

**Insurers' 2002 cat tab
to total \$5.8 billion / 4**

**Tort costs increasing
sharply, survey finds / 4**

www.businessinsurance.com

Business Insurance®

February 17, 2003

Entire contents copyright © 2003 by Crain Communications Inc. All rights reserved.

\$4

Business hails ABA asbestos plan

By MEG FLETCHER

SEATTLE—Employer and insurer representatives are enthusiastic about the American Bar Assn.'s plan to urge Congress to enact a new asbestos claims standard.

Business interests are hopeful that support from the nation's largest attorney association to weed out claims from "nonmalignant" claimants—a position the ABA formally adopted last week during a meeting in Seattle—will lead to a re-

duction of asbestos lawsuits they maintain are clogging the court system, driving companies into bankruptcy and raising insurance costs (BI, Jan. 27; Dec. 23, 2002).

Congressional interest in ABA-type proposals is heating up, with support coming from a bill introduced late last week by the Senate Budget Committee chairman. In addition, the Senate Judiciary Committee is planning a March 5 hearing on possible reforms.

If Congress can develop a biparti-

san solution, most observers predict that the Bush administration will be sympathetic to federal litigation reform.

The ABA's federal asbestos litigation reform initiative is the result of 70% of members voting to recommend congressional adoption of a minimum impairment threshold for claimants seeking to file a claim related to nonmalignant asbestos-related injuries. The proposed standard would require a claimant to submit a qualifying technical medi-

cal report, including diagnostic tests confirming the ailment and a diagnosis signed by the diagnosing physician.

To protect the rights of a person who might become sick in the future—important because of the decades-long latency period of some asbestos-related ailments—the ABA also approved a recommendation to suspend all applicable statutes of limitations until such time as a claimant's condition

See **ASBESTOS**/page 26

Late News



WTC coverage suit to proceed against Zurich

World Trade Center insurer Zurich American Insurance Co. has lost a motion for summary judgment that it is liable for only one policy limit under a binder it issued for its \$45.7 million share of the complex's \$3.55 billion property insurance program. U.S. District Judge John S. Martin Jr. ruled that a New York law cited by Zurich does not preclude WTC leaseholder Silverstein Properties Inc.'s argument that the insurer is liable for two occurrences. Judge Martin ruled that the issue should be determined at trial.

Buyer of W.R. Grace unit settles asbestos claims

Fresenius Medical Care A.G. has agreed to pay \$115 million to settle claims related to W.R. Grace & Co., including asbestos claimants' charges that the company helped Grace divert billions of dollars of assets in the years leading up to Grace's 2001 bankruptcy filing. Asbestos creditors in the Grace bankruptcy charged in a suit filed last year that Grace fraudulently restructured its operations in the late 1990s, spinning off profitable businesses to keep assets out of the hands of asbestos claimants and other plaintiffs. The restructuring moves included the sale of its National Medical Care kidney dialysis unit to Fresenius in 1996 and the sale of its packaging operations to Sealed Air Corp. in 1998.

AIG profits increase despite reserve boost

American International Group Inc.
See **LATE NEWS**/page 3

Pols seek med mal crisis scapegoat

By MARK A. HOFMANN

WASHINGTON—The Capitol Hill battle over White House-backed medical malpractice reform legislation appears to be turning into a search by politicians for who should bear the most blame for spiraling malpractice insurance prices.

As was evident at a rare joint hearing by the Senate Judiciary and Health, Education, Labor and Pensions committees last week, many Democrats see the crisis as one generated by greedy insurance companies. Their Republican counterparts, meanwhile, appear to place the blame on overreaching trial lawyers and uninformed juries. The ranking Democrat on the Judiciary Committee used the hearing to announce that he was introducing a bill that would strip medical malpractice insurers of their limited immunity from federal antitrust laws guaranteed by the McCarran-Ferguson Act of 1945.

Meanwhile, the bill's chief sponsor, Sen. Byron Dorgan, said that it

See **MED MAL**/page 26



More financially strapped employers may follow the lead of bankrupt Bethlehem Steel Corp., which is cutting health care benefits for retirees, such as Richard Sterner, who has bladder cancer.

Steelmaker's benefit cut leaves retirees out in cold

By JUDY GREENWALD

BETHLEHEM, Pa.—Bethlehem Steel Corp.'s decision to eliminate life and health benefits for substantially all of its retirees and their dependents may lead the way for many other cash-strapped employers to do the same.

In a Feb. 6 letter seeking bankruptcy court approval, the bankrupt steel producer said that it

can no longer afford to continue the benefits coverage for its 95,000 retirees and dependents and that it wants to discontinue the coverage as of March 31. Two days later, the company's board of directors voted to sell almost all of the company's assets to the Cleveland-based International Steel Group.

Robert S. Miller, Bethlehem's chairman and chief executive officer, said in a statement: "With this

change of ownership also comes some sadness. Bethlehem can no longer provide health care and life insurance benefits for its retirees. Regrettably, expectations of life-health benefits were made during an era when health care costs were lower and the company's financial condition was stronger."

Efforts are now underway by the company, as well as by the United

See **BENEFITS**/page 27

Spotlight

ENTERPRISE RISK MANAGEMENT

Begins on page 10



LARGEST U.S. RISK MANAGEMENT CONSULTANTS

Ranking on page 12

Continued from page 1

posted a modest increase in profits for 2002, despite its \$1.79 billion aftertax charge for reserve strengthening in the fourth quarter. Net income for 2002 rose 2.9%, to \$5.52 billion, which reflects the reserve charge and \$1.6 billion in realized investment losses. For the fourth quarter, the reserve charge resulted in a \$103.8 million net loss, compared with a gain of \$1.87 billion in the fourth quarter of 2001. AIG reported record gross revenues of \$67.5 billion last year, as its premium volume soared.

Campbell insured for class-action settlement



Campbell Soup Co.'s insurers will pay \$35 million to settle a securities class-action lawsuit against the company. The suit, brought in U.S. District Court in New Jersey, charges that company executives improperly inflated sales to boost revenue and meet stock analyst expectations. The lawsuit also alleges the Camden, N.J.-based company improperly accounted for the inflated sales. Campbell's settlement acknowledges no fault or liability on the part of the company, said a company spokeswoman. She confirmed that insurance would fund the settlement but declined to name the company's insurers.

Arkansas licenses first captive

Arkansas has licensed its first captive insurance company. The agency captive, AMC Re, was formed

Regulators, ISO work out lower terrorism loss costs

By MEG FLETCHER

Commercial property owners in New York and Washington will likely see lower quotes for terrorism insurance coverage than the Insurance Services Office Inc. had originally proposed for those high-risk cities.

Insurance regulators in those jurisdictions last week reached an agreement with Jersey City, N.J.-based ISO on its proposed filing of loss costs to be used by insurers in setting rates for terrorism insurance. In January, those same regulators blasted a terrorism risk analysis presented by ISO that advised commercial insurers writing terrorism coverage in high-risk jurisdictions to use loss costs that were 50% to 150% greater than loss costs for property insurance alone (*BI*, Jan. 20).

In particular, the regulators blasted the assumptions of a terrorism risk computer model developed by AIR Worldwide Corp., an ISO subsidiary. District of Columbia Commissioner Larry Mirel described the risk modeling as "off the wall," in part because

it regarded only the district, and not the Washington metropolitan area, as high risk.

ISO's original proposal would have advised insurers to set their rates using a projected loss cost of 10 cents per \$100 of coverage, an

For both New York and Washington, the ISO has agreed to lower loss costs and to cap the maximum cost of terrorism coverage at 25% of premiums for property insurance alone.

ISO spokesman said. Loss costs represent expected indemnity payments and loss adjustment expenses, to which an insurer adds its own expense and profit loadings to establish rates.

For both New York and Washington, ISO has agreed to lower loss costs and to cap the maximum cost of terrorism coverage

at 25% of premiums for property insurance alone.

In addition, ISO has divided each area into three risk categories and recommends that insurers adopt the following loss costs for terrorism coverage of commercial property:

- High risk: 3 cents per \$100 of coverage for downtown New York south of 59th Street as well as downtown Washington.

- Medium risk: 1.8 cents per \$100 of coverage for uptown New York and its boroughs as well as close-in Washington areas such as Georgetown. This charge also applies to all apartment buildings in both jurisdictions.

- Low risk: 0.1 cent per \$100 of coverage in New York state outside of New York City and its boroughs, and 0.5 cent in the Washington area bordering Maryland.

In addition, ISO is currently negotiating with California and Illinois insurance regulators, who oversee the remaining two "high-hazard" locations of Cook County, Ill., and San Francisco. ISO expects to resolve filing issues by Feb. 24, an ISO spokesman said.

by American Management Corp., an insurance agency in Conway, Ark., and will operate as a producer reinsurance captive in which the captive will provide segregated cells for a wide variety of risks. AMC Re is the first captive to be formed in Arkansas under legislation enacted in 2001.

AXIS posts profit in first year of business

AXIS Capital Holdings Ltd. earned \$265.1 million in 2002, its first full year of operation. The Pembroke, Bermuda-based insurer and reinsurer, formed near the end of 2001, wrote gross premiums of \$1.1 billion during 2002. Of that, \$793.8 million was from specialty lines and

\$314.2 million was from treaty reinsurance. "We are delighted that AXIS has achieved so much in such a short period of time," said John Charman, president and chief executive officer of AXIS.

HRH profits double in 2002

Hilb, Rogal & Hamilton Co.'s profits for 2002 rose to \$65.12 million, a 101.3% increase over 2001. Total revenues in 2002 reached \$452.73 million, up 37.1%. According to the broker, much of the growth was attributable to acquisitions, notably that of Hobbs Group L.L.C., which it acquired on July 1, 2002. In the fourth quarter of 2002, net income reached \$16.24 million, up 128.7%

from the same period a year earlier. Total revenues for the quarter rose to \$128.67 million, up 48.0% over the same quarter of 2001.

Legislation would expand OSHA oversight

Federal workplace safety laws would cover state and local government employees if a bill introduced in the House becomes law. The measure, the Fairness for State and Local



Rep. Andrews

Employees Act, would amend the Occupational Safety and Health Act of 1970, which did not apply to public-sector employees, though some states have adopted their own job-safety programs that apply to government worksites. The bill, introduced by Rep. Robert Andrews, D-N.J., would not apply to federal workers.

CNA gets back into the black

On the strength of premium growth due to higher rates and new business as well as lower loss ratios and other expenses, CNA Financial Corp.'s financial results recovered in 2002 after a loss-plagued 2001. For 2002, the Chicago-based insurer reported net income of \$187 million, compared with a \$1.64 billion loss a year earlier. In 2001, the insurer reported World Trade Center losses of \$542 million, and it took reserve charges of more than \$3.3 billion. CNA's property/casualty net written premiums increased 28.3% in 2002, to \$7.01 billion.

Briefly noted

USI Holdings Corp. reported gross revenues of \$328.2 million for 2002, a 5.3% increase over 2001. However, the broker reported a loss of \$2.8 million for 2002—compared with a \$96.5 million loss in 2001—much of which stemmed from discontinued operations....The Department of Health and Human Services will publish its final **security standards** for protecting electronically stored or transmitted individually identifiable health information in the Feb. 20 edition of the Federal Register. The security standards were required by the Health Insurance Portability and Affordability Act of 1996. Most covered entities, such as health plans, will have until April 21, 2005, to comply.

Check out Businessinsurance.com

Items in the Late News column originally appeared in *BI's* Daily News on www.businessinsurance.com. Visit the *BI* Web site to sign up to receive *BI's* Daily News by e-mail.

Inside

Insurers cutting scope of D&O

Insurers are seeking to curb the scope of D&O liability coverage. Page 4

Making employees better consumers

Fostering consumerism is key to long-term control of health care costs, benefit experts say. Page 4

Lawsuits not man's best friend: Winston

Pet owners who seek to sue vets could be in for a nasty bite. Page 6

Bush budget plan a mixed bag

Proposed changes to defined contribution plans are a hit, but lifetime savings accounts are a miss. Page 8

Questions surround Gerling's future

Mixed signals from the rating agencies add to buyer uncertainty surrounding Gerling Group. Page 23

Shipowners face big P&I rate hikes

Shipowners are likely to see big rate increases when their cover renews. Page 23

Online

At www.businessinsurance.com find up-to-the-minute news plus:

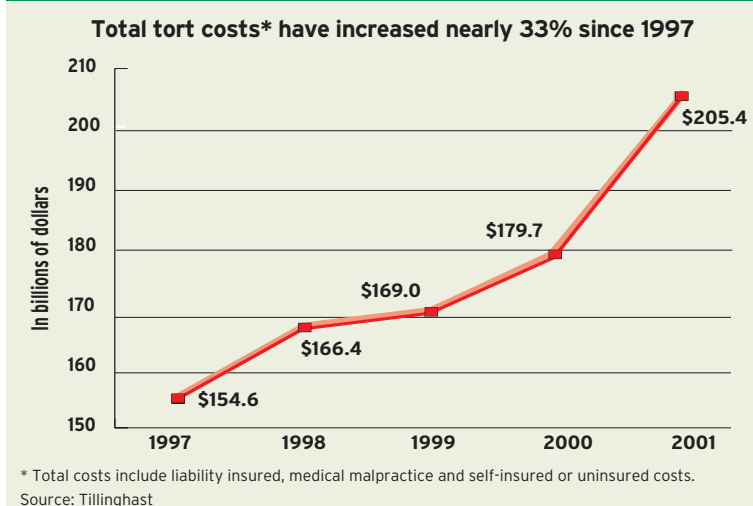
- *BI's Datebook* calendar lists upcoming industry seminars and meetings and allows you to add info about your own event.
- Searchable **Directory of Risk Management Consultants** joins other online directories.
- New **Opinion Poll** for readers: What do you think should be Congress' top priority?

Departments

Advertiser Index	26
Between the Lines	20
Classifieds	22
Comings & Goings: Industry	20
For the Record	27
Insurance Services Guide	20
International	23
Letters	8
Opinions	8
Ticker	27
Paul Winston	6
World Updates	23

Cost of U.S. tort system increasing steeply: Study

TORT SYSTEM COSTS CONTINUE TO RISE



By **RODD ZOLKOS**

The cost of the U.S. tort system increased 14.3% in 2001, the highest one-year percentage increase since 1986, according to a new tort cost study by Tillinghast-Towers Perrin.

Including insured and self-insured costs, the U.S. tort system cost \$205.4 billion in 2001, according to Tillinghast, or \$721 per U.S. citizen.

After a decade of relatively modest tort cost increases, the 2001 increase is more in line with the double-digit annual increases of the 1950s, 1970s and 1980s, the study's authors note. "What tends not to be known by most of my colleagues was that the '90s was a dormant time for tort cost increases," said Russ Sutter, a Tillinghast principal

and the survey's leader.

Mr. Sutter said the three primary drivers for the overall 2001 increase were an increased assessment of liabilities associated with asbestos claims; an increase in the number and size of shareholder lawsuits against company directors and officers; and an increase in medical costs, leading to costlier personal injury claims.

"With all three things happening at the same time, it led to a pretty big increase," he said.

The increase in D&O costs is a reflection of poor stock performance in 2001 and will likely continue to be reflected in 2002 and 2003 figures, Mr. Sutter said. "In this study, we predict costs continuing to grow for the next two or three years, and

part of that is due to the D&O problem," he said. "Perhaps D&O was more under control in the 1990s because the stock market was doing well."

The Tillinghast study is based on A.M. Best Co. data of insured costs, Tillinghast internal studies of medical malpractice costs and analysis of self-insured costs based on other studies of the alternative markets and the views of Tillinghast alternative market experts, Mr. Sutter said. The overall tort costs figure is approximately 70% insured costs, 10% medical malpractice costs and 20% self-insured costs, he said.

The report, "U.S. Tort Costs: 2002 Update," is available at www.tillinghast.com.

Professional Liability Underwriting Society's D&O Symposium

Insurers to share D&O yoke

By **GAVIN SOUTER**

NEW YORK—Insurers are seeking to curb the scope of directors and officers liability coverage as they face mounting losses in that line, a panel of D&O insurers said.

One option insurers are considering is increasing coinsurance provisions, which, they say, might restrain policyholders from quickly agreeing to settle disputes for amounts that otherwise would largely be covered by insurance.

Insurers say, though, that they are also sensitive to the heightened concerns of independent directors, as lawmakers and regulators put a greater emphasis on corporate governance. Consequently, they are seeking to offer coverage that will allay those concerns but, at the same time, reduce their own exposure.

Given the huge losses that D&O

insurers have faced over the past several years, D&O insurance coverage must be amended, said Tony Galban, vp/D&O underwriting manager at Chubb Specialty Insurance in Simsbury, Conn.

But "until insureds participate in the financial consequences of settlements, it's all talk," Mr. Galban said, speaking at the Professional Liability Underwriting Society's D&O Symposium, held in New York earlier this month.

Insurers have been keen to include significant coinsurance provisions in D&O policies, but, so far, few policyholders have been severely pressed to accept coinsurance, noted Stephen J. Weiss, a partner at the Washington-based law firm of Holland & Knight L.L.P.

"There's been more talk about participation than action," Mr. Weiss said.

In many cases, D&O policyhold-

ers are, in practice, participating in the risk with or without a coinsurance clause, said Carol Zacharias, executive vp and general counsel at CNA Global Specialty Lines in New York.

"Today, these losses are so big that, no matter what, the company is going to have to pay some money," Ms. Zacharias said.

While Mr. Galban agreed that coinsurance provisions would not be likely to affect the disposition of large claims, he said that many smaller claims might be reduced by coinsurance.

"Apocalyptic claims are not going to be changed by coinsurance, but a lot of claims are settled within limits," he said.

And policyholders may prefer to settle even large suits within insured limits rather than face potentially devastating losses at trial, Mr.

See **D&O/page 26**

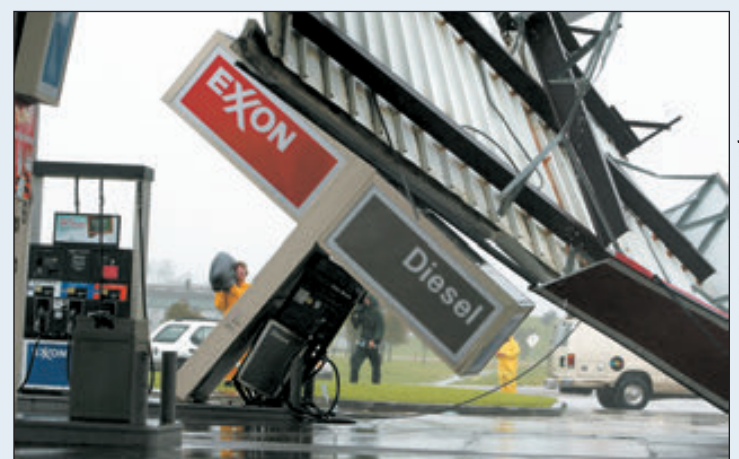


PHOTO: JOE RAEDLE/GETTY IMAGES

Tropical Storm Lili, which hit Texas and Louisiana, was among the catastrophes that caused large insured losses in 2002.

Insurers' 2002 cat tab to total \$5.8 billion

By **MARK A. HOFMANN**

Insured property damage from catastrophes last year will total about \$5.8 billion, according to preliminary estimates issued last week by the Insurance Services Office Inc.'s Property Claim Services unit.

That makes 2002's total the lowest in the last 10 years, although ISO cautions that the final figure could change, because PCS is resurveying its estimates for several catastrophes. According to PCS, 25 catastrophes—which PCS defines as events that cause at least \$25 million in insured property damage and that affect a significant number of insurers and policyholders—occurred last year, generating about 1.8 million claims. In contrast, the average annual

number of catastrophes over the past 10 years is 32, generating \$11.5 billion in total insured property damage.

According to PCS, 40 states suffered catastrophes last year. Among them, Kentucky had the highest insured property loss, at \$885 million; followed by Texas, \$630 million; and Louisiana, \$555 million.

PCS also released loss figures for the fourth quarter of 2002, during which catastrophe-related insured property damage reached an estimated \$1.7 billion, the second-highest loss for any fourth quarter in a decade.

Last year's relatively low loss total follows 2001's record \$28.1 billion in insured property damage, a figure that reflects losses stemming from the Sept. 11 terrorist attacks.

2003 Employee Healthcare Conference

Cost shifting alone won't halt rising expenses, execs say

By **MICHAEL PRINCE**

NEW YORK—Cost-shifting is only a temporary solution to rising health care costs, two benefits executives say.

The executives acknowledge that requiring employees to pay a larger share of their health care costs, as many employers are now doing, does succeed in the short term in keeping employers' costs under control. But a fundamental change in employees' health care mindset is needed to hold down costs in the long term, they say.

"I think we're short-sighted if we're thinking of only cost-shifting," said Jack Mollen, senior vp of human resources at EMC Corp. in Hopkinton, Mass.

"Cost-shifting is a short-term solution," Mr. Mollen told attendees at the 2003 Employee Healthcare Conference in New York this month, sponsored by The Conference Board and Towers Perrin. "But we can never solve the 15% compounded (health care cost) growth problem without focusing on the long term."

The principal long-term concern for employers is how best to fund health care benefits while making employees better consumers of health care services, Mr. Mollen said.

Long-term cost control needed page 25

Part of a successful long-term approach involves instilling a consumer mentality among employees, the speakers said. Such an approach involves making employees more aware of the true costs of their health care and, as a result, helping them become better-informed consumers of health care services.

To that end, Raytheon Co. added a consumer-driven health plan this year provided by Definity Health, said Keith Peden, senior vp of human resources at Raytheon in Lexington, Mass.

So far, 3,000 employees have signed up for the health plan, he said. The high-deductible plan features employer-funded health care spending accounts.

See **COST SHIFTING/page 25**

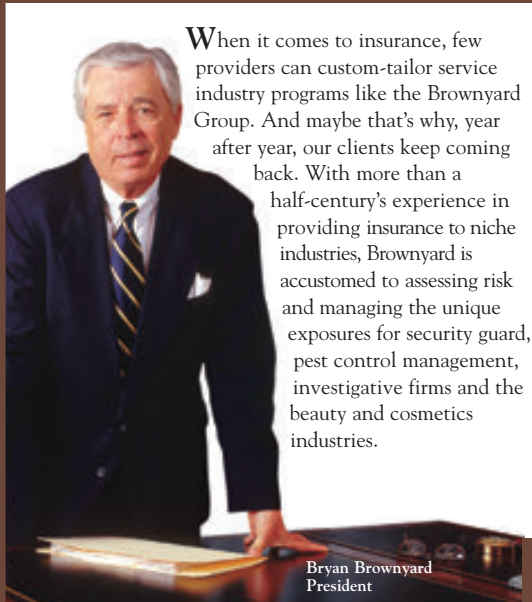
Errors & omissions

• A Feb. 10 story on insurance coverage for journalists assigned to report on wars and other dangerous situations incorrectly stated that war risk exclusions have been added to accidental death and dismemberment policies since Sept. 11, 2001. AD&D policies have long had such exclusions, but the cost of this coverage has skyrocketed since

the Sept. 11 terrorist attacks.

• Due to an editing error, some revenue figures appeared incorrectly in Feb. 3 charts ranking third-party administrators on 2002 revenues from self-insured clients. In the chart on property/casualty TPAs, AIG Claims Services Inc. had \$60,500,000 in revenues. In the chart on benefits TPAs, CBICA Inc.'s revenues were \$55,000,000.

"It's not that our competitors won't do what we do.
It's just that they can't."



When it comes to insurance, few providers can custom-tailor service industry programs like the Brownyard Group. And maybe that's why, year after year, our clients keep coming back. With more than a half-century's experience in providing insurance to niche industries, Brownyard is accustomed to assessing risk and managing the unique exposures for security guard, pest control management, investigative firms and the beauty and cosmetics industries.

And with Brownyard Claims Management, Inc. (BCM) on the premises, we're able to expedite claims and respond to client needs quickly and efficiently. For all of these reasons and more, the Brownyard Group may provide your clients with the insurance coverage they need.

But don't take our word for it. Ask any one of thousands of service organizations we insure across the country.

For More Information,
Call (800) 645-5820

Brownguard®
Security Guard
Insurance Program

**BROWNYARD
PCOpro™**
Pest Control
Insurance Program

PI PROTECT™
Private Investigators
& Security Consultants

**HAIRdressers
Agency**
Beauty and Cosmetics
Insurance Program

BROWNYARD GROUP, INC.

21 Maple Avenue, Box CN9175, Bay Shore, NY 11706-9175
Phone: (631) 666-5050 • Fax: (631) 666-5723
www.brownyard.com

Pioneers in the past. Innovators for the future.™

Paul Winston Pet-loss lawsuits a dog-gone shame

In what may be a first—but, one hopes, also a last—legislation introduced in Colorado would change the legal status of pet dogs and cats, making them “companions” instead of property.

The change proposed in a Republican-sponsored bill, H.B. 1260, would allow pet owners to pursue noneconomic damages for loss of companionship caused by negligent health care or animal cruelty. In other words, when someone's pet dies, he or she could rush to court to sue a veterinarian or someone else allegedly to blame for the pet's demise.

Now, I like pets as much as the next person. Perhaps even more than most, considering that I have three cats, perpetually entertain the idea of getting a dog, breed dust bunnies under my refrigerator and impersonate a groundhog once a year.

But I think this proposal is stupid—and ultimately could be harmful to pets and their owners.

Under the legislation, people who lose a pet dog or cat (sorry, fish, bird and reptile owners) could seek up to \$100,000 for the loss of companionship from veterinarians or animal abusers. This is in addition to compensatory damages for the “fair market value” of a pet, which could be sizable in the case of, for example, a champion dog. The legislation would require claims to be submitted to alternative dispute resolution, but if a pet owner were unhappy with the outcome, he or she could take the case to court.

The legislation takes advantage of our affection for our pets—counting on the fact that most people consider their pets beloved companions rather than mere property—to enlist public support and create yet another revenue stream for attorneys. I fully expect that anyone who dares criticize this bill will be equated with folks who kick cats and drown puppies and such.

But loving our pets and using them as an excuse to sue are two very different things.

According to the Denver Post, the primary driver of this legislation is a retired financial planner whose 11-year old poodle, Moolah, was put down after becoming ill following her annual rabies shot. The dog's owner believes the vaccination was unnecessary (even though it is required by law) and is frustrated that, under current law, he cannot sue his vet for Moolah's loss.

Everybody has lost a pet to accident, illness or old age. It's a

sad fact of living with pets. One reason is that humans live longer—much longer—than do typical pets. Another reason is that, as skilled as vets are, veterinary medicine is not as advanced as human medicine.

That shouldn't come as a surprise when you consider that vets can't communicate with the species they are treating to better understand what ails them. Consider, too, that veterinarians have to know how to care for multiple species of animals vs. one species for people doctors. Add to that the fact that few pets get health care as regularly as their owners. And, finally, consider that there is not as much money devoted to researching veterinary

ailments as human disease. Taken together, holding veterinarians to the same standards of malpractice as physicians seems foolish and unfair.

If a pet were to die due to animal cruelty, that's a crime for which penalties already exist. Toughen those penalties if needed—apply them to veterinarians if

warranted—but don't create a new malpractice liability.

I happen to know a few vets. They all chose their career path for one reason: They love animals. They certainly did not get into the profession because they thought they'd get rich. Those who operate as independent vets find that running an office consumes most of their income and time.

In addition to hard work and low financial rewards, they have to deal with ignorant, negligent and abusive animal owners. They routinely encounter the fact that some people, no matter how much they love their pets, will ignore recommended care for sick animals if it costs too much—even if it means having to euthanize the pets.

But if veterinarians suddenly faced a greatly expanded liability exposure, many could not afford to continue. They would be bled to death by frivolous lawsuits and the cost of defensive medicine and have their pockets emptied by the high cost of liability insurance. All because someone lost a pet and thinks that suing the pants off the vet will bring them some moolah for their pain and suffering.

If this legislation is unleashed on Colorado, expect vets to abandon the state in droves. Where will that leave our beloved companions?

Paul Winston can be reached at pwinston@crain.com.

No limits.



**iVOS, browser-based software – driving your
claims management systems to greater heights.**

iVOS claims management software from Valley Oak Systems combines an unequalled range of features with unsurpassed strength, flexibility and ease of administration.

Built on solid, scalable Java architecture, iVOS can be installed on your network or hosted on ours. Whichever you choose, the full power of iVOS will be right at your fingertips, making you and your team more effective and productive.

Advanced business rules automation means iVOS works the way you work. With a simple, intuitive user interface, streamlining your work flow and claims management process is efficient and quick.

The bottom line—iVOS provides immediate access to the information you need for controlling costs, anytime from anywhere.



Powering claims management
Valley Oak Systems
www.valleyoak.com
925-552-1650

Set your sights high. Contact Valley Oak Systems for a demonstration of the power and flexibility of iVOS.

Business Insurance

Vice President/Publisher: Martin J. Ross III
(New York)

Editor: Paul D. Winston (Chicago)

Editor-at-Large: Jerry Geisel (Washington)

Managing Editor: Regis J. Coccia (Chicago)

Assistant Managing Editor - Graphics: Kathy L. Barnes (Chicago)

Assistant Managing Editor - News: Gavin Souter
(New York)

Senior Editors: Michael Bradford (New Orleans);
Meg Fletcher, A.R.M. (Chicago); Judy Greenwald
(San Jose); Mark A. Hofmann (Washington); Dave
Lenckus (Tucson); Douglas McLeod (New York);
Sally Roberts (Denver); Joanne Wojcik (Denver);
Rodd Zolkos (Chicago)

Bureau Chiefs: Roberto Cenicerros (Los Angeles)
Sarah Veysey (London)

Associate Editor: Michael Prince (New York)

Correspondents: Carolyn Aldred (England) and
Gerard O'Dwyer (Finland)

Copy Desk Chief: Matt Scroggins (Chicago)

Copy Editors: Mary B. Nick (Chicago), Joe Walker
(Chicago)

Directory Editor: Kevin P. Edison (Chicago)

Assistant Directory Editor: Carrie A. Brittain
(Chicago)

Assistant Graphics/Online Editor:

Amy R. Kepka (Overland Park)

Executive Assistant / Reprint Manager:

Karen Brown Tucker (Chicago)

Editorial Cartoonist: Roger Schillerstrom

(Chicago)

Advertising Director: Kenneth F. Luker Jr.
(New York)

Director - Business Development: Robert L.
Niesse (Chicago)

District Managers: Chris Crain (New York); Lori
Lieberman (Los Angeles); Ron Kolgraf (Boston);
William J. McGuire (Chicago); Robert B. Murray
(New York); John L. Phillips (Chicago)

Classified Advertising Manager: Irais Amlshi
(Chicago)

Assistant to the Publisher: Pat Ghazvini (New
York)

Advertising Traffic: Stephanie Cress (New York)

Production Manager: J. Thomas Janka (Chicago)

Director of Communications: Ronnie I. Drachman
(New York)

Promotion Coordinator: Barbara O'Brien (New
York)

Promotion Manager: Michael Ambrosio (New
York)

EDITORIAL: Chicago: 312-649-5200; Denver:
303-698-7601; London: 207-457-1400;
Los Angeles: 323-370-2455; New Orleans:
504-269-3788; New York: 212-210-0100;
San Jose: 408-774-1500; Tucson: 520-579-1937;
Washington: 202-662-7200

ADVERTISING: Boston: 617-292-4856;
Chicago: 312-649-5276; New York: 212-210-0133;
Los Angeles: 323-370-2456

COMMUNICATIONS: New York: 212-210-0132

SUBSCRIPTIONS: Detroit: 888-446-1422

Business Insurance is published by
Crain Communications Inc.

Chairman: Keith E. Crain

President: Rance Crain

Secretary: Merrilee Crain

Treasurer: Mary Kay Crain

Executive Vice President/Operations:

William A. Morrow

Senior Vice President/Group Publisher:

Gloria Scoby

Group Vice President/Technology, Circulation,

Manufacturing: Robert C. Adams

Corporate Circulation Director: Nina LaFrance

Corporate Director/Production & Manufacturing:

Dave Kamis

G.D. Crain Jr. Founder (1885-1973)

Mrs. G.D. Crain Jr. Chairman (1911-1996)

S.R. Bernstein Chairman-executive committee
(1907-1993)

Published weekly at 360 N. Michigan Ave., Chicago, Ill.
60601-3806. Fax: 312-280-3174, biweb@crain.com.
Offices: 711 Third Ave., New York, N.Y. 10017-5806, Fax:
212-210-0704; 329 Calhoun St., New Orleans, La. 70118,
Fax: 504-269-8115; Suite 814, National Press Building,
Washington, D.C. 20045-1801, Fax: 202-638-3155;
6500 Wilshire Blvd., Suite 2300, Los Angeles, Calif.
90048-4947, Fax: 323-655-8157; 967 Bermuda Court,
Sunnyvale, Calif. 94086-6750, Fax: 408-774-1155;
New Garden House, 78 Hatton Garden, London EC1N
8LD England, Fax: 207-457-1440; 8157 N. Torrey
Place, Tucson, Ariz. 85743, Fax: 520-579-3476; 777 E.
Speer Blvd., Denver, Colo. 80203-4214; Fax: 303-733-
2244; 11133 W. 108th St., Overland Park, Kan. 66210,
Fax: 312-280-3174. 77 Franklin St., Suite 809, Boston,
Mass. 02110-1510; Fax: 212-210-0704 \$4 a copy and
\$97 a year in the U.S., \$130 in Canada and Mexico
(includes GST). All other countries, \$230 a year
(includes expedited air delivery). Craig Bowman,
circulation coordinator. Four weeks' notice required
for change of address. Send subscription
correspondence to Circulation Department, *Business
Insurance*, 1155 Gratiot Ave., Detroit, Mich. 48207-
2912, Phone: 888-446-1422 or 313-446-0450, Fax: 313-
446-6777. Microfilm copies available: University
Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103.
Microfiche copies: Bell & Howell, Micro Photo Division,
Old Mansfield Road, Wooster, Ohio 44691. Portions of
the editorial content of this issue are available for
reprint or reproduction in other media. For reprints or
reprint permission: Karen Brown Tucker, *Business
Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-
3806, 312-649-5319, Fax: 312-280-3174.

To subscribe, call 888-446-1422,

or 313-446-0450

outside the United States.

www.businessinsurance.com

Editorial

Account proposals are a mixed bag

IN ASSESSING the Bush administration's retirement savings plan proposals—contained in its proposed federal budget for the next fiscal year—we think the administration got it only partly right.

On the plus side, we strongly endorse the administration's recommendation to consolidate and simplify the three major savings plans now in use—401(k), 403(b) and 457, which are offered, respectively, by private employers, nonprofit entities and state and local governments—into one new plan to be called Employer Retirement Savings Accounts.

The logic of why there should be varied plans, with varied rules, for the various types of employers has

long escaped us and many benefit experts.

While the logic may be missing, we do know that having three different plans leads to needless administrative costs and complexity. Benefit administration firms, for example, must be trained to learn the rules governing each plan type, which to us seems wasteful.

We also endorse the new nondiscrimination testing rules the administration is proposing for ESRAs.

These rules, compared with those that now apply for 401(k) plans, would make it much easier for more employers to meet nondiscrimination requirements.

That, in turn, would enable more higher-paid employees to con-

tribute the legal maximum—now \$12,000 a year—to the savings plans, which is only fair.

Even with liberalization, we think the testing rules will be sufficiently rigorous to ensure that employers would continue their efforts to encourage rank-and-file employees to contribute to the plans.

We do oppose, though, the administration's proposed lifetime savings accounts. Under the LSA proposal, anyone could contribute up to \$7,500 per year to the accounts. Funds could be withdrawn any time for any reason, and accumulated earnings would not be taxed.

One has to ask what the administration's objective is in proposing

the accounts?

Surely, given the lack of penalties on withdrawals, it can't be promoting long-term savings. We think that all that would happen is that individuals would shift funds from non-tax-favored accounts, such as money market funds, to the LSAs.

We don't see what that would accomplish other than increasing the already rapidly growing federal deficit. Tax revenues need to be used wisely, and LSAs would hardly be an intelligent use of those revenues.

We hope the administration and Congress will let the LSA concept languish, devoting more time to making ESRAs a reality for employers and their employees.

To aid med mal reform, physicians, heal thyself

ACCORDING TO WHO'S DOING the talking on Capitol Hill about the current medical malpractice insurance crisis, listeners can come away with the distinct impression that the situation is caused by either: (A) greedy and unscrupulous trial lawyers or (B) greedy and incompetent insurance companies.

While this makes for good politics—and probably doesn't hurt campaign fund-raising—we think such finger-pointing ignores a critical factor in medical malpractice claims: there are doctors out there who shouldn't be practicing medicine.

After all, some trial lawyer didn't

just pull the idea of medical malpractice lawsuits out of thin air as a way to greatly enhance his legal practice.

And insurers weren't, as some of their critics charge, sitting around colluding one day before coming up with the brilliant notion that they could make a lot of money by convincing doctors they needed a coverage for which they'd pay lots of money.

Lawyers and insurance companies got involved because there are physicians who do real harm to their patients.

Everyone has heard of the well-documented cases of wrong limbs being amputated and noncancer-

ous organs being removed because of mishandled records. Such tragedies cannot be dismissed as mere human error.

While we agree that the medical malpractice liability system is seriously out of balance and demands reform, reforming that system can't stop with the imposition of damage caps.

The medical profession itself has to step up efforts to sanction—and, in some cases, remove outright—any members who aren't living up to the standards of the profession.

For the profession to fail to police itself more vigorously would truly amount to malpractice of the highest order.

Schillerstrom



"...AND I THOUGHT ALL THAT TALK ABOUT NEEDING DUCT TAPE AND PLASTIC WRAP WAS JUST IDLE CHATTER!!!"

Business Insurance welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters. Please send your letters to: Letters to the Editor, *Business Insurance*, 360 N. Michigan Ave., Chicago, Ill. 60601-3806; fax: 312-280-3174; e-mail: pwinston@crain.com.

Letters to the Editor

Horror stories show need for accounting scrutiny

To the editor: I agree that rates and premiums are continuing to increase, and eventually the property/casualty industry will be called on the carpet in Washington—fittingly and rightfully so.

Business Insurance should run an ongoing column of horror stories of insurance buyers renewing P/C insurance.

One of my clients is a midsize to large fire sprinkler contractor in Rockland County, N.Y. The client's general liability premium for 2002 was \$143,000, based on field payroll of \$2.2 million; the only viable general liability offer came in at \$380,000, based on \$11 million in revenues. The \$143,000 probably reflects about the same amount of annual revenue.

Only one other quote came in, but it excluded "residential" work, and the client could not accept that.

In 2002, the client paid \$120,000 for a \$10 million umbrella liability policy. For 2003, a \$9 million umbrella limit had to be bought for \$220,000 with a nonadmitted New York insurer.

The general liability insurer insisted on writing the client's workers compensation insurance, which meant leaving a discounted self-insured trust with the potential of paying dividends, which may ultimately cost the client additional thousands of premium dollars. The balance of the account—property, automobile, inland marine—was not noticeably increased.

This account was put out for bids with three brokers in September 2002. The client received only one viable quote at the premiums cited above, and, of course, it was received Dec. 30.

In my almost 40 years in the P/C business, I've never experienced the absurdity of this current market.

See **LETTERS** /page 19

ENTERPRISE RISK MANAGEMENT

Spotlight Editor: Rodd Zolkos

Measuring risk's scope a tough job

Without standards, approaches vary

By JUDY GREENWALD

One of the most critical tasks in enterprise risk management is measuring risk, yet it can also be one of the most daunting.

Risk measurement is "absolutely paramount right now, and, going forward, I think it'll become even more important that measurement, and the tools available to measure risk, continue to develop to help corporations and insurance carriers" meet or surpass their objectives, said Bruce Zaccanti, Chicago-based national practice director for Ernst & Young L.L.P.'s insurance advisory and risk consulting services group.

In undertaking such a task, the risk manager must not only narrow down the list of risks to be measured but also decide how they should be gauged.

Depending on the type of risk involved, that task can be very simple or very complex.

There is no one established standard for measuring risk, say observers.

Determining, for example, the impact of various interest rate drops on a bond portfolio is significantly less complex than is evaluating the impact of a rival company's introduc-

tion of a competing product.

Complicating the issue further is that there is no one established standard for measuring risk, say observers.

Some believe such a standard is needed. Peter Teuton, president of Baltimore-based SAFE Risk Management Systems L.L.C., a risk management services provider, said, "There is no common standard in the marketplace, and yet the marketplace is consistently and proactively looking for a common standard by which to measure risk itself and the relative importance of risk to an organization."

Developing such a standard is a long-range goal, "but I do not see it any time soon, for the very simple reason is there is no common standard for risk management information systems," said Mr. Teuton. "There are several hundred systems in the marketplace, none of which operates to a common standard. There is no Microsoft in RMIS," he said.

Mr. Zaccanti said: "Some clients keep data on a variety of different hardware and software platforms. They use different RMIS that are written in different types of language, and there are a variety of different actuarial and insurance company and brokerage RMIS systems that don't easily allow for the transportability of data," he said.

See MEASURE/page 16



Economy, hard market slow growth of ERM

But governance push provides new impetus

By RODD ZOLKOS

A tough economy, the challenges of a hard insurance market and other factors may be slowing the implementation of enterprise risk management efforts, but a move toward broadening the scope of risk management continues.

In fact, increased corporate governance pressures created by laws such as last year's Sarbanes-Oxley Act and new expectations of shareholders are driving increased attention to enterprise risk management approaches.

"In general, enterprise risk management seems to be continuing its slow-but-steady march," said Jerry A. Miccolis, principal at Tillinghast-Towers Perrin in Parsippany, N.J. "The recent corporate governance pressures from the various corporate scandals, the Sarbanes-Oxley Act and so forth have sort of hastened the development of that."

"One of the consequences of that is that companies have gotten more serious about their internal risk management practices," Mr. Miccolis said.

"My sort of straw-poll sense of what's developing right now is that most companies—both (because of) the combination of the financial constraints that they're under and

some of the problems they're having with their traditional risk management—have probably calmed the move to expanding risk management," said Robert E. Hoyt, professor of risk management and insurance in the Terry College of Business at the University of Georgia in Athens. "However, I do still think there's an interest there."

Faced with the demands of the hard insurance market, risk managers and brokers currently are consumed with a day-to-day process that now takes more time than it did a few years ago. "Ask any broker or risk manager or underwriter about the amount of time they spend now on submissions vs. 18 months ago," Mr. Hoyt said.

And pressure on staff and financial resources in the current economic situation also seems to be slowing the development of ERM programs, the University of Georgia professor said.

"There is still an openness and interest in broadening the focus of risk management," he said. "But it's certainly not a time when companies can staff up."

"When you're in a siege mentality, it's hard to devote energy to strategic initiatives," Mr. Hoyt said. But, he added, "I still believe the

See ENTERPRISE/page 14

Banks move to broaden risk efforts

New accord prompts centralized approach

By DOUGLAS McLEOD

An upcoming international banking accord is pushing large banks to tackle operational risks ranging from rogue trading to terrorism in a new way: as part of their expanding enterprise risk management programs.

While banks have long taken a decentralized approach to operational risk management, the new Basel Capital Accord, developed by the Switzerland-based Basel Committee on Banking Supervision, will require banks as of 2006 to allocate capital to cover operational risk in addition to established charges for such exposures as credit and market risk.

In response, large banks have launched extensive efforts to collect operational risk data formerly scattered across various business

'Basel II is providing a great way for us to do what we do anyway, and that is to find new ways to manage operational risk....The industry has been coming to this point, and the movement is accelerating because of Basel II coming on.'

Robert Jones
FleetBoston
Financial Corp.

units, analyze the data and develop centralized operational risk strategies within their enterprise risk management programs, bank risk management sources say.

The American Bankers Assn. in December created an Operating Risk Committee that will, among other things, collect confidential operational

loss data from participating banks so that the institutions can compare their own experience with their peers' and share loss prevention and control ideas.

Along with getting a better handle on their losses and developing better risk management practices, the banks are aiming to minimize the capital charge they will incur for operational risks when the new accord, known as Basel II, takes effect.

"Centralized management of operational risk—that is the unique result of Basel II," observed Jane Yao, managing director of surveys and statistics for the ABA in Washington. Banks "will be able to reduce capital allocations if (they) have a better measurement of

See BANKS/page 18

LARGEST BY CLIENTS

Ranked by unbundled risk management consulting clients in 2002 ¹

Company	Unbundled clients
PricewaterhouseCoopers L.L.P.	2,600
Deloitte & Touche L.L.P.	1,000
Ernst & Young L.L.P.	975
Tillinghast-Towers Perrin	900
J.H. Albert International Insurance Advisors Inc.	600
RMI Consulting Inc.	450
Advanced Risk Management Techniques/ARM Tech	350
McNeary Insurance Consulting Inc.	350
Insurance Consulting Associates	300
T.E. Brennan Co.	266 ²

¹ Companies deriving 50% or more of revenues from actuarial, captive, environmental, property loss or safety consulting were not ranked. ² Estimated.

Source: BI survey

LARGEST BY PROFESSIONAL STAFF

Ranked by number of professional staff assigned to risk management consulting in 2002 ¹

Company	Professional staff
Marsh's Risk Consulting Practice	1,050
Deloitte & Touche L.L.P.	500
PricewaterhouseCoopers L.L.P.	400
Ernst & Young L.L.P.	149
Tillinghast-Towers Perrin	56
J.H. Albert International Insurance Advisors Inc.	33
Bickmore Risk Services	32
Insurance Consulting Associates	32
The Hastings Management Group	31
Meadowbrook Inc.	27

¹ Companies deriving 50% or more of revenues from actuarial, captive, environmental, property loss or safety consulting were not ranked.

Source: BI survey

LARGEST OVERALL RISK FIRMS

Ranking of both independent and non-independent risk consultants

Company	2002 unbundled revenues from risk management consulting ¹
Marsh's Risk Consulting Practice	\$190,000,000
Deloitte & Touche L.L.P.	\$86,400,000
PricewaterhouseCoopers L.L.P.	\$79,170,000 ²
Ernst & Young L.L.P.	\$40,200,000
Tillinghast-Towers Perrin	\$34,000,000
RMI Consulting Inc.	\$8,900,000
J.H. Albert International Insurance Advisors Inc.	\$7,500,000
Health Insurance Specialists Inc.	\$6,375,000
Bickmore Risk Services	\$5,480,000
Dempsey, Myers & Co. L.L.P.	\$5,000,000
Meadowbrook Inc.	\$5,000,000

¹ Companies deriving 50% or more of revenues from actuarial, captive, environmental, property loss or safety consulting were not ranked.

² Fiscal year ending 6/30/2002.

Source: BI survey

Largest independent U.S. risk management consultants

Companies deriving a majority of their gross revenues from unbundled risk management consulting ¹

Rank	Company/Address	Telephone/Fax/Web site	2002 unbundled revenue from risk management consulting	Unbundled clients	Professional staff	Principal officer
1	RMI Consulting Inc. 16 S. Maryland Ave. Port Washington, N.Y. 11050	516-767-7373 Fax: 516-767-7486 www.rmiconsulting.com	\$8,900,000	450	18	MaryAnn Sackman, president
2	J.H. Albert International Insurance Advisors Inc. 72 River Park Needham Heights, Mass. 02494-2631	781-449-2866 Fax: 781-449-5340 www.albertrisk.com	\$7,500,000	600	33	Alfred H. Nagelberg, Stuart T. Cowart, presidents
3	Bickmore Risk Services 1020 19th St., Suite 200 Sacramento, Calif. 95816	800-541-4591 Fax: 916-491-1436 www.bickmoreriskservices.com	\$5,480,000	110 ²	32	Linzie E. Kramer, president/litigation manager
4	Dempsey, Myers & Co. L.L.P. 426 Danbury Road Wilton, Conn. 06897	203-762-5052 Fax: 203-762-9826 www.dempseymyers.com	\$5,000,000	117	24	John D. Dempsey, managing partner
5	Taylor Risk Consulting 16415 Addison Road, Suite 800 Addison, Texas 75001-3267	972-447-2055 Fax: 972-248-1729 www.taylorrisk.com	\$4,000,000	85	22	Michael Peachey, managing director
6	McNeary Insurance Consulting Inc. 6525 Morrison Blvd., Suite 200 Charlotte, N.C. 28209	704-365-4150 Fax: 704-365-4155 www.mcneary.com	\$3,663,000	350	23	William D. Yaeger, president
7	Alpha Risk Management Inc. 60 Cutter Mill Road Great Neck, N.Y. 11021	516-829-3500 Fax: 516-829-6029 www.alphariskmanagement.com	\$3,300,000	66	16	Herbert H. Feldman, president/CEO
8	Robert Hughes Associates Inc. 508 Twilight Trail, Suite 200 Richardson, Texas 75080	972-980-0088 Fax: 972-233-1548 www.roberthughes.com	\$2,591,506	239	16	Robert N. Hughes, president
9	Kevin F. Donoghue & Associates 200 Lincoln St. Boston, Mass. 02111	617-482-7015 Fax: 617-556-4030 www.kfda.com	\$2,150,000	190	13	Kevin F. Donoghue, president
10	Insurance Buyers Council Inc. & First Risk Management/IBC Inc. 9720 Greenside Drive, Suite 1E Cockeysville, Md. 21030	410-666-0500 Fax: 410-666-6177 www.consultibc.com	\$1,868,708	135	10	Adam P. Sielicki Jr., president/treasurer

¹ *Business Insurance* defines independent consulting operations as those that are not owned by insurers or brokers. In addition, companies deriving 50% or more of their revenues from actuarial, captive, environmental, property loss or safety consulting were not ranked. ² Estimated.

Source: BI survey

The full Directory of Risk Management Consultants is available online in the directories area of www.businessinsurance.com. The searchable directory allows users to locate consultants by company name, state and number of unbundled clients, among other criteria. PDF copies of the directory can be purchased from the Crain Information Center by calling 312-649-5476.

Enterprise: Interest in approach growing, but slowly

Continued from page 10
drivers are still strong."

Bruce Zaccanti, national practice director-insurance advisory and risk consulting services at Ernst & Young L.L.P. in Chicago, said that the hard insurance market may actually be contributing to companies taking a broader approach to evaluating risk.

"Corporations are, as a result of the hard market and the down financial market, re-evaluating what their risk tolerance is," as they look to view risk across the organization in a more-strategic fashion. Mr. Zaccanti said.

"The hard insurance market is creating more focus, with the rise in the cost and the rise in the risk retention of a lot of corporations," he said. As a result, companies are formalizing methods to establish how much risk they can take and to determine, "All right, if we go to the insurance markets, what are the price breaks and what is the relief we can get from the underwriter?"

Meanwhile, some risk managers who have been trying for years to put an end to the "silo" approach to addressing risk in their companies are finding that "Sarbanes-Oxley has become their best friend,"

Mr. Zaccanti said.

New approaches

One way companies are moving to eliminate the silo approach—in which a company's various risks are managed independently of one another—is by creating risk management steering committees, Mr. Zaccanti said. Such committees usually include the risk manager, the chief financial officer, perhaps a representative of the company's insurance broker and others, he said.

"We want to create a system to touch everyone, from the loading

dock to the boardroom," Mr. Zaccanti said, adding that such committees allow companies to introduce an enterprisewide approach without creating another layer of management.

Mr. Miccolis noted that such committees could have another benefit, in that they can act as a sort of "virtual staff" to the enterprise risk management effort. That is particularly beneficial, he said, because many risk management departments have small staffs, and economic pressures have made it difficult to add personnel.

"Even for companies with (chief

risk officers), it's quite usual to find an ERM committee as well, because, by and large, the CRO has a pretty small staff," Mr. Miccolis said.

Steps such as the formation of risk management steering committees speak to a point many ERM experts stress—that enterprise risk management is a process rather than a product.

"Frankly, there's no subset 'ERM'; it's just risk management," said Michael J. McAndless, director of risk management at Agricore United in Winnipeg, Manitoba. "The way we see it here in our company, we're just applying risk management principles that have been around for a long time."

"We're just using these risk management principles to consolidate, coordinate and make them consistent to all areas of the business," Mr. McAndless said. "It's just a more-general use of the risk management process in meeting governance requirements and other business requirements."

'It's important that companies that are really making progress are those that approach enterprise risk management not as a product but a process.'

Marcia DeWitt
GuilfordPare

Mr. McAndless recently placed grain volume coverage, insuring a major exposure his company first moved to address in the late 1990s as a key development of its enterprise risk management program. He conceded that the current insurance market makes the ERM task more difficult.

"It's not as easy a marketplace as it was in the late '90s," he said. "In the hard market, why should underwriters have to think about different things when they're doing extremely well and are extremely busy doing traditional things?" he said.

"But there are still people willing to talk about integrated programs," Mr. McAndless said. And, he noted, enterprise risk management is "not a marketing effort. It comes from organizations that have done some research and analysis and decided that they want to do some things."

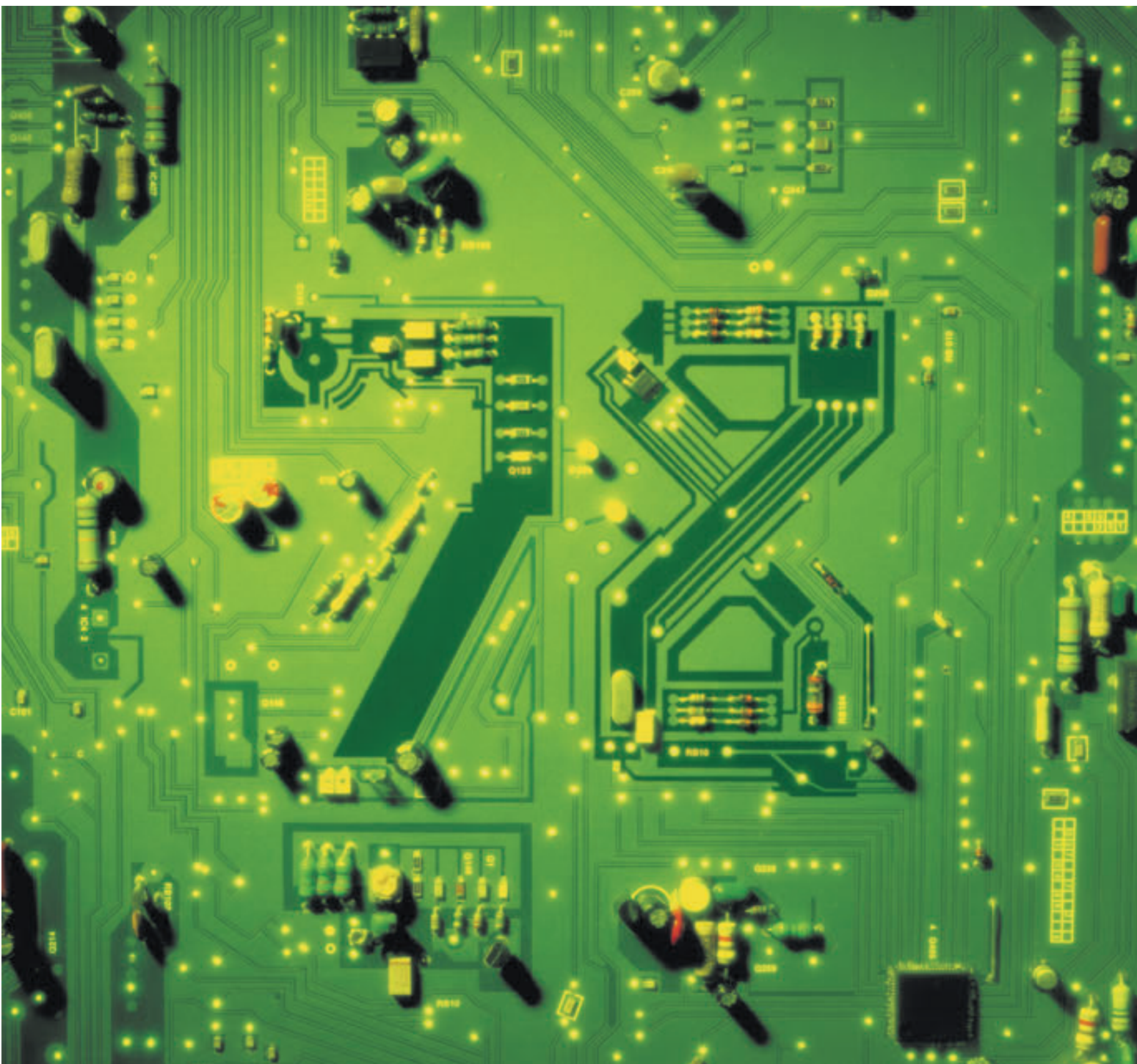
'A management issue'

Marcia DeWitt, president and chief executive officer of consultant GuilfordPare in Baltimore, offered a similar view. She said that while some companies took advantage of soft market opportunities in the late 1990s to start addressing some enterprise risks, "it's important that companies that are really making progress are those that approach enterprise risk management not as a product but a process."

"It's really a management issue," Ms. DeWitt said. "I think that Sarbanes-Oxley has really made com-

See ENTERPRISE/page 16

Why do **78%*** of **global electronics** companies choose Lloyd's?



Creativity. Covering airlines to pipelines.
Only at Lloyd's.

LLOYD'S
www.lloyds.com

*Source: Fortune Global 500, Xchanging Ins-sure Services, December 2002.

INSURER TOPICS

A MONTHLY EDITORIAL SECTION SENT EXCLUSIVELY TO INSURERS AND REINSURERS

Alternative market strategies



More buyers considering captive use

By MICHAEL BRADFORD

Brokers that provide access to captives or help clients form such vehicles are finding that the hard market is doubly good for business.

In a marketplace where commercial insurance coverage is more expensive and scarce, insurance buyers are looking for ways to reduce their risk financing costs. And the popularity of captives and other alternative market strategies often grows under such market conditions.

"The demand is large," said Thomas Golub, president and chief executive officer of Hobbs Group L.L.C. in Atlanta. "We don't see it moderating," he noted. "It seems to be consistent."

In fact, Mr. Golub noted, "the demand we are seeing is a little broader than just captive services" and includes other alternative funding mechanisms.

Many buyers have raised deductibles and retentions so high that they "want to explore the financing of those," he said. And a captive is a mechanism that can provide such financing.

"We've seen increases in both the formation and utilization of captives," said Lisa Wall, senior vp-account executive with Lockton Cos. Inc. in Kansas City, Mo. "It seems that anyone who has a captive is looking for additional ways to use it."

A lot of risk managers looked at captives in the past but decided they didn't make sense based on their business needs and the marketplace conditions at the time, said Mark Moreland, senior vp at Lockton. "They want to validate now whether it does," he said.

Mike Chapman, executive vp with broker Hub International Ltd. in Wilmington, Mass., said the hard market has prompted more middle-market accounts to consider captives and other alternatives. "We see a lot more buyers becoming more sophisticated," he said.

Many of those clients are being advised by their accountants, attorneys or other service providers to look into alternatives, Mr. Chapman said. "They are being told to do this as a way to smooth out costs."

Hub is seeing strong interest in segregated-cell and group captives, according to Mr. Chapman. He said "tougher products" and transportation risks are among those that policyholders want to insure in such companies. Hub offers coverage written by segregated-cell companies in Bermuda and Cayman.

Mr. Golub said Hobbs Group clients are interested in a range of vehicles, with the

See CAPTIVES/page 14D

A dedicated few offer captive expertise

Decreasing number of insurers provides varied services

By RODD ZOLKOS

Though many insurers aren't tapping the dramatic increase in captive insurance activity for business opportunities, a few are moving aggressively in that direction.

For those that are involved in captive business, the roles they play can take a variety of forms, including policy issuance, excess insurance and reinsurance, claims handling, asset management, loss prevention services and captive management.

But despite the growth of the captive insurance market as the traditional market has hardened, the number of insurers in the captive arena has become smaller rather than larger, some say, as some companies are responding to the hard market or economic challenges by focusing on their core business.

"It's less players (rather) than more," said Gary Osborne, senior vp at USA Risk Group in Montpelier, Vt. "You're sort of hearing all the nonsense about concentrating on their core business. I think you have people who, at times, had dabbled at (captives) and not done well."

Although The Hartford Financial Services Group had been involved in captive business for several years, the company moved more aggressively in that direction last year.

"We launched last summer an expansion initiative in alternative markets, including captives. So we're bullish on the captive segment," said Gary Berg, head of alternative

markets for the Hartford, Conn.-based insurer.

"We provide service to agent-owned captives; we also provide service to policyholder-owned captives, association captives," he said. "We see it as a real growth sector for the company."

"We had been doing captive business for about three and a half years, principally focused on agent-owned captives," Mr. Berg said. "Given the trend we saw emerging in the market, we decided to make a stronger push and to open up to other types of captives."

The Hartford can provide captives with various services, including acting as an assuming carrier, providing excess insurance and reinsurance and giving access to third-party claims service and asset management. The company also has a Bermuda-domiciled rent-a-captive facility.

The Hartford recently acquired a large piece of Kemper Insurance Cos.' group captives business. Kemper's sale of the business was part of its efforts to focus more attention on standard commercial lines insurance.

"We expect the business relationship to be long-term," Mr. Berg said. "I think history has shown that entities that move into the alternative market tend not to move back into the traditional market, even in the soft part of the pricing cycle."

Liberty Mutual Insurance Co. is another company that has ramped up its captive insurance market activity in the past year, creating a dedicated unit for that purpose.

The unit, based in Bala Cynwyd, Pa., also

has offices in Boston and Bermuda and rent-a-captive facilities in Bermuda.

Liberty previously offered captive expertise to existing clients, but company research showed potential benefits in broadening the reach of those operations and allowing customers access to Liberty captive services through their brokers.

"This is definitely a long-term operation," said Allen G. Barry, president of Liberty Mutual Captive Services. "We saw well over 100 submissions in the last part of last year, and we're off to a great start in 2003."

"What we're really looking to do, and what I think brokers and buyers are looking to do, when you go into the captive and rent-a-captive areas, you're looking for a partner," said Richard W. Wigmore, the national director of marketing for Liberty's captive unit. "That's why we created this operation."

Liberty's captive services include policy issuance, reinsurance, claims handling, loss prevention and management, in addition to its three rent-a-captive facilities, each of which is designed to appeal to customers with different characteristics.

Another insurer, American International Group Inc., has been involved with captives in a variety of ways for a number of years but took a further step into the market last year with its formation of a Vermont-domiciled sponsored captive.

In creating National Union Fire Insurance Co. of Vermont, the company said it was looking to provide clients a way to fill gaps in risk management programs or better manage increased retentions.

INSURER TOPICS

Human element critical in ROI's success

By Randy Schuldt

We've all heard the story before: a seasoned manager comes across a technology solution that would revolutionize the way that his or her department does business. At first, the individual is cautiously optimistic. After all, the manager reasons, "the technology can't be that simple and improve the operation that much. It just sounds too good to be true." After doing the required due diligence, it becomes obvious that the acquisition of this new

technology truly is a "no brainer." The manager rushes through the preparation of a return on investment analysis that will be sent through the approval channels. Next, the individual presents the ROI to some acceptance authority within the organization, only to be sent back for more analysis. The manager refines the analysis, and the endless ROI review-and-refine cycle is underway. Soon the no-brainer initiative loses steam—and perhaps its champion—and comes to a screeching halt, never to be heard of again.

Perspective

What happened? Many a business manager has developed a seemingly flawless ROI, only to have the review committee discredit the results, find holes and question the intangible benefits. It's important to realize that while developing an ROI may appear very mechanical and straightforward, there is another element that is equally, if not more, important: the human element found in the

culture of the organization. "While demonstrating clear ROI is critical to getting projects approved in today's more-sober technology-spending environment, a good spreadsheet is no substitute for early buy-in from key decision makers across the organization," said Matthew Josefowicz, a research analyst with Celent Communications who focuses on insurance technology. How important is the ROI in the organization? The culture of the organization determines the role that ROIs play in the decision making process. Does the culture of

the organization look to ROIs to support decision-making? Or do ROIs offer an opportunity to continually delay decisions and encourage ongoing analysis? Each person who will be reviewing and/or approving the ROI will have his or her own bias. Hopefully, he or she is motivated by adherence to the corporate goals and strategy. Even the best of intentions, though, can be colored by that person's perception of where a given project fits on the list of important tasks or how it would use precious corporate resources. In this situation, a successful ROI demands that its author be knowledgeable about the hot buttons of his or her audience. Human element? Corporate objectives? And we thought this was about the dry, number-crunching process of ROI development. Well, yes and no. To truly understand the role the ROI plays in the organization, we must know the answers to some key questions about the organization's culture.

Do the organization's disciplines work together to make decisions beneficial to the enterprise? Or do departments work autonomously and vie for limited information technology dollars in support of their specific departmental projects? Is each department willing to make resource allocations based on the good of the corporation, instead of just for the good of that department? If not, their tendency will be to reject even the best ROI if it appears it would be of no benefit to them.

There is a relatively well-known cultural model found in the insurance industry that often pits business units against each other in vying for the use of corporate IT dollars. While this has caused some companies to prosper, those companies almost universally lose much of the synergy that could be gained by using key projects across departments.

Is the organization proficient at maximizing the return on an IT investment by leveraging the benefits throughout the organization?

This requires a commitment to good communications, combined with a real understanding of the benefits and obstacles of all planned initiatives. This is true of all departments and at all levels in those departments. It is not uncommon to hear of projects that were applauded in the boardroom and despised on the floors. Often a mandate from the top helps, but it must be "sold" to the people that are affected.

"The most successful insurance technology projects have had clear support from above early on," said Mr. Josefowicz. "At the same time, their sponsors have been very conscious to clearly demonstrate their benefits to all affected stakeholders."

How accepting is the organization of the soft, intangible benefits?

Generally, those who support the project conceptually accept the intangibles. Those who do not

See ROI/page 14D



We see ways to manage risk everywhere we look. Likelihood, chance, probability, "what if." There are a lot of words that mean the same thing. Risk. We spend our days studying it. We're committed to helping you manage it. That's why we work with you, using all of our specialized resources, to create tailored, knowledge-based solutions, with no "one size fits all" answers. Your business is more complex than that. To us, the benefit is clear. Knowing more means risking less.SM

ING  Re

Individual Life & Health 800.203.2559
Group Life, Accident & Health 800.378.6965
www.ing-re.com

INSURER TOPICS

ROI: Factor in the human element

Continued from page 14B

support the project have difficulties with intangible and soft-dollar benefits. This is further exacerbated by the views of each individual and his or her historical viewpoint.

If a given individual believes, for example, that exceptional customer service is important and perceives that the corporation has been engaged in projects that have little benefit to the customer, then the next initiative that comes through that purports to improve the customer's experience would get an artificial bump beyond its own merits. The converse is equally true. Many a good project has never been initiated due to poor timing.

Is the vision of the organization to be the market leader, or is it to have predictable growth and maintain market share at acceptable margins?

A market leader realizes that there is often a high cost of entry to establish and maintain the leadership position. Understanding the organization's market objective

enables the author of the ROI to spend less time proving the return on investment and more time discussing the resultant competitive lead that would be established and defended.

Finally, how does the ROI author maximize the potential for successfully gaining support from the review committee or individual?

Now that we have determined the culture of the organization and how the ROI is affected by it, the manager must create a business case that is compelling to the approval committee members themselves.

The marketing group is concerned about the project's impact on the image of the corporation and, ultimately, how it would affect sales. Human resources is wondering whether the project will make it easier to attract and retain quality people. Accounting is worried about the accuracy of the numbers and the project's ultimate effect on the

bottom line. Senior management wants to know the likelihood of hitting the dates and budget and the effect the project would have on the shareholders. Often, the potential for success is equal to the author's ability to convince each entity that its needs would be met.

How does the ROI author ultimately gain support for his or her IT project in the midst of this cultural minefield?

To the extent it is possible, the timing for the presentation of the ROI should be carefully selected. The existence of multiple pending projects of the same type may affect approval of the project. Being aware of the success or failure of similar projects could provide keys to establishing a successful ROI sales strategy.

It is often beneficial to seek outside help in the development and presentation of the ROI. This can be a double-edged sword, though, depending on how consultants are viewed by the organization. Once again, it's all part of the cultural makeup of the

organization.

Obtaining buy-in during the development of the ROI creates a pride of ownership for those involved, often providing the necessary support during the presentation and review. Seek the help of the accounting department with the numbers. Ask the experts in marketing how this initiative would be viewed by the market and how it could be improved.

Overselling the estimated benefits of the project, though, can often lead to disappointing results. This is the first area that a potential opponent questions. When estimates are less than conservative, they often prove difficult to defend when challenged. The best case is to have the people approving the project thinking to themselves that the estimated benefits are almost too conservative. If the conservative numbers are still compelling, then it is very difficult to not approve the project.

If the organization is filled with red tape and skeptics, making it difficult to get projects approved, then the greatest tool to offset these obstacles is a good relationship with the approval

committee members. Remember that people buy from people. Does the project champion foster trust? If not, is it time to select a new champion? If the ROI is tied to many intangibles, it often comes down to the committee's confidence in its author.

While there is no easy answer to developing an ROI strategy that will effectively work in all organizations, it is clear that when personalities are involved, there is always a subjective element, regardless of how defensible the numbers may be. An effective ROI is more than the numbers; it's the development of a business case that fits well within the framework, vision and culture of the organization.

Randy Schuldt, alliance manager at Insurance Information Technologies Inc. in Naperville, Ill., has 14 years of commercial property/casualty insurance experience, working in all areas of the industry, from producer to carrier to vendor. He joined INSTEC in 2000, after five years as the manager of information and processing systems, commercial lines, with American Modern Insurance Group.

The SMART Experience Insurance and Reinsurance Professionals

Industry Expertise
In-Depth Understanding
Hands-On Experience
Broad Perspective

Smart and Associates' experienced professionals provide solutions to address industry specific issues requiring in-depth expertise and to solve complex insurance and reinsurance issues with creative and exceptional solutions.

Insurance and Reinsurance Services include:

- Accounting-GAAP, Statutory, and SEC
- Fiscal Controls
- Business Risk Assessment
- Internal Audit
- Underwriting and Claims Audits
- Financial and Transactional Audits
- Operational Efficiency and Effectiveness
- Information Technology
- Treaty Analysis
- Litigation Support
- Compliance and Regulatory
- Business Process Outsourcing
- Run-Off Administration

Our team of industry experts is multi-disciplined and action oriented. We can respond to your organization's needs to help evaluate the past, develop the present, and shape the future. Let us demonstrate the SMART experience.



SMART
AND ASSOCIATES, LLP

Chicago
Dave McRoberts, Partner
312.849.2900

New York
Neal Schneider, Partner
212.560.0660

Philadelphia
John Swannick, Partner
610.254.0700

www.smartassociates.com

Captives: Now popular

Continued from page 14A

type of captive dependent on the particular insurance buyer's needs.

And, those that already have captives in place are "probably funding more risk through them than they were three years ago," when market conditions were softer, Mr. Golub noted.

"Some people got surprised in '01 and '02," by significant price increases and changes in deductibles and retentions, he said. "They didn't have time to do feasibility studies" to determine whether a captive would work but are now able to address those issues, Mr. Golub explained.

Ms. Wall agreed that the types of captive being formed and the lines of coverage they write are varied and depend on the particular client's needs. "Workers comp is one of the more popular lines, but we see general liability, auto and some property," she said.

Although the lack of fronting companies has become an issue of late, it hasn't stopped brokers from exploring captives as an alternative for their clients.

"Everything in today's market is a little more difficult," said Ms. Wall. "It's just depends on the risk and what you are trying to transfer."

"There are less people that want

to front," Mr. Chapman said, which means it takes more work to find a fronting company when putting the captive together.

Rising reinsurance costs also have hit captive participants. But, as Mr. Chapman pointed out, it's simply managed as an expense that is part of the program.

He said captive owners also must be prepared to put up capital and share financial information. "If you don't capitalize it up front, it is doomed to failure," he said. Sharing information has become a concern for some, Mr. Chapman added, particularly when a group captive is being formed by participants in similar or competing businesses.

Lockton's Mr. Moreland stressed captives aren't for everyone. Many potential owners "think a captive is a magic bullet," he said. "It really isn't. It's an alternative that can make sense for the right company."

Most companies don't get further than the feasibility study, with roughly one in five ending up in a captive, Mr. Moreland said. The other four determine that the economics of the situation don't warrant the use of a captive.

And not all brokers report a surge in interest in captives.

"We've not heard much from our brokers about their customers asking for that kind of opportunity in this hard market or even initiating any captive formations of any kind," said William Robinson, executive vp at Stamford, Conn.-based Alliant Resources Group Inc.

Insurers, he said, are not as vocal about broker participation in captives as they were during the soft market, he added. "Insurance companies have become silent on the notion of brokers having some skin in the game. Those discussions have gone quiet in this market."

Insurer Topics

ADVERTISER INDEX

Issue of February 17

ADVERTISER	PAGE #
GMAC	14C
ING Re	14B
Smart and Associates	14D

Enterprise: Interest growing

Measure: Lack of standard a drawback

Continued from page 14

panies look very differently at some things and how they're operating. It's making companies go back and assess some things that they never thought of as risk."

However, the sluggish economy and concerns such as the possible impact of a war with Iraq seem to be slowing companies' action on some of the decisions that came out of those assessments, Ms. DeWitt said.

The consultant said that although she saw a lot of companies with an ERM "game plan" at the end of 2002, so far this year they're not adopting those plans as quickly as they might have originally intended. "If they said, 'We're going to spend a quarter-million dollars on improving our capabilities,' I think they're saying, 'Wait, let's spend \$100,000 this year and implement it piece by piece,'" Ms. DeWitt said.

But new pressures on directors and officers stemming from governance laws and shareholder expectations "should have a very positive impact on getting companies to address things from an enterprise risk management approach," Ms. DeWitt said. "I think they're much more motivated, because they have a financial and legal obligation to do that."

Ultimately, the processes organizations apply and the risks they look to address vary by organization, according to Tillinghast's Mr. Miccolis. "Every company's doing something different. There's no universal approach to ERM," he said. "There's nothing wrong with that. It should be culture-dependent."

Mr. Zaccanti said he thinks that the enterprise risk approach is going to become institutionalized in the way many companies approach their business. Those that are considered "best in class," he said, will be those that "are going to embrace this and make it part of their corporate culture."

Mr. Miccolis said that a recent Tillinghast survey of insurance company executives showed many interested in adopting enterprise risk management approaches for their companies, often for just those sorts of reasons.

In responding as to why they wanted to adopt an ERM approach, "higher on the list were things like 'It's just good business' or 'We think it's a good way to get a competitive advantage' or 'We need to get more intelligent about the way we make decisions, and this is a good way to do it,'" Mr. Miccolis said.

"Although the pressures from outside are a factor, there's more of an emphasis on proactive reasons," he said. "So it's kind of a combination of the nudge from outside and the realization from inside that 'This might help us to do business better.'"

Continued from page 10

"Those issues—combined with the fact that the board of directors historically has not been very involved in the identification, the prioritization, the measurement and the establishment of risk thresholds—has created a pretty interesting situation over the last several years," he said.

Approaches vary

In addition to different data platforms, "there are also many different ways to measure risk. Some people measure it at the end of the year

and then use traditional actuarial perspectives," Mr. Zaccanti said. Others, he said, measure factors such as trading or marketing positions on a daily basis.

"Different companies are doing it in different ways in different industries for a lot of different reasons, none of which are right, none of which are wrong," Mr. Zaccanti said. "Obviously, those companies that are doing it and measuring it, regardless of methodologies, are ahead of the game."

"There are different methodologies out there, and people are using them in different ways," agreed

Mark Charron, a principal with Deloitte & Touche L.L.P. in Hartford, Conn.

'There are different methodologies out there, and people are using them in different ways.'

Mark Charron
Deloitte & Touche L.L.P.

"I don't think one size fits all," Mr. Charron said. "The nature of

today's organization varies so much from organization to organization, any one tool may skew the answer. And so, when that happens, the natural inclination is to find a different tool that comes up with a different profile that is more acceptable to you."

"How do you weigh the variables to properly reflect the exposure that your company has?" he asked. "If you have significantly more credit risk than currency or operational risk, that's going to drive you to different measurement tools."

"Each of the tools seems to have

Continued on next page

Continued from previous page

different strengths but may not be fully mature" and capable of looking at different aspects of an operation, Mr. Charron said. "Consequently," he said, "finding one method that everyone can utilize is probably the Holy Grail. I haven't seen it, and I know a lot of people who are a lot smarter than me who are trying to look at it."

Judy M. Lindenmayer, senior vp at broker Hobbs Group L.L.C. in Norcross, Ga., said: "I don't think that ERM can be put into a static, formulated program. The risks of any corporation are constantly changing. The corporation is growing or not, but, from day to day, different risks are recognized, and some risks are never recognized un-

til a disaster happens." That's why it is important to engage operating people in the process, said Ms. Lindenmayer, who is a former *Business Insurance* Risk Manager of the Year.

Operational risks

Measuring a company's operational risks—which can include product recall, business interruption and theft—is a particular challenge.

Corey Gooch, Chicago-based senior consultant for Aon Corp., said, "One of the ultimate goals is to create some sort of a common risk threshold across all the different business units, and it's difficult to do because you are dealing with some risks that are difficult to quan-

tify."

As a result, in measuring the risk of brand impairment, for example,

'Finding one method that everyone can utilize is probably the Holy Grail. I haven't seen it, and I know a lot of people who are a lot smarter than me who are trying to look at it.'

Mark Charron
Deloitte & Touche L.L.P.

one company may choose to consider its effect on market capitaliza-

tion, while others look at its impact on earnings per share, said Mr. Gooch.

It is "one of the big, tough issues that remains out there," said Mr. Charron. The tendency now seems to lean toward trying to develop "through a self-assessment process, levels of severity, as opposed to trying to come up with an exact measurement" to evaluate operational risk, he said.

Operational risks are not quantifiable in the same way as workers compensation and general liability exposures, which are clearly "based on hard, historical data, which you can use (to develop) various actuarial models and project them forward," Mr. Charron said.

At higher levels of severity, orga-

nizations perform business-impact assessments, "running it through either various event loss analyses or doing some stress testing under various scenarios and trying to understand the implications across the entire enterprise," Mr. Charron said.

"What you ultimately find is that some of your risks are a lot more quantifiable," he said. "You get a spectrum of risks, some of which have hard measurements behind them," while others do not, he said. When the risk manager looks at the entire enterprise, "depending on how many measures you have, you might find that 50% of them have hard, quantifiable information on them, and the other 50% or 25% are more judgmental," he said.

"Quite honestly, there are many situations where people talk about operational risk and they have no other way to measure it other than to say, 'Oh, my god, that's huge, and that will really kill us,'" Mr. Charron said.

Focus on useful data

Common sense always helps. John Schaefer, vp of enterprise risk management at Redwood City, Calif.-based ABD Insurance & Financial Services, said, "Where I've seen some of these efforts fail is people trying to get too much data loaded into some kind of model." For example, he said, these people may determine that the probability of an earthquake costing a company more than \$10 million is 0.02%, while the likelihood of a fire costing that much is 0.04%.

"You get a couple of engineers in a room with this kind of an exercise and they can amuse themselves for hours, probably," Mr. Schaefer said. "But they probably won't give you anything that's actionable or anything that's more actionable than getting the CEO to say, 'Of course, I'm more worried about a fire than an earthquake, so I'm going to do something about a fire first.'"

"You don't want to necessarily spend a tremendous amount of time or dollars quantifying a risk that's not material to the company," said Aon's Mr. Gooch. "If you can determine from the beginning that it's currently a risk that's being managed well, then focus on those other critical risks that will have a broader impact on the company and do something about them now," he said.

Jerry Miccolis, principal with Tillinghast Towers-Perrin in Parsippany, N.J., noted that some companies have "done a lot of quantification of the risks that are easy to quantify, like interest rates, whether or not they're important." Others say, "We're not going to decide until we model everything," he said.

"But the companies that have really made some progress" are those that have started with a qualitative approach, "winnowing the process down based on judgment" and the impact of key performance measures. It is only once they have the list down to no more than a dozen important risks that they "worry about quantifying them," said Mr. Miccolis.

"It's not rocket science. It's pretty straightforward when you sit down and go about it," he said.



Life. It's better under the umbrella.

If you're a professional who believes that anything less than first is last, then it's time to experience life under the umbrella. At **Travelers Life & Annuity**, we believe that strength generates trust and **Travelers Life & Annuity** has the strength of ten ratings upgrades since 1993.

Our suite of life products has been specifically designed with the affluent markets in mind. Competitively priced and backed by seasoned marketing and underwriting professionals, **Travelers Life & Annuity** has strong retention limits and underwriting arrangements that allow you to meet large case needs and create the best possible outcomes that meet your customers' needs.

Travelers Life & Annuity believes that the best relationships are long-term and built on trust. Explore the forward thinking approach at **Travelers Life & Annuity**, combined with innovative compensation programs and stellar support. Life. It's better under the umbrella.

For more information call 1-800-842-8659 or visit our website at <http://producer.travelersla.com>

Life Products are issued by The Travelers Insurance Company or The Travelers Life and Annuity Company, One Cityplace, Hartford, CT 06103. Travelers Distribution LLC is the principal underwriter. For Producer Use Only

L-15608

TravelersLife&Annuity
A member of **ctigroup**



Banks: Institutions urged to tackle operational risks

Continued from page 10
operational risk.”
“Basel II is providing a great way for us to do what we do anyway, and that is to find new ways to manage operational risk,” said Robert Jones, director of operating risk management for FleetBoston Financial Corp. in Boston and chairman of the new ABA committee.
“The industry has been coming to this point, and the movement is accelerating because of Basel II coming on,” Mr. Jones said.
The Basel Committee was formed in 1974 by central bank governors of the Group of 10 nations, including the United States, to develop in-

- Client, product and business practices claims, such as fiduciary breaches, misuse of customer information and sale of unauthorized products.
 - Damage to physical assets from natural disasters or terrorism.
 - Business disruption and system failures, including information technology failures and telecommunications or utility outages.
 - Execution, delivery and process management claims, such as data entry errors or allowing unapproved access to client accounts.
- Losses from these events can be

enormous. The 20 largest U.S. banks had operational risk losses totaling \$2.5 billion in 2001, according to a Federal Reserve Bank of Boston figure cited by The Risk Management Assn., a Philadelphia-based financial services industry group.
The Sept. 11, 2001, terrorist attacks caused millions of dollars of losses to banks housed in the World Trade Center. Last year, Allied Irish Bank reported that a rogue currency trader at a U.S. subsidiary had cost the bank \$691 million in surprise losses, an example of banks’ inter-

nal fraud risk.
Despite the huge exposures, though, the banking industry before Basel II did not follow any standard definition of operational risk and most banks did not keep track of these risks on an enterprisewide basis, leaving individual business units to manage their exposures, banking industry sources say.
Only a few years ago, any exposure that was not credit risk was “lumped into the operational risk category,” noted FleetBoston’s Mr. Jones. “We’re doing a better job of at least defining operational risk.”

Following Basel Committee guidelines, banks have also begun the sizable task of revising internal procedures to track and collect enterprisewide loss data, and are developing enterprise risk management programs to handle operational risk.
The ABA’s Operating Risk Committee is intended to help member banks with the Basel II requirements. Its first order of business has been to launch a peer group reporting program in which it will collect loss data on a confidential basis

Continued on next page

Last year, Allied Irish Bank reported that a rogue currency trader at a U.S. subsidiary had cost the bank \$691 million in surprise losses.

ternational banking standards and guidelines. The first Basel Capital Accord, developed in 1988, created a risk-based capital framework for bank supervision, partly in response to banks’ moves toward riskier asset classes and off-balance-sheet activities, according to a Federal Deposit Insurance Corp. overview.
Under the 1988 accord, still in effect, banks divide their assets into four risk-weighted categories based on credit risk, forcing institutions that choose riskier asset classes to maintain higher levels of capital.
The revised version of the accord, Basel II, will not only feature more sophisticated and precise measures of credit and market risk, but also will impose capital requirements for a new category of exposure: operational risk.
The Basel Committee has defined operational risk to include seven types of events:
• Internal fraud, such as employee theft and insider trading.
• External fraud, including robbery, forgery and check kiting.
• Employment practices and workplace safety exposures.

Business Insurance
www.businessinsurance.com

PRODUCTS

Directory of Buyers
The annual *Business Insurance* Directory of Corporate Buyers of Insurance, Benefit Plans and Risk Management Services lists names and titles of executives responsible for risk management, employee benefits and more, as well as vital company facts and figures. The directory is available on CD-ROM. For information, or to order copies, call:
1-888-446-1422
Outside the United States, call **313-446-0450**

“We make problems disappear, as opposed to disappearing when there’s a problem.”

At The St. Paul, we believe that insurance is about commitment and integrity, and finding ways to help. It’s a belief that has been our way of life for 150 years. It’s also why, through some of the toughest events in history, we’ve earned a solid reputation for paying claims. Call us if you have questions. We promise you a straight answer.

Dana Ross
Underwriting Manager

The St Paul
Consider it done
Property and Liability Insurance

RISKS OF ‘ROGUE TRADING’		
Major losses at financial institutions caused by unauthorized trading activity		
Year	Financial institution	Overall loss
2002	Allied Irish Bank	\$691 million
1996	Sumitomo Corp.	\$2.6 billion
1995	Barings P.L.C.	\$1.2 billion
1995	Daiwa Bank	\$1.1 billion

Continued from previous page
from participating banks, allowing banks to pinpoint their own weak spots and share loss control ideas.
The ABA expects to report its first batch of loss data in April or May, based on first-quarter 2003 reports, and to have three years of loss data ready when Basel II goes into effect in 2006, the group’s Ms. Yao said.
Having three years of data could help banks limit the capital charge they’ll be facing for operational risks, sources suggest. While the Basel Committee has yet to finalize the methods it will adopt for calculating the capital requirement, it will allow banks the choice of a couple of approaches: a standardized approach and an “advanced measurement approach.”

Under the standardized approach, a bank would figure its capital charge based on gross income by business line, a method that doesn’t factor in the impact of enterprise risk management efforts. The advanced measurement approach, though, would allow a bank to base its capital charge on its own internal loss data, risk analysis and the risk mitigation steps it has taken to control losses.
The advanced approach thus would allow banks with better-developed risk management programs to reduce the amount of capital they must allocate to operational risk, banking sources note.
Banks using the advanced approach also expect to be able to use insurance programs to partially off-

set the operational risk capital requirement, Mr. Jones said.
To qualify for advanced measurement, banks will have to have at least three years of loss data on which to base their calculations.
While the largest international banks are leading the way in enterprisewide operational risk management—and the resulting qualification for advanced measurement—banking sources see smaller banks gradually moving in this direction.
As smaller banks see the benefits of reduced capital requirements and improved loss experience, more will follow the large banks’ path, Mr. Jones predicted.
“Size is less of a limit than just the level of interest in managing operational risk,” he said.

Letters to the Editor

Continued from page 8
Prior to Sept. 11, 2001, the largest companies were after a market change but couldn’t justify rate and premium increases with the stock market going so strong. Sept. 11 was a great excuse to clamor for higher rates and increased premiums, and, of course, the insurance-buying public accepted what the insurance companies put out. I suspect that even our elected officials in Washington bought into the industry’s tale of woe.
I believe that the accounting practices of the P/C insurance companies are fraught with abuse, deceit and concealment. For one of the leading P/C companies to recently infuse its asbestos reserve account with hundreds of millions of dollars is, in my opinion, a cover-up for the hundreds of millions in profits they’ve taken in this past year. Now they can show a loss for the year and demand still-higher rates and premium increases!
I’d like to be around in 20 years to see just how many millions in asbestos claims are paid. Not only will the company show the asbestos reserve as a liability on its financial statements but also will show a loss for the year 2002. Will it disclose how much in interest income will be earned by that reserve account?
I would look closely at any insurer that is beefing up its asbestos reserves. There are probably companies with huge asbestos reserves that never sold insurance to a firm that had anything to do with asbestos!
I’d love to see Washington lawmakers delve into the accounting practices of the property/casualty companies.
It is a sad commentary for an industry that is as large and important to the financial well-being of our country to be so dependent on earnings from the stock market. When I started in this business, risks were underwritten and priced accordingly. Today, the few underwriters that remain have their hands tied and can no longer underwrite and evaluate a risk.
When the stock market rebounds, we’ll see a turnaround in our P/C insurance industry. For history tells us it will, it will.
David J. Skolsky
Insurance Analysts & Consultants
Avondale Estates, Ga.

Comings & Goings

Insurers:

Samuel G. Liss has been named to the newly created position of executive vp of business development at St. Paul Cos. Inc. in St. Paul, Minn. Mr. Liss previously was managing director at Credit Suisse First Boston.

Roberto Mendoza has left ACE Ltd.'s board of directors to become chairman of the board and managing director of Integrated Finance Ltd., a wholesale financial intermediation firm in which ACE has a minority investment. Both companies are based in Hamilton, Bermuda.

Richard E. Meyer has been elected to the newly created position of vice chairman of Boca Raton, Fla.-based XN Holdings, parent company of XN Financial Services and XN Risk. Mr. Meyer previously served as chairman and chief executive officer of Latin American Re, an XL Capital Ltd. operation. He will be based in New York.

Agents/brokers:

Gary E. Smith has been named president and CEO of Willis Group Holdings Ltd.'s Philadelphia office. Mr. Smith previously was a managing director of Marsh Inc.

Garrett M. Morgan has been named president and senior principal of MMC Capital Inc., the private equity investment subsidiary of Marsh & McLennan Inc. For the past nine months, Mr. Morgan has been working with MMC Capital as a senior adviser. Mr. Morgan formerly was with Credit Suisse First Boston.

Michael B. Uretsky has been named managing director of the employee benefits group at Mazonson L.L.C. of Peabody, Mass. Mr. Uretsky previously was director of Mazonson's long-term care sales and marketing division.

Chris Nadeau has been promoted to executive vp of the employee benefits group of William Gallagher



Mr. Smith

Associates of Boston. Mr. Nadeau has led the employee benefits group for the past three years. Also at WGA, **Roger Haynes** has been promoted to senior vp in the property/casualty group. Mr. Haynes launched the financial risks practice at WGA in 2001.

Reinsurance:

Tom Felgate has been named global life and health claims leader at GE Employers Reinsurance Corp. of Overland Park, Kan., replacing **Dave Lovely**, who was recently named GE Commercial Insurance claims leader. Mr. Felgate was previously human resources leader for GE ERC's global operations and legal functions.

Also at GE ERC, **Andy Kramer** was named U.S. life chief underwriter within the global life and health business unit. Mr. Kramer had been the global quality leader.

Peter W. Presperin has been named executive vp and president of the reinsurance and discontinued operations of Novato, Calif.-based Fireman's Fund Insurance Co. Mr. Presperin formerly was chief financial officer of First Colony Life, part of GE Financial Assurance.

Richard S. Kahlbaugh has been named senior vp for EWI Re Inc. in Dallas. Previously, Mr. Kahlbaugh was president of Volvo Insurance Group.

Several senior management appointments have been made at reinsurance intermediary Guy Carpenter & Co. Inc., a unit of Marsh & McLennan Cos. Inc. in New York:

- **Ryan Ogaard**, managing director, has been selected to lead In-Strat, Guy Carpenter's worldwide risk and financial modeling services group. He also has joined Guy Carpenter's Client Leadership Council.

- **Robert Bentley** was named regional manager of brokerage operations for the U.S. Western Region, based in Seattle. Mr. Bentley was previously responsible for In-Strat.

- **David Priebe** has assumed management responsibilities for all of the company's specialty practices. Mr. Priebe, who joined Guy Carpenter in 1981, has been head of the specialty property practice since its inception more than three years ago.

- **Leslie Nylund** was named managing director of U.S. property and casualty facultative operations based in New York. Ms. Nylund will also maintain her previous position as head of Guy Carpenter's environmental and program managers specialty practices, as well as of the firm's Business-in-Combination initiative, which seeks to develop opportunities among other MMC sister companies.

Between the Lines

Compiled by Joanne Wojcik



On the waterfront

In an illustration of Bermuda's tight labor market, Max Re Ltd. has assembled its new excess general liability underwriting team by raiding a nearby competitor. Max Re announced the completion of the team with the hiring of Bernard W. Anckner and Michael S. Morgan as senior vp-underwriters. Both came from Max Re's Bermuda neighbor, XL Capital Ltd., and followed Angelo M. Guagliano, who left XL earlier to become Max Re's executive vp and chief underwriting officer. The experienced group was together for seven years at XL before being lured to Max Re's new building along the Hamilton waterfront.

New kind of scholarship fund

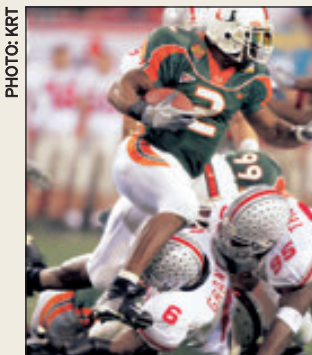


PHOTO: KFT

If University of Miami tailback Willis McGahee had suffered a career-ending leg injury in the Fiesta Bowl on Jan. 3, he would have received \$2.5 million under an insurance policy he bought for \$20,000. The NCAA Exceptional Student-Athlete Disability Insurance Program, managed by ASU International L.L.C., also will pay if he isn't selected in April's National Football League draft. Players projected to enter early-round drafts for the NFL, National Hockey League,

the Women's National Basketball League, National Basketball League and Major League Baseball are eligible for the coverage.

Zebra changes its stripes

Now that the market's turned and risk managers are feeling the heat, some may find it hard to resist the call of commissions and defect to "the other side." Pepperdine University Risk Manager John Watson has joined Arthur J. Gallagher & Co. in Glendale, Calif., as executive director of its higher education practice group. Perhaps his risk management experience will give him empathy for his former insurance buyer brethren.

Personae non grata?

Bermuda customs agents, apparently on the lookout for unseemly visitors, decided that a reporter's reason for visiting the island this month—to interview captive managers—was flimsy. Sitting in a waiting room while the agents consulted immigration officials, the reporter met a well-dressed fellow detainee who was arriving for a vacation in Bermuda. His reason for detainment? "I forgot the address of the guest house where I'm staying." After issuing warnings about needing letters of introduction on future visits, officials let the journalist enter the country. As for the vacationer, his fate remained shrouded in the mid-Atlantic fog.



PHOTO: BERMUDA DEPT. OF TOURISM

Waging litigation

Aon Corp. is embroiled in a wage-and-hour suit filed by employees in Texas seeking unpaid overtime wages totaling more than \$30 million. The suit, filed by account executives invoking the federal Fair Labor Standards Act, seeks lost wages, liquidated damages, front pay, compensatory damages, punitive damages and prejudgment interest. Aon maintains that it did not violate the law. Farmers Group said the same thing before it was hit with a \$90 million judgment involving overtime pay for claims adjusters.

Risk management 101

Overheard remark by a risk manager: "Despite all my years of risk management experience and education, I never knew until now that all I needed was some duct tape and plastic sheeting."



Tips and feedback from readers are welcomed. Please send information to jwojcik@crain.com.

Business Insurance

New Subscriptions

You can now subscribe to our publication over the Web.

Simply fill out our subscription form and we will get your first issue to you right away.

Moving? Change of address? New job?

If you're leaving your current location, make sure you don't leave behind the late-breaking, agenda-setting news that helps you stay on top of your business.

You can change your information with us online, immediately.

Billing or renewal inquiry?

Verify your subscription details or pay an invoice.

If you receive a notice from us after you have paid, it is likely due to correspondence crossing in the mail.

However, if you receive a second notice after you have paid, contact us and include a copy of both sides of your canceled check.

For more information about a subscription, please contact the customer service department at

1-888-446-1422

Products & Services Guide

To place your ad, contact **Irais Amleshi**
(312) 649-5340 / fax: (312) 649-7937 / E-mail: iamleshi@crain.com

CPCU® AIC, ARM, IA, CLU/ChFC, and CIC candidates
Visit www.cpcu.org today and you'll love The Insurance System or your money back. Guaranteed!
Call 1-888-BURNHAM Now!

Get Results!
Advertise here
Fax us your ad
(312) 649-7937

The Products & Services Guide is the Place to Reach Key Decision-Makers!

Publishing February 24

**Benefits Management Take-Out Section: Health Care Cost Control
Prescription Benefit Managers & Case Managers
Ranking & Online Directory**

Closing: February 18

To advertise
Call (312) 649-5340

Business Insurance

Professional MarketPlace

To place your ad, contact **Irais Amleshi** at (312) 649-5340 / fax: (312) 649-7937 / E-mail: iamleshi@crain.com
Business Insurance, Classified Department, 360 N. Michigan Ave., Chicago, IL 60601-3806. Call for details on blind box and internet advertising

HELP WANTED

PRESIDENT/CEO

If you will thrive and grow in a fast-paced, high performance team environment, Montana's insurance carrier of choice and industry leader in service, Montana State Fund has an exciting career opportunity for you. From our home in the "Heart of the Rockies," Helena, Montana, our multifunctional teams deliver service that goes beyond the expectations of our more than 26,000 policyholders.

This key leadership position acts as a change champion, visionary, coach, mentor, and advocate of continuous improvement. Ideal candidate will have bachelor's degree in business administration, accounting, finance, or related field, plus six years executive level experience in insurance that includes four years progressively responsible leadership experience (or an equivalent combination of education and experience). Specific background in workers' compensation, budgeting, cost containment, claims services, safety services, underwriting, and/or finance is preferred. Relevant designations and certifications also preferred.

Go to www.montanastatefund.com for more information about this opportunity and how to apply. Call (406) 444-6511 if you do not have internet access. EEO. Note: Names, summary of qualifications, and/or resumes of finalists may be released to interested parties upon request.

HELP WANTED

HELP WANTED

EQECAT Account Executive

EQECAT, a leading consulting and software modeling company specializing in natural and manmade hazard risk assessment and management, seeks an experienced insurance professional to join its team of scientists, engineers, statisticians and other insurance professionals. EQECAT provides its clients with a sophisticated set of software tools and consulting services designed to optimize their catastrophe related insurance and reinsurance decisions. We seek a creative professional to help us promote our products and services into the insurance and financial institution markets. You will:

- Meet with and make sales presentations to senior underwriting, actuarial and finance executives of Primary Insurers and Reinsurers

- Develop and manage EQECAT's relationship with key clients and prospects

- Provide input for product enhancements and future development

Qualified candidates will have strong knowledge of and experience in the property/casualty industry and sales and marketing experience. Positions are available in the Northeast US. EQECAT is a subsidiary of ABS Consulting, which is the largest Risk Management consulting firm in the US. Email your resume to rhealy@absconsulting.com

ABSG Consulting Inc. is an EOE, M/F/D/V

LEGAL NOTICE

IN THE SUPREME COURT OF BERMUDA

CIVIL JURISDICTION

NO. 29 OF 2003

IN THE MATTER OF

BNIB INSURANCE COMPANY LIMITED

AND IN THE MATTER OF SECTION 99 AND 100 OF THE COMPANIES ACT 1981

NOTICE OF STATUTORY MEETING

NOTICE IS HEREBY GIVEN that by an Order dated 30 January 2003 made in the above matter the Supreme Court of Bermuda directed that a Meeting be convened of the Scheme Creditors (as defined in the Scheme of Arrangement hereinafter mentioned) of the above named company (hereinafter called "the Company") for the purpose of considering and if thought fit, approving (with or without modification) a Scheme of Arrangement proposed to be made between the Company and the Scheme Creditors and that the Meeting will be held at Cedar House, 41 Cedar Avenue, Hamilton, Bermuda on the 16 April 2003 at 11.00 a.m.

Forms of Proxy must be filed with PricewaterhouseCoopers, Dorchester House, 7 Church Street, Hamilton HM 11, Bermuda for the attention of Nigel Chatterjee fax (+1)(441)295 1242 telephone (+1)(441)295 2000 and must be received by PricewaterhouseCoopers by 5pm on the 11 April 2003.

Copies of the Scheme Document and Explanatory Statement in relation thereto can be obtained from the office of PricewaterhouseCoopers referred to above.

The said Scheme of Arrangement will be subject to the subsequent approval of the Supreme Court of Bermuda. Dated 30 January 2003

APPLEBY SPURLING & KEMPE

Cedar House, 41 Cedar Avenue, Hamilton HM EX Bermuda
 Attorneys for the Company

REQUEST FOR PROPOSALS

METROPOLITAN TRANSPORTATION AUTHORITY

(MTA) NOTICE hereby given that the Authority requests proposals from Consultants to develop, customize and implement an integrated database system for a Risk Information Safety Claims Management System for the Metropolitan Transportation Authority and associated operating agencies. Copies of RFP may be secured from Ms. Asavri Gupta, Procurement Services, MTA, 345 Madison Avenue, New York, NY 10017-3739, email Agupte@mtahq.org or by calling (212) 878-0291. Each document will cost a non-refundable fee of \$250.00 (Company checks drawn on an U.S. Depository or Money Order). There will be a \$25.00 fee for each returned item. You may pick up the documents between 9:30a.m. and 4:30p.m., Monday to Friday (except holidays) or have them mailed to you. Viewing of the documents is available during the same hours. The documents will be available on or about March 3, 2003. RFP#: 5-01-03012-0, DUE DATE/TIME: 04/03/2003, 4:00PM. FOR: Risk Information Safety Claims Management System

HELP WANTED

HELP WANTED

keystrategies

L.L.C.

"The Risk Management Career Experts"

- Mike Tannenbaum
- Barry Citron
- Lee Burrows

Executive Recruiting • Career Coaching

- Corporate Risk Management
- Insurance Brokerage
- Risk Management Consulting
- RMIS

100 Eagle Rock Ave. East Hanover, NJ 07936
 Phone 973-887-2300 Fax 973-887-4334
www.keystrategies.com

HELP WANTED

HELP WANTED

Director Risk Management

\$58,792 - \$91,128 + Excellent Benefits
 Pinellas County (Clearwater, FL) is seeking highly motivated applicants with strong management skills for the Director of its Risk Management Department. This position is responsible for managing and coordinating county-wide loss control, insurance, claims administration, safety, accident prevention, risk evaluation and forecasting, risk management information system, and financial management of the Risk Financing Fund. The department has a staff of 15 who are responsible for representing all County appointing authorities with a total of 7,500+ employees. The department has approx. 100 claims in litigation and handles 2,000 first reports yearly; Workers' Compensation budget \$4-\$5 million; GL and others approx. \$1.5 million; and purchased commercial insurance for excess liability, watercraft, aircraft, EMS, commercial mobile communications equipment, crime, public officials, multi-layered property values at approx. \$750 million with a budgeted premium of approx \$4.5 million.

Minimum Qualifications: BS/BA in Risk Management, Insurance, Law, Business Administration or Public Administration, and 5 years of responsible work in the field of risk reduction, retention, and/or transfer, financial administration, general or public management. Graduate study in the field of risk management, law or public administration may be substituted on a year for year basis for up to 2 years of the desired experience; or an equivalent combination of training and experience. MBA/MPA is highly desirable.

Application: Position is open until filled. County application required. Application available from the Personnel Department, 400 S. Ft. Harrison Ave., Rm 121, Clearwater, FL 33756-5113; Phone (727) 464-3367. May also be downloaded from the Employment Opportunities page of the web site at www.co.pinellas.fl.us/persnl. All information supplied while making application is part of Public Record and must be made available to interested parties upon specific request. Pinellas County is an Equal Employment Opportunity Employer.

Montana State Fund, Montana's insurance carrier of choice and industry leader in service, is based in the "Heart of the Rockies," Helena, Montana. Our multifunctional teams deliver service that goes beyond the expectations of our more than 26,000 policyholders.

Old Fund & Medical Payment Leader – Leads Old Fund claim unit and Medical Payment functions. Ideal candidate will have bachelor's and 5 yrs progressively responsible and directly related work exper, 3 yrs in leadership roles. Medical payment and/or workers' comp adjusting exper and relevant designations and certifications preferred.

Claim Program Leader – Leads Claim Expert and Quality Assurance functions. Ideal candidate will have bachelor's and 6 yrs progressively responsible workers' comp claim management work exper, 3 yrs in leadership roles.

Go to our website at www.montanastatefund.com to find out more about these exciting opportunities and to apply. If you do not have Internet access, call (406) 444-6523 for info by mail or fax. EEO.

BUSINESS OPPORTUNITY

PROGRAM MANAGERS AND REINSURERS NEED A FRONT COMPANY? Equity Investors Invited

Need a policy issuing carrier for your Program? Clean NY domiciled P/C carrier available for NY programs. We can also provide policy and claim administration. You supply the surplus and acceptable reinsurance security. Reply to P.O. Box 563, Patchogue, NY 11772, (Attn: SH) and provide your telephone contact. All replies will be treated in strict confidence.

BI

More Classifieds Online!

www.businessinsurance.com

GET RESULTS!

Advertise in our next issue
February 24

**Benefits Management Take Out Section: Health Care Cost Control
 Prescription Benefit Managers & Case Managers
 Ranking & Online Directory**

Closing: February 18

HELP WANTED

HELP WANTED

Trust is the foundation of all success.

Executive Recruitment

Risk Management
 Insurance Brokerage
 RMIS Technology
 Safety & Loss Control
 Claims Management
 Risk Management Consulting

Also ask about Temporary Opportunities
 call: 973-765-9000 fax: 973-765-9009

15 James Street, Main Level
 Florham Park, NJ 07932
www.rmainsc.com



REQUEST FOR PROPOSALS

REQUEST FOR PROPOSALS

REQUEST FOR PROPOSAL (RFP) GROUP MEDICAL PLANS

The University of California is accepting bids for the following plans to cover approximately 11,000 employees and retirees of the Los Alamos National Laboratory in New Mexico, effective January 1, 2004:

- Health Maintenance Organization (HMO)/Exclusive Provider Organization (EPO) plan (behavioral health excluded).
- Preferred Provider Organization (PPO) plan (behavioral health excluded).
- A consumer-model plan (behavioral health included).

In addition to bids covering the full scope of services to administer these plans, the University also is accepting bids for the following two service categories as potential carve-outs for the HMO/EPO and PPO plans:

- Medical Management services - Utilization Review, Disease Management, Case Management, and Demand Management Nurseline.
- Interactive Health Management services - web-based services that offer advanced utilities to help members make effective decisions about their health care.

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

- Have a minimum book-of-business enrolled membership.
- Maintain stipulated minimum general liability coverage.
- Currently have applicable networks in place for products being bid.

Pre-qualifying criteria vary based on the type of organization and products being bid. A list of all pre-qualifying criteria may be obtained by calling:

Ms. Marianne Lindquist
 University of California
 (510) 987-0173
 fax: (510) 987-9283

An organization that wishes to submit a proposal must submit a signed, written request to receive the RFP, together with confirmation that it meets all applicable pre-qualifying criteria. This request and confirmation must be received at the fax number shown above not later than 5:00 p.m. (PST) on Wednesday, February 26, 2003, without exception. It is the responsibility of the organization to confirm and document UC's receipt of this request and confirmation by the above deadline.

The deadline for proposal submission is 5:00 p.m. (PST) on Wednesday, March 26, 2003. Details on proposal submission will be in the RFP. Commission or service fees of any kind will not be payable by the University.

EOE/AA

February 17, 2003

International

Marine mutual market navigating shoals

Years of losses, low investment returns bring rate hikes, negative outlook

By SARAH VEYSEY

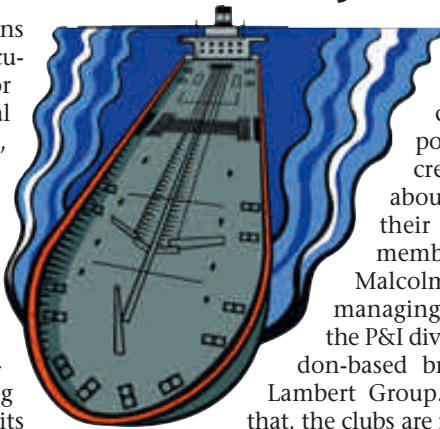
LONDON—Shipowners are likely to see substantial rate increases when their protection and indemnity coverage renews Feb. 20, as underwriting losses and low investment returns erode the mutual insurers' free reserves.

Despite predicted average rate increases for 2003 of between 25% and 30%, Standard & Poor's Corp. has lowered its outlook on the marine mutual market to negative, said Rowena Potter, managing director of financial services ratings services at S&P in London and the author of an annual report on the P&I market.

The change reflects the deteriorating operating environment for the marine insurance market, she

said, and expectations of a fourth consecutive annual loss for the International Group of P&I Clubs, which is a pool of the largest P&I clubs.

"In just three years, to February 2002, the industry lost in excess of \$500 million, representing more than 35% of its combined free reserves," said Ms. Potter. "Although the loss from 2002/03 is expected to be markedly lower due to continuing high rate increases and a relatively stable claims environment, the impact is weighing heavily on the



market," she said. Most P&I clubs are imposing rate increases of about 25% on their shipowner members, said Malcolm Godfrey, managing director of the P&I division of London-based broker Heath Lambert Group. On top of that, the clubs are facing an average increase of 30% for group reinsurance, he noted.

Some P&I clubs have been very slow in quoting their renewal terms for 2003, he said. "Probably about 40% to 50% of the world's tonnage haven't renewed yet," said Mr.

Godfrey, speaking one week before the Feb. 20 renewal deadline for P&I clubs.

While some shipowners might be hoping the delay results in generous renewal terms from the clubs, Mr. Godfrey said the larger clubs would likely stand firm in demanding rate increases of 25% or more.

"We look at the renewal season with optimism," said the head of one P&I club. "The whole market has undergone a degree of stress. Rates are getting back to where they should be, but there is still a bit of work to do. The market softness of 1996 to about 1999 or 2000 was assisted by decent investment returns," he said, "but now the situation has been reversed to a certain extent."

See P&I CLUBS/next page

S&P forecasts capital base bodes well for Lloyd's future

LONDON—Lloyd's of London will likely post a strong operating performance for the 2002 and 2003 years of account, according to Standard & Poor's Corp.

In affirming its A rating on Lloyd's, S&P cited the continuing commitment of the market's capital providers and a consequent increase in capacity and funds at Lloyd's for 2003.

S&P said, though, that those factors are "partly offset" by several concerns. They are:

- Lloyd's "reduced but recovering capital adequacy" because of open-year losses.
- The progress needed to implement a package of reforms aimed at modernizing the Lloyd's market.
- Poor returns among many capital providers prior to 2002.
- The market's vulnerability to reinsurer failure.
- Lloyd's "continuing contingent exposure" to Equitas Ltd., the runoff reinsurer for Lloyd's syndicates.

Meanwhile, in its Lloyd's Syndicate Assessments review of January 2003, S&P noted that 2003 marks the first year that average syndicate capacity has surpassed £200 million (\$326.3 million). The average syndicate capacity for 2003 is £203 million (\$331.2 million), up from £142 million (\$231.7 million) in 2002.

A total of 71 syndicates are currently operating at Lloyd's, down from 93 in 2002, but a small number of additional syndicates will likely be launched in 2003, S&P said.

—Sarah Veysey

Sale of reinsurance unit seen as critical to group's stability

Buyers fear shrinking market as Gerling seeks new owner

By CAROLYN ALDRED

COLOGNE, Germany—Continuing uncertainty surrounds Gerling Group, one of Germany's largest property/casualty insurers, as it seeks regulatory approval for the sale of its reinsurance operation, considered vital to ongoing negotiations over the future of its primary insurance companies.

Last week, A.M. Best Co. affirmed its A- rating of Gerling, a move that runs counter to Standard & Poor's Corp.'s downgrade of the company's financial strength ratings to BBB from A- earlier this month.

German risk managers and their brokers are closely monitoring Gerling's progress in light of this uncertainty.

"Although a BBB rating is not a catastrophe for the majority of Gerling's policyholders, there is rising attention to the situation in the risk management community, especially among large policyholders," said Gunter Schlicht, managing director of the German insurance and risk management association Deutsche Versicherung Schutzverband, of the S&P downgrade.

Mr. Schlicht said that because most German companies renew their property/casualty insurance in January, there is unlikely to be a drastic move away from Gerling in the short term.

He noted, though, that German corporations were hit again by large property/casualty rate increases and capacity shortages at the most recent renewals and are concerned about future tightening in the market.

While most German insurance buyers would prefer to see Cologne-based Gerling remain independent in a marketplace that is dominated by a handful of large insurers, a successful conclusion to its talks with

rival industrial insurer Haftpflichtverband der Deutschen Industrie Versicherungen would be acceptable to buyers, Mr. Schlicht said.

A Frankfurt-based spokesman for German broker Willis GmbH agreed that Gerling is unlikely to lose policyholders in the near future, because most industrial insurance policies renewed on Jan. 1. The spokesman added that he sees no evidence at the moment that companies are unwilling to insure with Gerling.

He noted, though, that "there is concern about the development of the reduced commercial insurance market." "During the last few years," the spokesman said, "there were a lot of mergers in the German insurance market and also some insurers withdrew from industrial business."

Gerling continues to retain the loyalty of its policyholders as it negotiates its future, a Gerling spokesman said.

The spokesman confirmed that the company is seeking regulatory approval for the proposed sale of Gerling Global Re, its reinsurance operation, to Lago Achte GmbH, a privately owned company headed by former Frankona Re Chief Executive Achim Kann (BI, Dec. 2, 2002).

German regulator Bundesanstalt für Finanzdienstleistungsaufsicht, or BaFin, has until the beginning of March to respond. If BaFin does not approve the deal, other options are being considered, including a partial sale to Lago and Bermuda-based Castlewood Holdings, which specializes in insurance/reinsurance

See GERLING/next page



Cologne, Germany-based Gerling Group, whose headquarters complex is shown center foreground, is in talks with potential investors.

World Updates

Equitable Life to appeal auditor claims dismissal

Equitable Life Assurance Society plans to appeal a U.K. High Court's dismissal of two negligence claims that the defunct life insurer brought against its former auditor, Ernst & Young. Equitable claimed that E&Y had failed to warn the insurer of the financial liabilities it faced from guaranteed annuity pension products during the 1990s. In addition, the insurer charged that, had it been aware of those liabilities, it would have put itself up for sale in 1998 and obtained a far higher price than later became possible. In July 2000, the House of Lords ruled that Equitable owed GAR policyholders about £1.50 billion (\$2.45 billion) after underfunding its GAR pension plans.

Converium posts profit on premium growth

Converium Holding A.G. recorded net income of \$106.8 million in 2002, compared with a net loss of \$367.4 million for 2001, which was largely the result of Sept. 11-related losses. The reinsurer, formerly known as Zurich Re, attributed the improvement in part to strong underwriting performance in nonlife business. The group's net written premiums for nonlife reinsurance climbed 34.7%, to \$3.15 billion, in 2002, Converium said. Total net premiums rose 33.8%, to \$3.32 billion. Converium also noted that, despite largely unfavorable capital market conditions, it achieved a positive investment return of \$241.5 million for 2002.

Lloyd's re-elects two as deputy chairmen

John Coldman, chairman of London-based broker Benfield Group Ltd., and Bronek Masojada, chief executive officer of London-based Hiscox P.L.C., have been re-elected as deputy chairmen of Lloyd's of London for another year. Both have been members of the Council of Lloyd's since Feb. 1, 2001.

Briefly noted

John Castagno has been appointed CEO of the U.K. operations of loss adjuster **GAB Robins**. Mr. Castagno was formerly managing director of new markets at U.K. insurer Legal & General Group P.L.C....Donald Macdonald has resigned as chairman of **Aon Risk Consulting** in London. Aon has not named a successor. In a separate move, Aon named Miles Banks director of claims for Aon Ltd. in London. Mr. Miles, formerly head of the company's North American reinsurance claims department, replaces Ray Bassett, who is taking a sabbatical.

PHOTO: BERND WIESEN

P&I clubs: Years of losses eroding free reserves

Continued from previous page

Rate increases seen at the last renewal have not yet had time to "feed through," noted Ms. Potter. "Although premium rates are expected to rise for at least one more underwriting year, it will take a long time to rebuild the lost free reserves, especially when high investment returns can no longer be relied on," she said.

As is the case with other insurers, poor investment returns have hit many P&I clubs hard. Traditionally, P&I clubs have invested, on aver-

age, about 30% of their portfolios in equities, noted Peter McClean, associate director of financial services ratings at Standard & Poor's in London. But the continuing decline in global equity markets has prompted many clubs to shift a larger percentage of their portfolios into fixed-income investments, which offer lower returns, he said.

Joe Hughes, chairman and chief executive officer of The American Club, said that the insurer currently had about 18% of its portfolio in equities and would likely not move

aggressively back into equities in the coming year.

"The plain and simple fact is that the clubs must improve underwriting performance. They must also bolster free reserves and cannot rely on investment income," said Nigel Russell, managing director of the marine division of London-based HSBC Insurance Brokers.

But a lack of competition from nonmutual insurers for the business traditionally written by P&I clubs means that the clubs remain in a relatively strong position, experts note. "The fixed-premium market is not as vigorous as it was a couple of years ago," noted one P&I club head.

"The quasi-monopoly position of the International Group Clubs, together with poor earnings, make the market less attractive to third-party competition," S&P noted in

its annual P&I market report.

"The P&I clubs haven't been showing any profit, so it is not very attractive to competitors and there is no real competition of any size," said Ms. Potter. There is little prospect of new nonmutual players moving into the marine market unless brokers decide that there is not enough choice, she noted.

While the looming threat of terrorism and war is affecting the amount of security required by port authorities and the like, it is having little direct effect on rates, sources say.

Under the U.S. Terrorism Reinsurance Act, passed last November, P&I clubs are obliged to offer terrorism coverage to ships sailing in U.S. waters, said S&P's Mr. McClean. But this coverage is separate from the normal liability coverage offered by the clubs, and clubs have tended to

quote very high premiums for the extra terrorism coverage. Therefore, few shipowners have elected to buy such protection, he noted.

War would likely cause oil prices to rise but would have little immediate effect on the P&I market per se, added one P&I club spokesman.

Future rate increases are expected at the February 2004 renewals, noted Ms. Potter.

But future rate increases may be stemmed by the trend among shipowners to discontinue their use of older, single-hulled vessels, according to Mr. Godfrey.

Many older ships are being scrapped, he noted, and this causes a problem for P&I clubs. Older ships tend to produce bigger premiums, he explained, and so an influx of newer vessels could cause P&I clubs to need to seek additional premium elsewhere.

EWIRE

**TREATY REINSURANCE
INTERMEDIARIES
CONSULTANTS
AND
INSURANCE BROKERS**

TEL: (972) 866-6815

FAX: (972) 866-6801

WEBSITE: WWW.EWIREINSURANCE.COM

Gerling: New owner sought

Continued from previous page

runoff management, the Gerling spokesman said.

Meanwhile, the spokesman confirmed that discussions are continuing among Gerling and Hannover, Germany-based HDI and other potential investors about the rest of the group, which includes Gerling's nonlife and life insurance companies and Gerling NCM, one of the world's largest credit insurance companies.

Rating analysts believe that a disposal of Gerling Global Re is crucial to any successful negotiations over the company's future, and the Gerling spokesman agreed that Gerling would be unlikely to attract investors or buyers if the reinsurer's liabilities remained within the group.

Gerling has placed its nonlife reinsurance operations—including New York-based Gerling Global Reinsurance Corp. of America and Constitution Insurance Co.—in runoff. The group is hoping to sell Gerling Global Re, including its ongoing life reinsurance business, to free what remains of the group from the continuing drain of U.S. property/casualty reinsurance losses.

Gerling is one of Germany's oldest industrial insurers. Rolf Gerling, the grandson of the company's founder, has a 65.5% stake in the company, and Deutsche Bank has a 34.5% stake. As such, Gerling is limited in its ability to raise additional capital.

Standard & Poor's this month lowered its credit and insurer financial strength ratings on the group's nonlife and life insurance companies to BBB from A- and placed both on CreditWatch with developing implications. It also placed the A rating of Gerling NCM Credit & Finance AG on CreditWatch with negative implications.

The downgrade follows concerns that the group might not receive regulatory approval for the sale of its reinsurance operations, according to S&P.

"Standard & Poor's expects Gerling management's ability to find a suitable buyer for its primary insurance operations to be significantly reduced as long as its reinsurance business forms part of the group," said S&P credit analyst Karin Clemens. "The group's ability to meet regulatory solvency requirements is also likely to be challenged under such a scenario, particularly because management has

already made extensive use of its main sources of financial flexibility."

"If the ratings on other Gerling group entities are lowered, the ratings on Gerling NCM might also be lowered," said Ms. Clemens. She added, though, that "the ratings might be raised if Gerling management succeeds in finding a new ultimate ownership structure."

"The successful legal and regulatory completion of the reinsurance sale remains critical to the ongoing financial stability of the Gerling Group and, therefore, the primary entities," according to a recent research report published by Moody's Investors Service Inc.

"Moody's understands that the German regulator BaFin has yet to approve the transaction, and that some policyholders of Gerling Re may seek to legally link the liabilities of Gerling Re with the Gerling Group even after a completed sale," the report notes.

Failure of the reinsurance sale could trigger further rating actions, according to Moody's.

As for Gerling NCM, Moody's regards the company "as relatively modestly capitalized relative to its credit insurance peers (but it) believes that the high level of geographical business diversity and significant use of high-quality reinsurance act as positive offsets."

But in an analysis that was more positive than other rating agencies, A.M. Best last week affirmed its A-rating and stable outlook for the Gerling Group.

Best contends that the ongoing discussion about the company's future ownership has not negatively impacted Gerling Group's business profile. This was demonstrated by a strong renewal season for industrial business, the rating agency said. Best also said it believes Gerling's assets are sufficiently protected to meet policyholders' claims and will not be accessed to finance any potential difficulties of its reinsurance unit.

Carvill

Reinsurance Intermediary

**INDEPENDENCE
INTEGRITY
SERVICE**

**CONSISTENT PHILOSOPHY & PERFORMANCE
SINCE 1977**

Atlanta Bermuda Chicago London Los Angeles Norwalk

www.carvill.com

1-800-CARVILL

2003 Employee Healthcare Conference

Long-term cost savings depend on careful planning

By MICHAEL PRINCE

NEW YORK—The current health care environment offers corporate benefit managers an opportunity to make long-term changes to contain rising costs.

If there is a silver lining to the cloud of soaring health care costs, it is that it encourages employers to develop more-creative cost-control ideas, said Greg Heaslip, director of benefits at the Pepsi Bottling Group in Somers, N.Y.

Last year, the soft drink distributor sought a new health care benefits approach, after seeing costs increase by double digits for the second year in a row with no relief in sight, Mr. Heaslip said.

The company developed a three-step process for long-term cost savings, which it began to implement this year, Mr. Heaslip told attendees at the 2003 Employee Healthcare Conference this month in New York, sponsored by The Conference Board Inc. and Towers Perrin.

The first step involved creating a set of principles to guide all future decisions made in the company's health care benefits program, he said. Among the core aims were to maintain a benefits package comparable to other similar companies and to share health care costs with employees.

The next step was to create a strategy for containing costs in future years. Among the elements of Pepsi Bottling's strategy were promoting the concept of "consumerism" among employees and

introducing wellness and care management programs to prevent and manage high-cost illnesses.

The final step was to implement the strategy through annual changes to the program, such as revisions to plan designs, he said.

Prior to developing the plan, Pepsi Bottling conducted focus groups with employees. From those meetings emerged two key discoveries: most employees did not feel that containing health care costs was

Part of an employer's role in managing costs is to provide decision-support tools, so employees 'have what they need when they need it.'

*Bruce Taylor
Verizon Communications*

within their control, and employees felt their own health care spending did not affect overall costs, Mr. Heaslip said.

Abbott Laboratories also sought a long-term solution to rising health care costs while still providing employees with a competitive benefit, said Lois Lourie, director of benefit strategy and design for the Abbott Park, Ill.-based drugmaker.

To begin with, the company in 2002 added a consumer-driven health care plan, offered by Alexandria, Va.-based Lumenos Inc., for

employees at its Illinois headquarters. The new plan was well received, so in 2003 Abbott introduced it to other locations and saw strong enrollment.

Local benefit managers especially welcomed the new plan. "They liked the idea of something new to offer employees, with all the negative news that was out there" about health care costs, Ms. Lourie said.

In addition to the new benefit option, Abbott this year redesigned its health care and prescription benefit plans to shift more of increased costs to employees, she said. The company also eliminated 11 plans with that were either underused or underperforming, she said.

Looking to the future, Abbott will work with its health plans to identify the factors resulting in rising costs, Ms. Lourie said. The company will then focus its care management programs on the small number of employees that generate most of their health care costs. The company will also look at whether other health plans should be added and if the Lumenos plan should be rolled out to employees in other locations, she said.

Any long-term plan to control health care costs must involve sharing responsibility for costs and quality with employees, said Bruce Taylor, director of employee benefit policy and plans at Verizon Communications in White Plains, N.Y.

The telecommunications company is asking its employees to become more focused on purchasing health care based on value, Mr. Tay-

lor said. To help them do this, the employer needs to provide better information and decision-making tools, he said.

Part of an employer's role in managing costs is to provide decision-support tools, so employees have "what they need when they need it," said Mr. Taylor. "You have to make sure the information is available when they are willing to listen," he said.

In addition, Mr. Taylor advised, the information must be made available to the employees' spouses, who often make health care decisions.

This year, Verizon projects spending \$2.7 billion on health care benefits, making that its second-largest expense after payroll, Mr. Taylor said. Health care costs rose about 15% in 2002, with no expectation that inflation will abate in future years.

"Were our employees 15% healthier than last year?" he asked rhetorically.

Another important aspect to managing health care costs is to ensure high-risk individuals are enrolled in more managed environments, while individuals at lower risk are in less managed environments that carry lower administrative costs, he said.

Overall, the goal is to move "to a system that rewards health," Mr. Taylor said. "Unfortunately, we're a ways from that," he said.

Benefit managers seeking to make changes to health care programs now find that the issue now

has the attention of senior management, said Pepsi Bottling's Mr. Heaslip. In the past year, the benefit manager said he has met four times with top executives of the company to discuss health care issues. That compares to just four such meetings in the prior five years at the company, he said.

"There is a newfound level of passion about this," Mr. Heaslip said.

David Guilmette, principal at Towers Perrin in Parsippany, N.J., moderated the discussion.

Cost shifting: Consumer approach needed

Continued from page 4

The adoption of a consumer-driven plan is part of the company's decision to move away from a paternalistic approach to benefits and toward a consumerist model, he said.

Mr. Peden said that, so far, Raytheon has been pleased with its relationship with Minneapolis-based Definity and the company's consumer-driven plan. In particular, he noted, there has been no adverse selection; at the outset, there had been concern that primarily only the younger and healthier employees would switch to the new plan.

Communication has been the key to moving people into a newly introduced consumer-driven health plan at Coors Brewing Co. in Golden, Colo., said Jacob Lawrence, Coors' manager of health and welfare benefits.

This year the company introduced its plan, also offered by Definity, after undertaking an extensive education process with its employees, Mr. Lawrence said. "A consumer-driven health plan cannot be rolled out with just one mailing," he said.

The company sent written mailings and e-mails to employees and held town hall meetings to discuss the current state of the health care

system and to allow employees to voice their concerns about coverage. They also had representatives of Coors' various health care plans attend the company's annual health fair to make presentations and answer employees' questions.

Mr. Lawrence said he found that, during discussions with employees, their biggest confusion with the plan was the deductible. It took a while for many employees to comprehend that the deductible represented the money they themselves would have to pay, he said.

An illustrative way to present the plan to employees was to walk them through a best- and worst-case scenario if they were to enroll in the Definity plan, Mr. Lawrence said. This really drove home the way the health plan would work and highlighted its advantages, he said.

Mr. Lawrence said that the extensive communications efforts resulted in relatively robust enrollment in the Definity plan; 14% of employees eligible for health care coverage opted for that plan.

But fostering a consumerist approach to health care does not necessarily mean adding a consumer-driven health plan, Mr. Mollen said. True consumerism entails changing employees' mindset with

regard to health care spending.

And while consumerism can save money by shifting costs onto employees, that's only a byproduct of the approach and not its ultimate goal, he said.

"Consumerism is getting the employee to be an effective decision-maker," Mr. Mollen said. "It's about making the right choices."

For such an approach to work,

'Consumerism is getting the employee to be an effective decision-maker. It's about making the right choices.'

*Jack Mollen
EMC Corp.*

employees must assume greater responsibility for their health care, and the employer needs to help by providing them with the tools they need to make educated choices, he said. In particular, they need good information on health care, and that information must be readily available and, where possible, personalized, Mr. Mollen said.

Another long-term approach that can help control costs is rewarding those employees who succeed in

holding down their own expenses, Mr. Mollen said. Consumer-driven plans use employer-funded health care reimbursement accounts, which allow unused funds to roll over to meet expenses in the next year. Most employers currently offer health care flexible spending accounts, though, which do not permit funds to be rolled over from one year to the next. Mr. Mollen said that the law should be changed to permit FSA rollovers and to allow unused balances to eventually fund retiree health expenses.

Incentives are important to change employee behavior, Mr. Mollen said. With money in their own accounts, employees have a reason to make smarter, more cost-efficient decisions, he said.

Another key to controlling costs is the use of data, Mr. Peden said. He said that health care data about spending trends should be used to determine where changes could be made.

"Why collect data if you don't use it?" Mr. Peden asked. He added that Raytheon would not contract with any health plan that did not provide the data the company requires.

Craig Froude, senior vp at WebMD Corp. in Portland, Ore., moderated the discussion.

CS ReportPro
Reporting results for 35 years.

corporate systems
www.csedge.com
1.800.927.3343

Asbestos: ABA proposes reform

Continued from page 1

meets the relevant medical criteria.

The ABA's "deep-seated consensus" to reform the asbestos litigation system "is an attempt to establish some order," said ABA President Alfred P. Carlton Jr., an attorney with Kilpatrick Stockton L.L.P. in Raleigh, N.C. "This way, really sick people get to go to court and people who are not sick—but might get sick—don't lose their ability to bring a claim," he said.

While some plaintiffs attorneys supported the ABA majority, the president of the American Trial Lawyers of America called it "a bad decision that undermines our entire legal system." The ABA medical standards "would close the courthouse doors to countless sick people," ATLA President Mary E. Alexander said in a statement.

Meanwhile, several major employer and business groups wholeheartedly endorsed the ABA's call for congressional adoption of the asbestos litigation reform proposal.

A National Assn. of Manufacturers spokesman said NAM "is thrilled by the ABA's decision to join with us and many in the business and insurance industries who are advocating medical criteria and an extension of statutes of limitations."

From the U.S. Chamber of Commerce's perspective, "it's a very, very welcome voice adding to a growing chorus calling for a legislative solution," said Bruce Josten, ex-

ecutive vp-government affairs.

"It's a major boost for reform on Capitol Hill," said a spokesman for the American Insurance Assn.

The NAM and AIA share leadership of the Asbestos Coalition, a

The ABA 'is a very, very welcome voice' among those seeking reform.

*Bruce Josten
U.S. Chamber of Commerce*

150-member group of employers, insurers and attorneys that seeks to reform the handling of asbestos claims. Participants include the Chicago-based USG Corp., which is the parent of bankrupt United States Gypsum Co., as well as the Downers Grove, Ill.-based Alliance of American Insurers.

"As long ago as 1991, the (U.S.) Supreme Court said the system was 'in crisis,'" said Mr. Carlton.

"Asbestos litigation...is the tragic legacy of extensive industrial use of asbestos in the workplace, predominantly from the 1930s to the early 1970s," according to a report by the ABA Commission on Asbestos Litigation.

The flexible fibrous mineral, which was widely used in fireproof construction materials and still is being used in some roofing and brake-related products, can scar the lungs of unprotected workers who

inhale asbestos fibers and cause cancer decades after exposure.

According to the commission, there was "a steady flow" of cases beginning in the 1980s in which claimants received significant awards, initially from manufacturers and then from other downstream companies, such as retailers that sold materials containing asbestos. In all, such litigation caused about 60 companies to declare bankruptcy and cost the economy at least 60,000 jobs, researchers say in the report.

In the 1990s, "for-profit litigation screenings began systematically generating tens of thousands of new, nonmalignant claims each year by individuals who had some degree of occupational asbestos exposure but did not have, and probably would never get, an impairing asbestos-related disease," the commission said. Those claims have since clogged court dockets and increased litigation costs, it says.

In addition to creating medical criteria and extending statutes of limitations, the Senate bill that Sen. Don Nickles, R-Okla., introduced last week also would limit venue shopping by plaintiffs.

Any solution must remove transaction costs, be economically feasible and be politically viable, said the U.S. Chamber's Mr. Josten.

Mark A. Hofmann contributed to this report.

D&O: Risk sharing

Continued from page 4

Weiss said.

Policyholders often face securities suits that far exceed their insurance coverage, so if they receive settlement offers that would be entirely covered by insurance, they are much more likely to accept, he said.

For example, if its stock price fell 10%, a company with a \$4 billion capitalization could face a \$400 million securities lawsuit. If the company has \$100 million in D&O coverage and is offered a settlement of \$40 million, "that's a tremendous incentive to settle," Mr. Weiss said.

Despite efforts to limit their exposures, D&O insurers are sensitive to the coverage needs of directors and officers in the current environment of heightened concerns regarding corporate governance, said Heather Fox, assistant general counsel and vp at National Union Fire Insurance Co. of Pittsburgh, Pa., a unit of American International Group Inc. in New York.

Indeed, while the enactment of the Sarbanes-Oxley corporate governance legislation in 2002 ensures that procedures are put in place that could prevent D&O losses, it also creates more evidence that could be used against a company by such requirements as the archiving of audit committee records, Ms. Zacharias said. And with the prospect of facing significant fines or jail time, executives may be more likely to settle rather than see the

evidence used at trial, she said.

In an attempt to ensure coverage, directors and officers are seeking to have severability provisions included in D&O contracts. In their most comprehensive form, such provisions shield individual directors from the rescission of coverage if those directors were not involved in a fraud, Ms. Fox said.

Underwriters often are unwilling to extend full severability, though, because even though the conduct of some individual directors has not been fraudulent, they can still face significant losses based on the fraudulent behavior of a few other key directors, she said.

"The carrier is taking an underwriting submission and looking at financial statements, and if the information is false, then they are duped. If you can't rely on the information you are given, how can you price it?" Ms. Fox asked.

Insurers, therefore, often include clauses that void coverage for all directors and officers if the chief executive officer or the chief financial officer of the policyholder company is found to have committed fraud, Ms. Fox said.

Alternatively, she said, companies can purchase nonrescindable side-A D&O coverage, which is separate from entity coverage, to cover individual directors.

The panel was moderated by Jeffrey Lattmann, managing director of Marsh Inc.'s FINPRO division.

Med mal: Debate framed by search for scapegoats

Continued from page 1

sor in the House of Representatives told a business audience that both the House and Senate could vote on the measure by the end of next month.

But Rep. James Greenwood, R-Pa., warned that getting a version of his Help Efficient, Accessible, Low-Cost Timely Health-Care—or HEALTH—Act through the Senate would be no easy task. Though the House passed an earlier, nearly identical version of the bill last year, repeating that feat "isn't a done deal" because of trial bar opposition, said Rep. Greenwood during an address at the U.S. Chamber of Commerce in Washington last week. The then-Democratically-controlled Senate never took up the malpractice liability reform measure, which, among other things, would cap punitive damages at the greater of two times economic damages or \$250,000 and cap non-economic damages at \$250,000.

Even with the Senate back under GOP control, supporters must still muster 60 votes to prevent a filibuster, Rep. Greenwood pointed out. He said that Senate Majority Leader Bill Frist, R-Tenn., could probably round up 51 or 52 votes in favor of the measure simply by picking up the phone. Getting enough support to cut off debate is "going to be tough; it's going to be very tough," Rep. Greenwood said.

With the House expected to take up the measure early next month

and Sen. Frist indicating that he would like the Senate to follow suit by the end of March, Rep. Greenwood said that supporters may well have to settle for a "relatively watered-down bill" that could be bolstered with some of the original House provisions when it went to a House-Senate conference committee. He said that though he is open to a degree of compromise, he is not willing to gut the measure.



Getting enough support in the Senate to cut off debate 'is going to be tough; it's going to be very tough.'

Rep. James Greenwood

During the joint Senate committee meeting, Sen. Frist—who is a physician—stressed that medical malpractice insurance costs are driving some doctors out of business and forcing others to relocate to states where insurance costs have not risen dramatically. "We at the federal level absolutely must respond to this crisis," he said. "Action is needed; it's needed now and it's needed in this Congress," said Sen. Frist, adding that he would do "everything in my power" to get a bill through the Senate.

The chairman of the HELP Committee—Sen. Judd Gregg, R-N.H.—

took direct aim at the legal system in general and the trial bar in particular when assessing blame for the situation.

"It makes no sense for excessive litigation to eat up" an increasing amount of the medical community's resources, given the rising cost of health care and the increasing number of the uninsured, Sen. Gregg said. "Dramatic increases" in the size of medical malpractice jury

awards, the high cost of defending lawsuits and doctors' decision to practice defensive medicine to minimize liability exposures are all driving the liability crisis, he said.

And some trial lawyers "are using the medical community, unfortunately, as their ATM," Sen. Gregg charged.

He said that while some find it "convenient" to blame insurers, the truth is that rates increase when insurers pay out more in claims and litigation expenses than they collect in premium. "At a minimum, we should address the litigation lottery that has added to unpredictability in liability insurance," he said.

The ranking Democrat on the HELP Committee was not swayed by his colleague's argument.

"The reason for sky-high premi-

ums cannot be found in the courtroom," said Sen. Edward Kennedy, D-Mass. Instead, "insurance industry practices are responsible for the sudden, steep premium increases which have occurred in some states in the last year."

The insurance industry "creates a 'malpractice crisis' whenever its investments do poorly," he charged. "When insurance companies lose money on their investments, they should not be able to recover those losses from the doctors they insure. Unfortunately, that is what is happening now," he said.

The ranking Democrat on the Senate Judiciary Committee—Sen. Patrick Leahy, D-Vt.—blasted the HEALTH Act as a "one-size-fits-all" approach with arbitrary limits on damages. He announced that he had introduced a bill that would strip malpractice liability insurers—and those insurers alone—of the limited immunity from federal antitrust action that they enjoy under the McCarran-Ferguson Act. Sen. Leahy said that the bill—the Medical Malpractice Insurance Antitrust Act of 2003—would amend the act "only for the most-pernicious antitrust offenses—price-fixing, bid-rigging and market allocations."

Sen. Leahy currently has eight co-sponsors, none of whom is Republican, for his bill. He turned to the man who had replaced him as chairman of the Judiciary Committee—Sen. Orrin Hatch, R-Utah—and expressed the hope that the

two would be able to work together in scaling back the McCarran-Ferguson exemption in the same spirit in which they worked together to scale back Major League Baseball's antitrust exemption.

But Sen. Hatch did not commit himself to any course of action. While stressing the need for a balanced medical malpractice reform bill and expressing concern that the \$250,000 cap on non-economic damages would not allow sufficient compensation in some cases, he declined to blame insurers for the malpractice situation.

ADVERTISER

INDEX

Issue of February 17

ADVERTISER	PAGE #
Aetna Corporate	7
AIG Corporate	11
American Re	5
Aon Corporation	2
Brownard Group	6
Business Insurance	15
Carvill America, Inc.	24
Corporate Systems Corp	25
EWI Re Inc.	24
GeneralCologne Re	21
Harvard Pilgrim	15R
HUB International	13
Lloyd's of London	14
Old Republic Risk Management	9
Renaissance Re	15R
Royal & SunAlliance	28
St. Paul Corporate	18/19
Travelers Life & Annuity	16/17
Valley Oak Systems, Inc.	6

For the Record

This roundup of news from the previous week is generated by *BI's* daily news reporting.

Bill to expand FMLA introduced in Senate

Ten years after the enactment of the Family and Medical Leave Act, legislation has been introduced to expand the 1993 law. Under the FMLA, employees working for organizations with more than 50



Rep. Dodd

employees are eligible for up to 12 weeks of unpaid, job-protected leave to care for an ill family member or because of their own illness. A bill introduced by Sen. Christopher Dodd, D-Conn., would expand FMLA to cover employers with as few as 25 employees.

Multiemployer funds keep retiree coverage

Despite the challenges of climbing health care costs, rising insurance

premiums and the added pressure of the impending retirement of baby boomers, 61% of multiemployer health plans continue to provide retiree medical benefits, compared with just one-third of large U.S. corporations, according to a survey. Furthermore, only 2% of multiemployer funds plan to eliminate medical benefits for future retirees because of cost increases, according to the survey, conducted by the International Foundation of Employee Benefit Plans.



Fairfax posts profit, rebuts reserve analysis

Fairfax Financial Holdings Ltd. reported the largest annual profit in its history for 2002. Aided by a substantial increase in realized investment gains, Fairfax finished the year with net income of \$415.7 million Canadian (\$273.3 million), compared with a net loss of \$346.0

million Canadian (\$227.5 million) in 2001. Fairfax also asserted in a statement that a stock analyst's recent reports citing alleged loss reserve deficiencies are "totally wrong" and have "no validity whatsoever." Morgan Keegan & Co. Inc. concluded in a January report that Fairfax is underreserved by \$4.96 billion—mostly for losses at TIG—and that its shareholders equity amounted to a negative \$4.43 billion as of Sept. 30, 2002. The investment firm later reduced the reserve shortfall estimate to \$2.93 billion.

Willis restructures North American unit

Mario P. Vitale has been named chief executive officer of Willis North America in New York as part of a restructuring of the unit. Mr. Vitale joined Willis Group Holdings Ltd. in 2000 as group executive vp of group sales and marketing. In his new role, he will head all of Willis' operations in North America, including large accounts, middle-market accounts and various specialty groups. Previously, the various North American operations



Mr. Vitale

were not integrated.



Aetna posts loss on goodwill charge

Continuing its efforts to return to profitability, Aetna Inc. trimmed membership and reduced medical cost ratios in 2002. However, a nearly \$3 billion charge related to the impairment of goodwill in the first quarter of last year resulted in a \$2.52 billion net loss for all of 2002, Aetna said. Absent the charge, the Hartford, Conn.-based insurer would have posted a 2002 profit of \$443.2 million, compared with a loss of \$280.1 million in 2001. The insurer's revenue shrank 21.1%, to \$19.9 billion. Medical membership slipped 19.7%, to 13.5 million.

Aon profits rise 217%

Aon Corp. reported net income of \$466 million in 2002, a 217.0%

increase over 2001. Gross revenues for the year increased 14.9% to \$8.82 billion. Among the factors hitting the broker's 2001 profits were expenses related to Aon's business transformation plan and the World Trade Center attack. Aon's 2002 figures include an \$11 million pretax credit related to reimbursement from its property insurers for assets destroyed on Sept. 11, 2001.



Briefly noted

XL Capital Ltd.'s \$405.6 million profit in 2002 was helped by a strong fourth quarter. The insurer, which lost \$576.1 million in 2001, recorded a fourth-quarter gain of \$221.4 million. That gain follows a loss of \$83.6 million for the same period a year earlier....Property catastrophe reinsurer IPC Holdings Ltd. reported profits of \$157.9 million for 2002, compared with a \$3.9 million loss in 2001. Gross premiums at the reinsurer increased 95.2%, to \$259.7 million in 2002.

Benefits: Dropping retirees

Continued from page 1

Steelworkers of America and a group of primarily nonunion, salaried retirees to find alternative coverage.

Others may follow Bethlehem Steel's lead, say observers. Joe Martingale, national health care strategy director for Watson Wyatt Worldwide in New York, said that unless something changes, the generosity of companies that continue to provide retiree coverage, as well as the number of companies that offer it altogether, will diminish.

Mr. Martingale noted a recent Watson Wyatt study calculated that, because of skyrocketing costs, employers with retiree health plans would, typically, pay only 10% of costs, including premiums, by 2031. Today, employers typically pay more than 50% of costs (*BI*, Sept. 16, 2002). Mr. Martingale said that while Bethlehem Steel's situation "obviously is very unusual" in the way its retiree medical obligations "overwhelm everything else," most employers are subject to the same trends.

Bruce Davis, a Bethlehem Steel retiree who is general counsel to the salaried workers group, Bethlehem-based Retired Employees Benefit Coalition, said, "My reading in this area would suggest that the experience that the Bethlehem Steel retirees are now facing will be less of a unique experience in the months and years ahead, as more and more employers discontinue the coverage for retirees."

Bethlehem Steel said it is speak-

ing with several health care vendors to solicit proposals for a voluntary insurance program for its eligible retirees for which the retirees would pay the entire premium. Trade legislation Congress passed last year includes a provision under which individuals age 55 or older who are receiving pension benefits through the Pension Benefit Guaranty Corp. are eligible for a 65% federal tax credit to be applied toward the purchase of health insurance coverage. The PBGC took over and terminated Bethlehem Steel's massively underfunded pension plan last year (*BI*, Dec. 23, 2002).

In addition, the United Steelworkers hopes to negotiate a voluntary employees' beneficiary association with ISG similar those it has already negotiated for retirees of defunct Cleveland-based steelmaker LTV Corp. and ACME Steel, a unit of Riverdale, Ill.-based Acme Metals Inc. ISG has purchased LTV steel-making facilities and Acme Steel's Riverdale plant. A VEBA allows tax-deductible money to be set aside for employee health, disability or life insurance.

A union spokesman said the union has also discussed with Pennsylvania Gov. Edward G. Rendell the possibility of the state contributing tobacco settlement funds and perhaps other available revenues to "minimize the damage" to retirees.

In addition, Mr. Davis said REBCO is in the process of soliciting proposals for a substitute health plan for its 17,000 members and spouses. Mr. Davis said a recom-

mendation as to which proposal to select will be made by a bankruptcy court-appointed committee.

Under the REBCO plan, retirees would receive essentially the same benefits for a monthly \$200 premium, compared to the typical \$167 premium they now pay.

Under the REBCO plan, pre- and post-65-year-old retirees would pay an average of \$200 or more per person for their coverage. Currently, retirees who are under 65 pay \$167 a month, while those under Medicare pay \$87.

Mr. Davis said he had intended his group's plan to take effect May 31, and he has asked Bethlehem to delay cutting off retiree benefits until then. No decision on an extension was made during a meeting with Bethlehem officials Wednesday, he said.

The next meeting on the issue is scheduled for Feb. 24. Among those asked to submit a proposal is Warwick, R.I.-based National Employment Benefits Co., a subsidiary of Charlotte, N.C.-based American Wholesale Insurance Group, which established a VEBA for LTV Corp.'s laid-off employees and retirees last year (*BI*, April 29, 2002; April 22, 2002). It was an unusual move because VEBAs are generally established and funded by employers or unions, either alone or together.

NEBCO President and Chief Executive Officer Samuel H. Fleet said the LTV VEBA now serves 5,500 former workers and beneficiaries, about 15% of whom are over age 65. "The program is doing very well," said Mr. Fleet.

Online Poll [2/10 - 2/14]

Do you believe that universal health care proposals will be enacted by a state:



	This year	8.9%
	Next year	8.9%
	Some other time	38.9%
	Never	43.3%

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

BI Stock Index [2/10 - 2/14]

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

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

0.43	0.57	0.63
BI Stock Index	Dow Jones	S&P 500
1641.88	7908.80	834.89

Largest gains

Gainsco Inc	122.22%
Trenwick Group Ltd.	28.21%
Argonaut Group	18.73%
Odyssey Re Holdings	14.25%
Aon Corp.	11.02%

Largest losses

Pacificare Health Sys.	-21.18%
Hilb, Rogal & Hamilton	-14.27%
Meadowbrook Ins. Group	-12.82%
Oxford Health Plans	-12.38%
UNUM Corp.	-8.32%

Weekly change by market segment

Brokers	-2.07%
Insurers/Reinsurers	3.04%
Managed Care Organizations	-6.43%

Source: CNET Investor (investor.cnet.com)