and $50 billion in insured losses in 2008. During the past decade, the average number of natural hazard events with relevant losses was approximately 770 per year, Munich Re said, adding that the average annual economic loss was approximately $115 billion, while insured losses averaged $36 billion.

RIMS names president, board officers

The Risk & Insurance Management Society Inc. said Terry Fleming is president of the society for the 2010 term, effective Jan. 1. Mr. Fleming, director of the division of risk management for Montgomery County, Md., was vp of RIMS. Additional officers named are Vp Deborah M. Luthi, director, enterprise risk management services, Matheson Inc.; Treasurer John R. Phelps, director of business risk solutions at Blue Cross & Blue Shield of Florida Inc.; and Secretary Scott B. Clark, risk and benefits officer for the School Board of Miami-Dade County, Fla.

Reform: Senate plan more palatable

CONTINUED FROM PAGE 1

AFP PHOTO/NEWSCOM

Senate Majority Leader Harry Reid, D-Nev. (center), and Sens. Max Baucus, D- Mont., and Christopher Dodd, D-Conn., leave the Senate floor Dec. 24, 2009, following a 60-39 vote to approve health care reform legislation.

employer could have up to a 60-day waiting period without being penalized for not offering coverage to new employees. After that, the penalty would be $600 per employee. The Senate bill would prohibit waiting periods exceeding 90 days.

Other key provisions in the revised Senate bill are similar to the previous measure proposed by Majority Leader Harry Reid, D-Nev. For example, the bill retains a 40% excise tax on health insurance premiums that exceed $8,500 for individual coverage and $23,000 for family coverage, starting in 2013. The cost threshold would be slightly higher for plans covering early retirees and employees in certain high-risk industries. The House bill contains no such provision.

The House bill, however, does have a provision that would require employers to extend COBRA health care continuation coverage years longer than they anticipated. The House bill also would remove employers' ability to design health care plans and the government would tell them what benefits they must offer and the cost-sharing limitations they can impose. That loss of control could occur through a provision that would establish a new commission charged with developing recommendations on benefits to be covered and health plan enrollee cost-sharing that could be required. The Department of Health and Human Services secretary would have the authority to adopt and impose commission recommendations.

The House measure also would bar employers offering retiree health care plans from reducing benefits unless they make comparable reductions for active employees. Such a requirement could force employers to maintain retiree health care plan designs they need to change or lead them to eliminate retiree health benefits before such a requirement would kick in.

While employers have much to dislike in both bills, the House bill is more objectionable, experts say.

"Employers will have varied opinions, but in general there is much greater dislike for the House bill," said Frank McArdle, a consultant with Hewitt Associates Inc. in Washington. "There are provisions in the Senate bill that employers are concerned about and they will try to work on some of these issues during the House-Senate negotiations."

But Senate bill's excise tax is particularly troublesome, observers say.

The excise tax on "Cadillac" benefit plans will have "a much larger impact on employers than what the administration and the Senate are acknowledging," said Chantel Sheaks, a principal with Buck Consultants L.L.C. in Washington. Employers with older workforces would be affected most by this tax, as would some union benefit plans, she said.

"Removing this is supported both by employer groups and the unions," Ms. Sheaks said. "It's more likely than not it will stay in; we're hoping to have the threshold amounts increased."

> **'We're pretty disappointed with both bills.'**
>
> Dena Battle,
> National Assn. of Manufacturers

"All along, we've been concerned about the tax on 'Cadillac' plans because we're concerned it's going to hit certain plans that don't necessarily qualify as 'Cadillac,'" said Dena Battle, director-tax policy for the National Assn. of Manufacturers in Washington. Companies with older workforces, a lot of retirees covered by health care plans and companies that have small risk pools could be affected, she said. "We think they're going to get roped into this tax and a 40% excise tax is a pretty egregious amount, and they'll have no choice but to scale back benefits."

Gretchen Young, vp-health policy for the ERISA Industry Committee in Washington, described the excise tax as "incredibly objectionable" and an administratively cumbersome and expensive way to raise money. "You're going to be taxing people who are older and sicker."

But she and others cited numerous problems with the House bill as well.

"The House basically allows people to use COBRA until the changes are up and running," said Ms. Young, referring to the House bill's call to establish state-based health insurance exchanges beginning in 2013. She said employers already have a difficult time with COBRA because they're allowed to charge 102% of the premium, "and that really doesn't begin to cover the costs." In addition, beneficiaries choosing COBRA coverage tend to be a more expensive pool of people.

Ms. Sheaks said another critical issue is the House bill's call for government-determined mandated benefits. If a commission recommends offering additional benefits, "that's where the slippery slope begins."

Ms. Young said the House bill's prohibition on employers reducing retirees' benefits unless they make corresponding reductions in active employees' benefits also is a "huge issue."

"We're pretty disappointed with both bills," said NAM's Ms. Battle.

Ms. Sheaks said "there's going to be a lot of haggling on how to pay for this." Nevertheless, "I'd be shocked if they can't come to an agreement," she said. "I think the biggest issue for employers is going to be the excise tax."

"There definitely is momentum already for them to get together on a relatively fast track and reach an agreement that can win sufficient votes," said Hewitt's Mr. McArdle. "For that to happen, it will have to look more like the Senate bill," he said, adding, "I don't think it will be a long, drawn-out conference. I still think this is on the fast track."

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Business Insurance END PAGE

Contributing: Jeff Casale, Roberto Ceniceros

TV wiseguy gets pinched in alleged insurance scam

Author Oscar Wilde coined the adage "life imitates art far more than art imitates life," which might be true for some, but not actor Raymond Franza.

Mr. Franza, who played wiseguy Donald "Donny K" Cafranza in "The Sopranos," was nabbed by New York authorities in December on charges he illegally collected nearly $13,000 in Social Security disability payments stemming from a car crash. The problem was Mr. Franza also was collecting $4,000 a month loss-of-wages payments from State Farm Insurance Co., which authorities say made him ineligible for Social Security help.

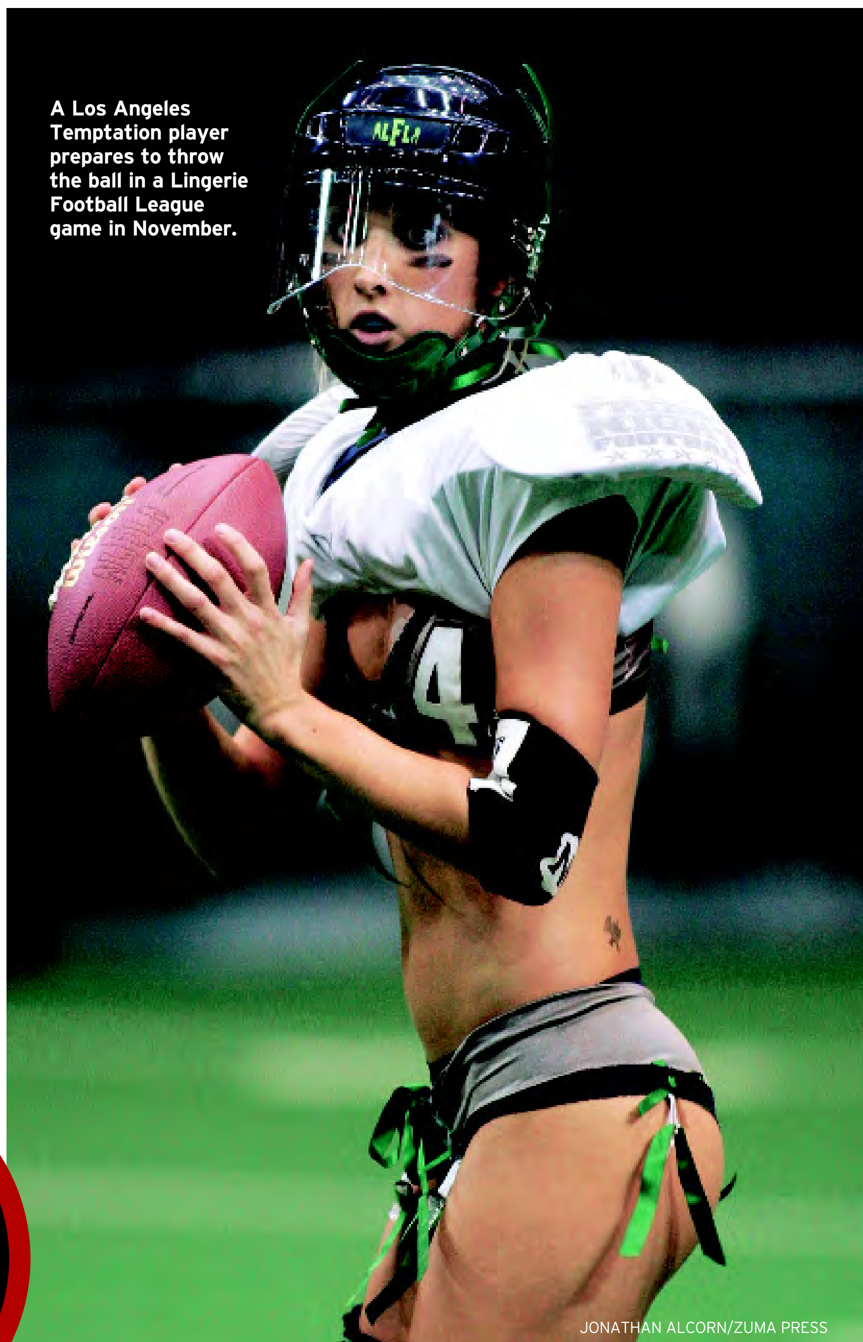
According to reports, Mr. Franza was injured in the spring 2008 crash, applied for Social Security disability, and collected $12,946 between June 2008 and August 2009.

After an investigation, New York authorities say they discovered Mr. Franza also was collecting from State Farm.

"Fraud of the type alleged in this case, especially in these difficult economic times, is a crime against every taxpayer and those who legitimately need Social Security benefits," Staten Island District Attorney Daniel Donovan said in a statement.

Mr. Franza is accused of grand larceny, possession of stolen property and making a false sworn statement. He is to return to court on Jan. 27 on the charges that could result in jail time if he is convicted.

In "The Sopranos," Donny K was pummeled unconscious and urinated on outside a bar by mob boss Johnny Sack for a remark made by another mobster in the TV series.



A Los Angeles Temptation player prepares to throw the ball in a Lingerie Football League game in November.

JONATHAN ALCORN/ZUMA PRESS

Lingerie players left uncovered: Claim

The Lingerie Football League, which bills itself as "true fantasy football," has an off-the-field fight on its hands.

The league consists of hard-bodied women clad in bikini-style uniforms, shoulder pads and helmets who play a rough game of tackle for teams with names such as Dallas Desire, San Diego Seduction and the Philadelphia Passion.

An attorney for the league reportedly has sent a letter that threatens legal action for defamation, "among other things," against former players who complained on Web postings that the league failed to pay their medical bills for injuries sustained while playing.

The women say the threatened legal action is a common league response when players ask about health care or wages, according to a report on the Smoking Gun, a Web site owned by Court TV.

In turn, the league argues that the women have posted false accusations, according to the report.

The report paints a picture of rough tactics on and off the gridiron. It says the league has a $5,000 fine for players it terminates and a $500 fine for any player who wears additional clothing under her "uniform."

On the gridiron, the women play rough. One news release from the league tells of a bench-clearing brawl in the final seconds of a game between the New York Majesty and Miami Caliente.

Fines were levied against at least two players. A league statement says, "Our athletes are role models and will need to act accordingly."

AMERICA'S MOST WANTED

Mark Weinberger celebrates his 40th birthday with his wife, Michelle, in 2003.

DOCTOR ON THE RUN SNIFFED OUT IN ITALY

The long arm of the law recently hooked a man known as "the nose doctor," a fugitive physician accused of malpractice and insurance fraud who has been featured on "America's Most Wanted."

Authorities last month reportedly found Mark Weinberger living out of a tent in a mountain area along Italy's northern border with France. Reports say an Italian court has approved a U.S. extradition request for the doctor from Merrillville, Ind., who had been on the run since 2004. A mountain guide tipped off police to his location.

A federal grand jury reportedly indicted him on 22 counts of fraud related to insurance billings, including sinus surgeries that were not performed.

Former patients and insurers allege the 46-year-old former ear, nose and throat specialist performed unnecessary surgeries. One patient died from throat cancer and her lawyer alleged the doctor failed to diagnose the cancer and instead operated on her sinuses, then billed her insurance company.

Now the man whose medical license was suspended after the allegations surfaced may be in need of a throat specialist himself. Reports say that after his arrest by Italian authorities, Mr. Weinberger suffered a neck injury after trying to take his life with a box cutter.

At one time, he lived a lavish lifestyle, according to the reports. But when police found him, he was surviving on canned food and snow melted over a portable stove.

INSURER HAS BEEF WITH TAKEOVER TRY

Steak n Shake Co. was looking to expand more than just waistlines when it attempted to take over Fremont Michigan InsuraCorp Inc.

Indianapolis-based Steak n Shake was looking to buy all of the issued and outstanding shares of the common stock of the Fremont, Mich.-based insurer that it doesn't already own for $24.50 a share, but Fremont said no thanks.

Steak n Shake already owns about 10% of the insurer.

The parent company of the Steak 'n Shake chain is owned by activist investor Sardar Biglari, who has been dubbed by some media outlets as a Warren Buffett wannabe as he tries to turn the burger franchise into something larger.

Fremont CEO Richard Dunning said Mr. Biglari's attempt to gobble up the insurer, which offers property/casualty insurance to individuals, farms and small businesses, was not in line with Fremont's long-term plans.

Fremont is "focused on continuing to grow our business and maximize the value of the company, and we believe this hostile takeover attempt is not in the best interest of Fremont," Mr. Dunning said in a statement.

Or maybe the problem was the idea of offering Frisco melts with a side of insurance policy.

Our mark, a compass in the shape of a "C," symbolizes our pioneering spirit and willingness to venture into new markets and products.

Our name, Chartis, is the Greek word for map, representing our ability to help you set a course and pursue new opportunities.

Blue conveys the confidence and assurance we provide; **gold,** the brighter future we make possible

Our brand line communicates our global reach and our commitment to providing an unrivalled breadth of insurance solutions.

A new brand. A renewed commitment to our clients.

Chartis is a global leader in property and casualty insurance, serving clients in over 160 countries and jurisdictions. While our brand is new, it is also a celebration of what we've done for the past 90 years — and what we'll do as we journey forward. Learn more at **www.chartisinsurance.com**

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