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MAY COST INSURERS
OVER \$5 BILLION / PAGE 3



SUPREME COURT TO HEAR
SECURITIES CLASS ACTION
FRAUD CASE / PAGE 3

INDUSTRY EXPERTS
CAUTIOUSLY OPTIMISTIC
ABOUT FUTURE / PAGE 4

In Brief

AIG repays N.Y. Fed,
Treasury has 92% stake

American International Group Inc. has repaid the Federal Reserve Bank of New York as part of its recapitalization plan resulting from its 2008 bailout by the federal government, the insurer said Friday. The plan included repaying a roughly \$21 billion credit line that AIG owed to the New York Fed. As part of the recapitalization plan also involving the AIG Credit Facility Trust and U.S. Treasury Department, AIG also said it had exchanged various forms of government support into common shares, resulting in the Treasury Department owning approximately 92% of AIG's common stock. Treasury now owns 1.66 billion shares of AIG and around \$20 billion of preferred equity interests in two AIG subsidiaries.

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SPOTLIGHT

**UNDERSTANDING
FINANCIAL
RISK MANAGEMENT**

Lessons for traditional risk managers; political decision on China exports hits supply chains; insurers assess portfolio risks; Q&A with CRO. **PAGE 9**

WORKERS COMPENSATION

TPA pay deals
raise concerns

Buyers seek clarity
on fee arrangements
in vendor contracts

By **ROBERTO CENICEROS**

Some risk managers want more transparency from their third-party administrators on the financial arrangements they have in place with vendors of workers compensation services.

Too often, TPAs don't break out details on the arrangements and some risk managers fear the lack of transparency results in higher costs for employers and conflicts of interest, several sources say.

Employers and brokers want to know how any undisclosed financial arrangements between claims administrators and the vendors affect employer costs and whether they undermine optimum claims outcomes or limit employers' ability to measure the effectiveness of workers comp claims services, several sources said.

Through contracts with claims administrators, the vendors ultimately provide employers with services such as medical case management, utilization review, physical therapy, radiology, doctor networks, legal advice, investigation services as well as durable medical equipment and pharmaceutical prescription services, sources said.

Charges for the vendor's services typically appear as allocated expenses in a claim file. But those charges usually do not provide details about expenses being charged to a client nor do they reveal various revenue arrangements reached between the vendors and claims administrators—including third-party claims administrators and insurers' claims administration units, several sources said.

Several large TPAs said they eliminate any perceived conflict of interest by fully disclosing all revenue derived from vendors, especially after former New York Attorney General Eliot Spitzer's accusations in 2004 that brokers steered clients to maximize contingent commission payments.

See **TPAs** page 17

LIABILITY & LITIGATION

Mixed messages sent
on global warming suits

Court rejects one case,
but accepts another

By **JOANNE WOJCIK**

WASHINGTON—The U.S. Supreme Court's decision to reject one global warming nuisance suit after agreeing to take up another may provide clues to how the nation's highest court may rule on using the judicial system to resolve such issues, attorneys say.

See **COMER** page 17



HEALTH CARE BENEFITS

Aetna buys reinsurance coverage for group health

By **JOANNE WOJCIK**

HARTFORD, Conn.—Aetna Inc. has arranged debt-financed reinsurance coverage of a portion of its commercial group health insurance business, freeing up some cash needed to meet risk-based capital requirements set by state regulators.

The three-year reinsurance contract with Vitality Re Ltd., a Cay-

man Islands-based special-purpose vehicle, gives the Hartford, Conn.-based health insurer \$150 million of collateralized excess-of-loss reinsurance that will be trig-

\$150M

The three-year reinsurance contract with Vitality Re Ltd. gives Aetna Inc. \$150 million of collateralized excess-of-loss cover that will be triggered if its MLR on fully insured commercial group tops 104%.

gered if the medical loss ratio on Aetna's fully insured commercial group business tops 104% this year. If its MLR exceeds 114% this year, Aetna can access the full \$150 million.

To finance the reinsurance, which will cover the claims payments of Aetna-owned Health Re Inc., Vitality Re will issue two classes of notes: \$125 million of Class A notes, which will have an MLR attachment point of \$1.3 billion; and \$25 million of Class B notes, which attach at \$1.225 billion, Aetna said last week.

The Class A notes have received

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man Islands-based special-purpose vehicle, gives the Hartford, Conn.-based health insurer \$150 million of collateralized excess-of-loss reinsurance that will be trig-

News
In Brief

CONTINUED FROM PAGE 1

Global Re antitrust suit
against Equitas revived

Global Reinsurance Corp. of America's antitrust suit against Equitas Ltd. has been reinstated by a New York appellate court. In a 4-1 decision, the New York Supreme Court Appellate Division, First Department said allegations against Equitas, which was formed to handle pre-1993 Lloyd's of London asbestos and environmental claims, were sufficient for the case to proceed. Global Reinsurance alleges that Equitas engaged in claims-payment behavior "that retrocessionaires subject to competitive constraints could not have engaged in," thus costing Global Reinsurance millions of dollars. Global further charged in its original complaint that Equitas is at the "hub of a worldwide conspiracy" with Lloyd's syndicates involving the purchase, sale and claims payments on retrocessional coverage.

Raise U.S. oil pollution
liability cap: Panel

The liability cap of \$75 million under the Oil Pollution Act should be increased significantly to provide adequate compensation to those harmed by an oil spill and to provide an incentive for energy companies to adopt stringent safety practices, a presidential commission recommends. The National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling concluded in its report that the existing cap limits liability to an amount well below what actually may be incurred. It does not suggest where the limit should be set, but says "Congress should significantly raise the cap." Not only is the \$75 million cap too low to provide adequate compensation, it does little to encourage oil companies to improve their safety practices, according to the report, "Deepwater: The Gulf Oil Disaster and the Future of Offshore Drilling."

Workplace discrimination
charges set record: EEOC

A record 99,922 private-sector workplace discrimination charges were filed with the U.S. Equal Employment Opportunity Commission during fiscal 2010, the agency said. The number of charges filed in fiscal 2010, which ended Sept. 30, was more than the 95,402 record set in fiscal 2008 and was 7.1% higher than fiscal 2009, the EEOC said. All major categories of charges increased.

Social Security taxes due
on medical residents' pay

Medical residents are employees and, as a result, they and their employers are required to pay Social Security taxes on salaries paid to the residents, the U.S. Supreme Court ruled. Under federal law, Social Security taxes are not applied on compensation earned by students for services they perform for their school, college or university. Under regulations the Internal Revenue Service adopted in 2004, the IRS narrowed the student exception and said it does not apply in certain situations, including those in which individuals consistently work at least 40 hours per week. The Mayo Foundation said medical residents, who typically spend 50 to 80 hours a week caring

for patients and receive annual stipends ranging from \$41,000 to \$56,000, are, regardless of their compensation, students and thus entitled to the student FICA tax exemption. But the high court, in an 8-0 ruling, said the IRS was within its authority to narrow the student exemption.

Second European insurer
stress test upcoming

The European Insurance and Occupational Pensions Authority said will conduct a second financial stress test for European insurers later this year. EIOPA, formed as a successor to the Committee of European Insurance and Occupational Pensions Supervisors and based in Frankfurt, Germany, said the test will be conducted with the European Systemic Risk Board and is expected to be launched at the beginning of the second quarter. The test will attempt to identify stress scenarios and their effects on the financial position of insurers.

RIMS questions N.Y. merger
plan affecting insurance

The Risk & Insurance Management Society Inc. expressed initial reservations last week regarding New York Gov. Andrew Cuomo's proposal to merge the New York State Insurance Department into a combined Department of Financial Regulation. In a statement, RIMS said it recognized the validity of Gov. Cuomo's goal to reduce costs and increase efficiency, but was concerned that the merger could weaken consumer protections.

U.S. tort costs decreased
2.7% in 2009: Study

Several factors, including a drop in gross domestic product, played a role in pushing U.S. tort costs down 2.7%—or about \$6.8 billion—in 2009, according to a study by Towers Watson & Co. According to the "2010 Update on U.S. Tort Cost Trends," the U.S. tort system cost \$248.1 billion in 2009. In addition to the drop in GDP, the report attributed the decline to a rising unemployment rate and decreasing tort activity as a result of a lower level of economic activity. In contrast, U.S. tort costs reached \$254.7 billion in 2008, according to an update issued in December 2009.

Health care reform
repeal effort to resume

The House of Representatives this week will resume consideration and vote on legislation to repeal the health care reform law. Last week, the House had been set to take up the bill, H.R. 2, which now has 179 co-sponsors, but Republican leaders put off consideration after the shootings in Tucson, Ariz., that killed six people. The measure is expected to pass easily, but likely will die in the Senate, observers say.

Noted

Liberty Mutual Group Inc. said J. Paul Condrin, president of its commercial markets operation, will succeed Gary R. Gregg, who is retiring as president of Liberty Mutual Agency Corp. Christopher L. Peirce, chief financial officer of Liberty Mutual's international business unit, succeeds Mr. Condrin as president of commercial markets....**CNA Financial Corp.** said it has named John Beckman as chief underwriting officer of its commercial insurance operations. Mr. Beckman, who previously was chief risk officer, will be succeeded in that role by Mark Verheyen, who was vp-economic capital modeling for the insurer. Pat O'Connor has been named senior vp of its commercial monoline property unit.

Business Insurance

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In the latest D&O In Focus video, *Business Insurance* talks with experts about the issues corporations face as a result of Capitol Hill legislation. Click through the Multimedia tab to Video Reports.



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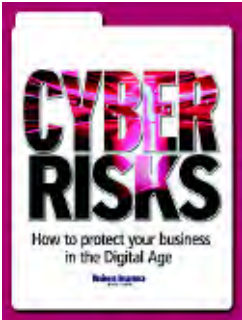
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CYBER RISKS
WHITE PAPER

"Cyber Risks: How to protect your business in the Digital Age" addresses Internet exposures and available coverage. www.BusinessInsurance.com/whitepapers.

MOST POPULAR STORIES
Week of January 10, 2011

1. Property/casualty insurers' financials improve: Analysis
2. Best downgrades commercial insurance outlook to negative
3. Supreme Court won't hear global warming case
4. AIG asset sales weaken insurer, ex-CEO Greenberg says
5. Workplace discrimination charges set record: EEOC
6. Court's ruling on WARN Act could benefit employers
7. Liberty Mutual announces executive appointments
8. Marsh names head of U.S. financial institutions practice
9. RIMS unveils new logo, tagline
10. U.S. Chamber backs repeal vote on health care reform

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DIRECTORS & OFFICERS LIABILITY

High court agrees to decide securities fraud class action

Dispute centers on level of proof needed in asbestos lawsuit

By MARK A. HOFMANN

WASHINGTON—The U.S. Supreme Court could raise the bar for plaintiffs seeking to certify classes in securities fraud litigation when it decides a case involving allegations against Halliburton Co.

The case—*Erica P. John Fund Inc. fka Archdiocese of Milwaukee Supporting Fund Inc. vs. Halliburton Co. et al.*—involves what a plaintiff has to prove before it can obtain class certification on its claims, which in this case include allegations that Halliburton misrepresented its

asbestos liabilities.

In the case, which the Supreme Court accepted for review last week, a three-judge panel of the 5th U.S. Circuit Court of Appeals held plaintiffs to a higher standard of proof concerning losses than many other circuits, said legal observers.

But some observers also said the high court is unlikely to go against the approach taken by most appeals courts in certifying classes where securities fraud is alleged.

"Depending on which way the court rules, it could be very significant or, more likely, it won't change much at all," said Dan A. Bailey, a member of Columbus, Ohio-based law firm Bailey Cavalieri L.L.C.

The case began with a suit

brought by the Archdiocese of Milwaukee Supporting Fund as the lead plaintiff in a putative securities fraud class action against Halliburton. It involves the "fraud on the market" theory, under which it is assumed that all public information about a company is known in an efficient market and is reflected in the stock price.

The plaintiff alleged that Halliburton made false statements regarding three areas of its business between June 1999 and December 2001. These were its potential liability in asbestos litigation, its accounting of revenue in its engineering and construction business, and the benefits to Halliburton of a merger with

See **CLASS ACTION** page 18

RISK MANAGEMENT

Governments urged to tackle risks

Large exposures seen in finances, crime, lack of resources

By SARAH VEYSEY

The insurance industry plays a vital role in helping society deal with large-scale risks and governments should consider appointing country risk officers to better avoid such threats, experts say.

In releasing the World Economic Forum's "Global Risks 2011" report in London last week, economists and insurance

industry experts said three clusters of risks will create significant liabilities during the coming decade.

Those clusters are macroeconomic risks, including unfunded social liabilities and weak financial markets; the illegal economy, including organized crime and corruption; and growth inhibitors caused by a lack of resources, such as water, food and energy.

"Global Risks 2011" was compiled based on a survey of some 580 respondents and will be a starting point for risk-based discussions by global business and

political leaders at the upcoming WEF meeting at Davos-Klosters, Switzerland, later this month.

In addition, the WEF report identified five emerging risks: cyber security, high population growth, scarcity of resources, retrenchment from globalization that could "fracture economic and political integration," and nuclear and biological weapons.

Against this backdrop, the WEF will develop a risk response network during the Davos-Klosters meeting, said Robert

See **WEF** page 18

CATASTROPHES



REUTERS/LANDOV

In Ipswich, Australia, 25 miles southwest of Brisbane, store owners threw out flood-damaged insulation ducts during a massive cleanup last week.

Australian flood losses may exceed \$5 billion

By SARAH VEYSEY

BRISBANE, Australia—Insured losses from severe flooding in the Australian state of Queensland could range from \$3 billion Australian (\$2.99 billion) to \$6 billion Australian (\$5.98 billion), AIR Worldwide Corp. said Friday.

The estimate for losses in and around Brisbane and Rockhampton was based on projected growth of the number of claims reported; the average reported claim size; and the location, number and value of insured properties in AIR's industry exposure database for Australia, Boston-based AIR said in a statement.

The Insurance Council of Australia Ltd. said insurers already had more 7,000 claims with an estimated value of \$365 million.

The flooding, which began in late December, spread last week to Brisbane and closed up to 95% of businesses in the central business district. It also caused widespread evacuations in Australia's third-largest city and the surrounding area. At least 22 people died and scores were missing.

While flooding in Queensland is

not unexpected at this time of year, the scale of the floods is unprecedented, said Neena Saith, senior manager of catastrophe response and Americas models at Risk Management Solutions Inc. in London.

Stocks of insurers with large Australian operations fell last week on fears that companies would suffer significant losses.

Brisbane-based Suncorp Group Ltd. said reinsurance coverage likely would limit its flood losses to \$70 million to \$90 million Australian (\$69.8 million to \$89.7 million). Suncorp and Sydney-based rivals Insurance Australia Group Ltd. and QBE Insurance Group Ltd. have reinsurance that will mitigate losses, said John Birch, a director at Fitch Ratings Ltd. in Sydney.

It remains to be seen whether the floods, which may span two policy years for companies that renewed coverage on Jan. 1, are treated as separate events, he said.

Lloyd's of London insurers may suffer losses stemming from the floods, said Joanna Parsons, an insurance analyst at Royal Bank of Scotland Group P.L.C. in London.

Jeff Casale contributed to this story.

Business Insurance names new editor, recruits key managers

CHICAGO—Business Insurance has made several management changes, including naming a new editor and hiring new managers of sales and audience development.

Gavin Souter has been named editor, **Susan Stilwill** is the new advertising sales director and **Michelle O'Malley** takes over as audience marketing director at Chicago-based Business Insurance.

"These new leadership team members bring the skills and experience necessary for Business Insurance to continue to be the pre-eminent source for insight into critical and emerging risk trends and issues," said Mark Stach, publisher and general manager of Business Insurance.

"With their leadership, Business



Mr. Souter

Insurance will leverage all available media to relate this information to members of the risk and insur-



Ms. Stilwill

ance community in a form that contributes to the success of their day-to-day work," he said.



Ms. O'Malley

Mr. Souter was promoted from managing editor, a position he had held since 2004. He succeeds

Regis Coccia, who left in late 2010. Mr. Souter previously was assistant managing editor-news in the New York bureau, and an associate editor in New York and London. Mr. Souter joined the magazine in 1991 in the London bureau and moved to New York in 1993.

Mr. Souter graduated from the University of Nottingham, England, with a bachelor's degree in theology. He can be reached at gsouter@businessinsurance.com and by phone at 312-649-5482.

Ms. Stilwill joins Business Insurance from New Company Media, a Chicago-based consulting firm she founded in 2009. Prior to that,

See **STAFF** page 18

PHOTOS: MICHAEL MARCOTTE

RISK MANAGEMENT



AP PHOTO

Workers blow snow in front of the New York Stock Exchange as a winter storm pounded much of the Northeast and South last week.

New York learns lesson in managing snow risks

Emergency declared sooner, city hires outside contractors

By MICHAEL BRADFORD

Snowstorms that crippled New York and parts of the Northeast while also battering the South have provided lessons in managing winter weather risks, experts say.

New York Mayor Michael R. Bloomberg and other city officials came under fire for their response to a late December blizzard that dumped 20 inches of snow on the region. Snow that fell quickly in high winds shut down the city's transit system and commerce, let alone neighborhoods where some streets went unplowed.

Another winter storm last week left up to 10 inches of snow in the South before moving up the East Coast and through New York and Boston, where it dumped as much as 23 inches in parts of New England, resulting in businesses shutting down, cancellation of thousands of flights and snarled traffic in several states.

The wintry weather was

blamed for at least 14 deaths since Dec. 28, 2010.

As of last week, the National Weather Service said every U.S. state except Florida had snow on the ground, covering about 70% of the nation's land mass.

In New York, Mayor Bloomberg acknowledged last week that the city's preparation and response to the December blizzard was unacceptable and was being investigated.

Critics said the city was too late in declaring a snow emergency and its snow removal plan was woefully inadequate.

City officials since have acknowledged such failures, with published reports of a public oversight hearing last week quoting city officials as blaming the inadequate response on poor communication among city agencies

and with the public, too few radios in city trucks, the absence of GPS equipment, delays in using snow removal equipment, and a failure to acquire and deploy additional resources from the private sector. There also were allegations that cleanup was slowed by workers protesting budget cuts.

In preparation for last week's



New York Mayor Michael R. Bloomberg and other officials came under fire for poor snow removal efforts.

See **SNOW** page 20

PROPERTY/CASUALTY INSURERS

Insurer financials improve, but concerns remain: Panel

By RODD ZOLKOS

NEW YORK—A group of top insurance company executives gave the industry acceptable or better marks for its performance during 2010, though some voiced concerns that calendar-year results concealed some troubling issues.

Speaking as part of a CEO panel at the annual "Property/Casualty Joint Industry Forum" last week in New York, Anthony J. Kuczinski, president and CEO of Munich Reinsurance America Inc. in Princeton, N.J., said, "You can't just look at calendar years."

Insurers' release of prior-year reserves can create a deceptive picture of performance, with calendar-year results that may be very different from underwriting results, he said. Companies' management teams need to recognize the difference between calendar-year figures and their

companies' actual underwriting performance, Mr. Kuczinski said.

2010 was perhaps "a good year overall but a year that concerns me going forward," Mr. Kuczinski said.

Another panelist, Ross Buchmueller, president and CEO of Privilege Underwriters Inc. in White Plains, N.Y., said he sees significant differences between the top-performing insurance companies and those at the bottom.

Liam E. McGee, chairman, president and CEO of Hartford Financial Services Group Inc. in Hartford, Conn., called 2010 an "acceptable year," particularly given the outlook when the year began. But, he said, "You can't avoid the fact that in those good numbers you've got a release of prior-year reserves and returns that are

See **JIF** page 20

Regulations pose risks for insurers

Changes in U.S., Europe expected to have significant impact

By SONJA RYST

NEW YORK—The insurance industry is better off than last year but still faces issues ranging from regulatory reform to inflation, experts said during a panel discussion last week at the "Property/Casualty Insurance Joint Industry Forum" in New York.

While regulators have passed laws in recent months, such as the Dodd-Frank Wall Street Reform and Consumer Protection Act, more changes are developing in the wake of the financial crisis. For example, New York Gov. Andrew Cuomo early this year proposed merging the state's Insurance Department, Banking Department and Consumer Protection Board into an

agency tasked with providing consumers with access to financial services at competitive rates, among other things.

"He's going to be a governor you can speak to," said James J. Wrynn, superintendent of the New York State Insurance Department. "He gets it. He knows that in New York, we have to be business-friendly."

In today's global market, the state could lose business to anywhere in the world, so "I think you'll see a real movement in the right direction for the industry" given the environment in New York, Mr. Wrynn said at the conference hosted by the New York-based Insurance Information

See **OUTLOOK** page 20

WORKERS COMPENSATION

N.Y. self-insured workers comp in crisis

One firm's collapse accounts for 82% of \$600M shortfall

By JEREMY SMERD

Mark Teich, who runs a plumbing company near New York's Union Square that his father started 65 years ago, wanted to save money on the workers compensation insurance he is required to carry should any of his 25 employees get injured on the job. His broker mentioned Poughkeepsie-based Compensation Risk Managers L.L.C., which administered insurance trusts catering to New York small businesses. CRM offered

cheap premiums.

"We joined it because my insurance broker at the time said it would be a lot more economical for us," said Mr. Teich, president of M&T Plumbing & Heating Co. Inc. "Had I known then what I know now, I never would have gotten involved."

Over nearly three years, beginning in 2002, Mr. Teich paid more than \$147,000 in premiums to CRM. But he was dissatisfied with the value he was getting: He had only one injured worker and one claim, for \$2,136. He canceled his insurance with CRM and didn't give the company another thought until last year, when he learned that the state was accusing its executives of fraud.

In a lawsuit, the state alleged

that CRM executives enticed new business to maximize their management fees even at the expense of the trusts they were hired to safeguard, and maintained shadowy corporate structures that went unnoticed by the state workers compensation board charged with regulating a booming industry.

By the time the board caught on, it was too late. CRM's eight trusts were insolvent.

Though this was not the first time a trust had gone bankrupt—seven run by other companies went belly-up in 2006 and 2007—the size of the CRM insolvency dwarfed anything that came before it.

See **CRM** page 14



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Mixed outlook for U.S. insurers

A.M. Best, McKinsey offer two different viewpoints on future

By JUDY GREENWALD

Soft pricing, competition and reserving issues continue to challenge commercial lines insurers, according to A.M. Best Co. Inc., which last week lowered its outlook on the sector to negative from stable.

However, a separate report released last week by consultant McKinsey & Co. offered a more positive outlook for the U.S. property/casualty insurance industry.

The McKinsey report suggested the U.S. property/casualty industry has demonstrated a “paradigm shift” that should lead to “improved and sustainable results” that is “unlikely to be reversed.”

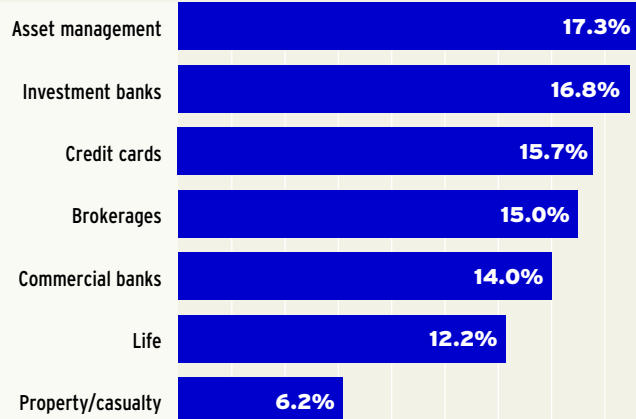
While revising its outlook for commercial lines insurers, Best said in its analysis that it is maintaining its stable outlook for the global nonlife reinsurance industry and its negative outlook for U.S. health insurers.

According to a briefing on the commercial, reinsurance and personal lines sectors, Best said a negative outlook on commercial insurance implies that while most of its ratings actions will be affirmations, negative rating actions will outnumber the positive ones this year.

This reflects its expectation of

RETURN ON EQUITY

After-tax return on equity by industry, 1988-2002



Source: A.M. Best Co. Inc., Compustat, McKinsey & Co.

“continued competitive market conditions, gradual price deterioration and lower favorable loss-reserve development,” the Oldwick, N.J.-based rating agency said in the briefing.

Despite the negative outlook, “many insurers have priced rationally through the development of improved pricing tools in recent years—including better segmentation of data and enhancements in predictive modeling—and have strengthened enterprise risk management practices,” Best said.

Furthermore, extremely low interest rates have forced an emphasis on underwriting profitability for the best-performing companies and any deterioration

in underwriting results will be cushioned by the segment’s strong capitalization, Best said.

In predicting a stable outlook last year, Best said profit margins would remain relatively solid, although less than in previous years because of slow economic growth, fewer business opportunities and weaker investment income.

In its latest report, “Journey III: The Next Frontier in Property and Casualty Insurance—The Challenge to Profitable Growth,” McKinsey saw decided improvement in U.S. property/casualty companies’ performance, citing some of

See **BEST** page 21

Commentary

Insurers concerned about new commish

Industry sources tell me insurers are worried about Dave Jones, who became California’s insurance commissioner on Jan. 3.

Insurers should be concerned.

The new commissioner has much more of a consumer bent than predecessor Steve Poizner. During the campaign leading up to his election in November, insurers poured money into a California Chamber of Commerce fund that aimed to help Commissioner Jones opponent, Republican Mike Villines.

Mr. Poizner occasionally irked insurers during his watch, but he wasn’t an unabashed consumer advocate.

A Sacramento Bee story about Commissioner Jones’ said his election “represented a big political loss for the insurance industry,” and that Commissioner Jones had spent his time as a state assemblyman before running for commissioner by “taking insurers to task and pushing bills to tighten regulation.”

A list of supporters for the commissioner’s campaign shows the Democrat garnered endorsements from organizations such as the Consumer Federation of California, the California Federation of Teachers, the Sierra Club and John Garamendi, who is known for his battles with insurers on behalf of consumers when he twice served as California insurance commissioner.

Those are not people to which insurers typically buddy up.

On his inauguration day, Commissioner Jones signed an emergency regulation that would require health insurers to devote 80% of their individual-market premiums to claims.

The order is similar to a mandate in the new national health care law, which requires an 80% medical loss ratio for the individual and small-group employer markets and 85% for large-group market. In a statement, Commissioner Jones said he has “the legal authority to enforce in California the new federal 80% MLR for the individual health insurance market, even if Congress prevents the federal Department of Health and Human Services from enforcing it.”

As the Insurance Brokers & Agents of the West said in a news item about Commissioner Jones’ emergency regulation, he “wasted no time establishing the tenor of his administration.”

But the insurance commissioner is supposed to look out



ROBERTO CENICERROS

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for consumers who don’t have the sophistication of insurers. Consumers may get an extra dose of protections from Commissioner Jones.

He is a former legal aid lawyer and served in President Bill Clinton’s administration as special assistant and counsel to then-U.S. Attorney General Janet Reno.

But he also has said he wants to encourage a vibrant insurance market in California.

Consumers may get an extra dose of protections from Commissioner Jones.

He is apparently smart enough to know that doing so means he can’t scare insurers out of the state.

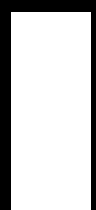
Commissioner Jones is a graduate of DePauw University, Harvard Law School and Harvard’s Kennedy School of Government.

The Assn. of California Insurance Cos. must see some signs of hope.

In a congratulatory announcement on the commissioner’s swearing-in, ACIC said that it looks forward to working with him on containing workers compensation costs and in maintaining a competitive insurance market.

“Commissioner Jones has expressed his support for speeding regulatory approval of insurance products and fostering a viable workers compensation insurance market,” ACIC said in its announcement.

Still, with someone that the California Consumer Federation named their 2008 Consumer Champion sitting in the insurance commissioner’s office, you know insurers are concerned.



Business Insurance

2011

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Business Insurance OPINIONS

Public pension plans need transparency

A COMMONSENSE PROPOSAL by Rep. Deven Nunes, R-Calif., which would require pension plans sponsored by state and local governments to publicly disclose their funded status, is one that deserves support.

Regrettably, the funding levels of many public pension plans fall far short of what is needed to pay the benefits those plans have promised.

Under Rep. Nunes' bill, which he introduced at the end of the last congressional session and will propose again during this session, the California congressman cites an article in a journal published by the American Economic Assn. that put the funding gap for state retirement plans at more than \$3 trillion as of December 2008.

That's a staggering figure. Even if it were somewhat lower today due to improvement in the equities markets during the past couple of years, we have little doubt that the plans' unfunded liabilities still are overwhelming.

The reasons public plans got in such bad fiscal shape aren't complex. In some cases, politicians didn't have the guts to resist demands by public unions to increase benefits. That, plus states' failures to make needed contributions to the plans, are all the ingredients needed for a funding disaster. Public pension plans surely will require massive infusions of taxpayer dollars if they are to honor their commitments to current and future retirees.

Of course, there is no guarantee that better funding would result if state and local pension plans were required to disclose funding levels. But we believe that if state residents see the numbers and understand how much they will have to pay in higher taxes to foot the bill, pressure will be put on elected officials to bring fiscal sanity to those programs.

Reasonable benefits and adequate funding are needed before the tab gets even higher.

Reasonable benefits and adequate funding are needed before the tab gets even higher.

ERM needed to tackle macroeconomic risks

A REPORT issued by the World Economic Forum should boost the efforts of risk managers who are trying to implement an enterprise risk management process in their organizations.

As we report on page 3, the report pinpoints "clusters" of risks that will create significant liabilities during the coming decade. Those clusters are macroeconomic risks, which include unfunded social liabilities and weak financial markets; the illegal economy, including organized crime and corruption; and limits of growth caused by lack of resources such as water, food and energy.

Add five emerging risks cited by the World Economic Forum report—cyber security, high population growth, resource scarcity, retrenchment from globalization, and nuclear and biological weapons—and the case for ERM becomes ever clearer.

Not all of these risks can be dealt with by traditional insurance means, but awareness of the risks and their possible impact on businesses and governments should be considered by every risk manager. Risks may not be insurable, but they can be mitigated, although perhaps not in a traditional risk management framework.

Nontraditional risks demand nontraditional responses. An ERM approach should give organizations a better position in which to provide such responses.



WRITE

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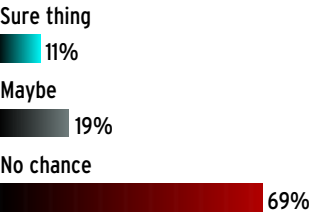
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THIS WEEK'S RESULTS

Q Will Republicans win significant amendments to the health care reform law this year?



Speaker of the House
John Boehner



NEXT WEEK'S QUESTION

Q: How would you rate the profitability outlook for P/C insurers in 2011?

READ

Perspectives and expert analysis online at www.businessinsurance.com/section/perspectives

Be on lookout for ID theft red flags



No matter how robust your systems are, your work is incomplete unless you are on the lookout for red flags concerning identity theft. The Red Flags Rule that went into effect Jan. 1 is intended to help pick up where data security leaves off, says Neil B. Posner, a principal and chair of the policyholders' insurance coverage group at Chicago-based Much Shelist Denenberg Ament & Rubenstein P.C. Organizations that do not comply could face significant—even criminal—consequences, he says.

LETTERS

Health care reform deconstructs market

TO THE EDITOR: I was amazed that a publication which discusses the business issues of medical insurance would publish an opinion that would call health reform repeal "unrealistic, misguided."

The "health reform" law that was supposed to reduce costs and "reform" health care does neither. Its sole intention is to deconstruct the medical insurance market and, consequently, make everyone associated with that market unemployed. It does nothing to reduce the cost of health care.

Repeal may not pass, but the goal

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'There are a lot of techniques you can take from the financial risk management world and apply to nonfinancial risks.'

Corey Gooch, Towers Watson & Co.

Financial perils pack lessons for traditional risk managers

By **RODD ZOLKOS**

For risk managers whose careers have focused on managing the risks of traditional hazards, risk management on the financial side of their organizations might sometimes seem distant and mysterious.

But according to some risk management practitioners and consultants, the same principles apply to managing hazard and financial risks, and hazard risk managers could help their organizations and themselves by increasing their understanding of their financial counterparts' efforts.

Understanding some of those financial risk management approaches and finding a way to apply them to other exposures in the organization—including what often are seen as uninsurable risks or exposures that are difficult to quantify—are key to creating an effective enterprise risk management program, many experts say.

"There are a lot of techniques you can take from the financial risk management world and apply to nonfinancial risks," said Corey Gooch, senior enterprise risk management consultant in the corporate risk management practice at Towers Watson & Co. in Chicago, particularly with regard to identifying, measuring and then using data to make decisions that can reduce the potential costs of risks or volatility.

"That's what a lot of firms aren't doing at all," Mr. Gooch said. "There are a lot of lessons that a company could apply, but they're not necessarily doing that."

There are significant exposures that many hazard risk managers could more effectively address such as supply chain risk manage-

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Understanding Financial Risk Management

THE SPOTLIGHT

POLITICAL DECISION ON CHINA EXPORTS HITS SUPPLY CHAINS

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CHIEF RISK OFFICER SEES FOCUS SHIFT TO STRATEGIC VALUE

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Financial: Perils pack lessons for risk managers

CONTINUED FROM PREVIOUS PAGE

ment (see related story), business interruption, or staffing and employee retention using some of the approaches taken on the financial side, he said.

One advantage that financial risk managers often enjoy is more extensive data and greater transparency than exists for many hazard risks.

"Part of the issue is when you're dealing with finance, you're dealing with accounting issues and the science has been around a lot longer and a lot of the terms have become more standardized," said John Bugalla, principal at consultant ermINSIGHTS in Indianapolis.

"In the financial sector, sometimes things are more transparent," Mr. Bugalla said. "Everybody knows the stock price."

A key, then, is collecting such data on the hazard side for risks that are considered uninsurable or those for which there is limited loss experience.

"You can't just take the tools of a financial risk manager and pull them over," said Christopher E. Mandel, president of consultant Excellence in Risk Management L.L.C. in Boerne, Texas. There are, however, some financial risk management techniques that can be used on the hazard side, such as the value at risk and economic capital methods, he said.

"It's just quantification and measurement where most people have a big gap," said Mr. Mandel, former assistant vp-enterprise risk management at United Services Automobile Assn.

For hazard risk managers looking to address exposures that might not lend themselves to the sort of data available to financial risk managers dealing with such exposures as foreign exchange risk or commodity prices, one key is bringing together the different constituencies in the organization and gathering information from those directly involved with exposures.

"It's the standard piece of what enterprise risk management is really all about," Mr. Gooch said. "It's about understanding the risks, wherever it is they come from."

Michael J. McAndless, corporate risk manager for the city of Winnipeg, Manitoba, recalled using that sort of approach when he was corporate risk manager at United Grain Growers Ltd. in Winnipeg and UGG crafted an insurance program in 1999 that blended traditional property/casualty exposures with its grain volume exposure, one of UGG's principal business risks.

After bringing together various constituencies from across UGG, "We found we were talking a lot about interruption to our revenue, potential counterparty credit situations, commodity price or basis risk—a whole lot of situations that have a financial impact on the company," Mr. McAndless said. "In our case, the largest risk we came across was the impact of

weather on our revenues."

"Again, we're talking about revenues here, so it's right in the wheelhouse of the accounting and actuarial people I was dealing with," he said. "What's the impact on your (earnings before interest, taxes, depreciation and amortization)? That's kind of where we started way back when."

The scenario-based approach to which hazard risk managers are accustomed can be brought into play in helping financial risk managers who, despite the volume of data at their disposal, are more accustomed to taking a "rearview mirror" approach to managing risks, said Carol Fox, director of the strategic and enterprise risk practice at the New York-based Risk & Insurance Management Society Inc.

"Monitoring these things like the effect on cash flows, the balance sheet, cash on hand would be, I think, a tremendous benefit to any organization," Ms. Fox said.

"It really gets to having a joint understanding across your organization of not only the exposure but also the potential volatility," she said.

Looking at hazard exposures in terms of their potential impact on revenue can help risk managers better compare disparate risks, as well as help create a common risk language that can benefit the organization's risk management position and the risk manager's position in the organization.

"When you can take any risk...apples, oranges, pears and make them all apples, that's where you can make decisions about how are you going to prioritize your risks," said Towers Watson's Mr. Gooch.

Applying a financial risk management tool—economic capital—to hazard risk management can help produce that common language, Mr. Mandel said. "In effect, that's what economic capital does. It allows you to take a lot of different apples and oranges and put them on an even playing field."

"The language of risk management really needs to be translated into more common corporate terms and, I would argue, more financial terms," said Mr. Mandel. He conceded, though, that the process isn't an easy one, noting that such an undertaking at USAA was a multiyear, multimillion-dollar project.

Speaking in the language of financial risk management also can enhance the perception of a hazard risk manager in the organization. The ability to say, "By making these kinds of changes, we can give the company back a penny a share," will elevate the way the risk manager is viewed by the CEO or the chief financial officer, Mr. Gooch said.

"I've run into very few risk managers who were fired because they were incompetent," said ermINSIGHT's Mr. Bugalla. "They were fired because their boss, their CEO or CFO, felt they didn't speak their language."



REUTERS

China, which supplies nearly all of the world's so-called "rare earth" elements, last year limited export of the metals that are used in numerous products, raising supply chain questions for risk managers.

China's move on metal exports presents big supply chain risk

Advance planning essential to manage disruptions

By RODD ZOLKOS

Recent events around the globe speak to the potential connections between hazard risks and financial exposures, and risk managers need to evaluate some hazard risks' potential impact on the company's revenues.

Last summer a political issue turned into an operational and revenue challenge for manufacturers of electronics, optics, rechargeable batteries and other products that rely on rare-earth elements such as scandium, yttrium and lanthanum. That was because China, which previously supplied nearly all the world's demand for such metals, decided to dramatically scale back exports of the substances.

While Chinese leaders decided to withhold rare earths due to increasing demand among domestic manufacturers, the move forced many manufacturers elsewhere in the world to scramble to make up the supply shortfall and meet the inevitably rising price for rare-earth metals.

"It's all about where are you going to get the new materials from," said Corey Gooch, senior enterprise risk management consultant at Towers Watson & Co. in Chicago. "You do have to look at where the new materials are coming from. If that supplier goes away for some reason, the borders are shut down or whatever, what happens to your ability to supply product to your customers?"

Mr. Gooch noted that hazards beyond political risks can trigger a supply shortage and financial issues for an organization. It could be a natural catastrophe, such as a typhoon, or a man-made catastrophe, such as a mine collapse.

"Take Australia right now with the rain," Mr. Gooch said. "If for whatever reason we can't get that raw material anymore, what do we do?" Australian flooding is leading many mine companies to implement force majeure clauses in their contracts, he said, and companies supplied under those contracts need to ask how that affects their financial projections, he said.

Identifying alternative suppliers should be part of an enterprise risk management program, but that requires effort well in advance of a crisis. "You can't do that on the fly," Mr. Gooch said.

"That's where—with your enterprise view, your portfolio view—you start identifying these interrelations before they happen," said Carol Fox, director of the strategic and enterprise risk practice at the New York-based Risk & Insurance Management Society Inc. "What if we used a different

type of component? That gets you back to your (research and development) and your future product line and (the notion that), 'We don't want to be too reliant on one supplier or one country.'"

Many companies also are becoming more aware of a correlation between reputational and financial risks, such as revenues or cash flows, Ms. Fox said.

"If you look at BP or Toyota and something that was not that critical when it first appeared, it had a tremendous impact from both a financial and a reputation perspective," she said.

'If you look at BP or Toyota and something that was not that critical when it first appeared, it had a tremendous impact from both a financial and a reputation perspective.'

Carol Fox,
Risk & Insurance
Management Society Inc.

Insurers put own financial risks under the microscope

Economy has firms studying inflation, investments, pricing

By SONJA RYST

In the wake of the financial crisis, insurers are as concerned about their own risk management efforts as they are about those of their policyholders.

Macroeconomic issues such as inflation and the investment environment, as well as traditional concerns such as insurance pricing, are being evaluated by insurers' own financial risk management professionals.

While insurers often have factored many issues into the analysis of their portfolio risks, the financial meltdown of 2008 brought new urgency to those efforts, experts say.

Hartford Financial Services Group Inc. is a case in point. After the Hartford, Conn.-based insurer lost more than \$2 billion on its

published a report on Jan. 4 that also noted a continued negative outlook for U.S. commercial property/casualty insurers. It cited concerns such as pricing deterioration and low interest rates.

"The ones that have good risk management tend to report good profitability more consistently," said Alan Murray, senior credit officer at Moody's Investors Service Inc. in New York.

Many property/casualty insurers face investment risks. They had total municipal bond investments of about \$370 billion, mak-

ing up approximately one-fourth of property/casualty insurers' invested assets, according to Moody's (see chart). "While recognizing that public finances in the U.S. are under strain, we nevertheless view P&C insurers' muni bond exposure as manageable," Moody's said in the report.

In addition to investment risks, inflation risks are an increasing concern for insurers as some observers believe low inflation rates will increase quickly once an economic recovery takes hold.

"It's a lot easier to fool yourself

into thinking pricing is adequate if you convince yourself you won't have inflation in the future," said J. Paul Newsome, managing director in Chicago at Sandler O'Neill & Partners L.P.'s research division.

For example, an insurance product is priced on the assumption that the claim for it eventually will cost \$100 after three years, but instead it ends up costing \$103 because of inflation. Even if insurers plan for higher-than-expected claims costs, they might not necessarily be able to cover for

them by raising their prices in the cut-throat market, experts say.

"We don't see inflation as a significant risk for the firm, but we're well aware of it," said Hartford's CRO Ms. Zlatkus. She said Hartford is well protected against inflation. Many of Hartford's products are short term and can be repriced if inflation occurs, for example.

In addition to financial risks, pricing remains a key concern for insurers as they evaluate their financial exposures, experts say.

See **RISKS** next page

MUNICIPAL BONDS

Estimated total U.S. property/casualty insurers' municipal bonds at year-end compared with total invested assets for the industry, in billions of dollars.

Year	Municipal bonds	Assets
2007	\$380	\$1,408
2008	\$382	\$1,328
2009	\$370	\$1,396

Source: Moody's Investors Service

investments during the financial crisis, in March 2010 it brought in a new chief financial officer, Christopher J. Swift, and promoted CFO Lizabeth Zlatkus to the new post of chief risk officer reporting to CEO Liam E. McGee.

"We've organized in a way that has enabled us to see our total risk better," Ms. Zlatkus said. Rather than have an insurance risk officer who focuses on what happens to its consumer lines of business, Hartford now has someone who looks at all the risks the company takes across the full spectrum of its business lines. It has a chief market risk officer who oversees its exposures to things ranging from credit to currency risks, in addition to a chief investment risk officer. Its chief operational risk officer looks at its risks across the firm, she said.

Insurers continue facing some tough risks in 2011, experts say. Fitch Ratings Ltd. said in a December report that 15% of the U.S. property/casualty insurers it tracks have a negative outlook. The remaining insurers have stable outlooks, and none has a positive one. "We think the market continues to be soft and we expect it to get moderately worse in the near term," said Jim Auden, managing director at Fitch Ratings in Chicago. He cited concerns such as the municipal bonds that many companies hold in their portfolios.

Moody's Investors Service Inc.

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Risks: Under microscope

CONTINUED FROM PREVIOUS PAGE

And some insurers are adapting their operations to reduce pricing risks.

For example, in the past, Lansing, Mich.-based workers compensation insurer Accident Fund Insurance Co. of America rewarded staff for putting new deals on the books, but now it is focusing instead on rewards for driving losses down and making profits.

"One way to improve results is to raise rates, but market conditions won't allow it," said Tony Phillips, chief risk officer at Accident Fund in Lansing, Mich. Instead, Accident Fund is honing in and cutting back on the amount of risk it takes at each pricing level. In recent years, Accident Fund also began mining through data about things such as credit scores to find patterns that better identify its risks. Using such risk modeling makes it more feasible for insurers to write business in areas such as mom-and-pop retailers, which historically were too small to be worth the expense of creating a more customized deal, Mr. Phillips said.

Risk modeling is always in evolution, experts say.

"Data increases our chances of matching rate to risk, and that's important during the market cycle," said Mike LaRocco, CEO of Novato, Calif.-based Fireman's Fund Insurance Co. He said his firm has been "working hard" to expand its model pricing abilities in personal and commercial insurance. It is taking a more analytical and quantitative approach in an effort to better match rates to risks, he said. His team wants to target profitable business, regardless of the investment or inflationary situation.

Insurers also are seeking to actively manage their exposure to emerging risks. Carol Siegfried, New York-based chief risk officer for the Americas at Zurich Financial Services Group, said Zurich is staying on the lookout for emerging new risks, such as those associated with nanotechnology and climate change. "We don't have new tools in place but we have a robust communications process in which our limits and expectations and tolerances are known globally," she said. Zurich has formal meetings at least once a month in which it reviews its financial risk across the board, ranging from catastrophe to underwriting risk.

Robin Westcott, the director of property/casualty financial oversight at the Florida Office of Insurance Regulation in Tallahassee, said she thinks it's "fantastic" that insurers have become sophisticated financial managers, but they shouldn't forget that the principle of the business should be providing the right policy agreements to the right customers.

"Underwriting is something that many of these companies probably need to look at how well they're doing," she said.

Questions & Answers

Laura L. Brooks recently retired as chief risk officer and vp-risk management of Newark, N.J.-based energy services company Public Service Enterprise Group Inc., a post she had held since November 2002. Shortly before her retirement, she spoke with Business Insurance Senior Editor Mark A. Hofmann about the role of the CRO.

Chief risk officer takes broad view of exposures

Q: How does the chief risk officer's job differ from that of a traditional risk manager?

Let me talk a little bit about what chief risk officers do in the energy and banking industries, since those are the two that I'm most familiar with.

We spend most of our time...managing credit risk and monitoring the management of market risk, as well as compliance with the way those risks are being managed and with the way in which the companies are complying with internal, external regulations.

When I talk about managing market risk, there are typically organizations within both of those industries that look at price movement, look at liquidity, look at access to capital. The chief risk officer's job would not be to manage those risks, but to see how they're being managed and to monitor that management, and report on that management to the board of directors.

Many chief risk officers in both those industries also are the direct managers of credit risk....We're looking at the appropriate counterparties to do business with, and appropriate mitigation for counterparty risk with the types of counterparties that we do business with.

Q: What background skills does a CRO need to function effectively?

This is very dependent on the industry and the organization. How big is the organization? What kind of a budget do they have for a chief risk officer or a chief risk officer's organization? But typically in both the energy and the financial industries, most of the chief risk officers that I know...have backgrounds that include a combination of an engineering degree and a finance degree.

The engineering part is important because, depending on the type of finance education the person has had, you really need to understand the mathematics of random processes, and you get that as an engineer and you also get it if you've pursued your finance degree from one of the programs that deal with quantitative finance or computational finance.

You also need to have a fundamental understanding of the business that you're in, because there's no way that you can really understand all of the types of risks that the business might be exposed to if you don't have a really good basic understanding of how the business makes money in the first place. And then on top of

that, there's a lot of governance and compliance issues that you need to become familiar with.

Q: Do most conventional risk managers have the skills and experience to serve as CROs, or is that once again an industry- or enterprise-specific question?

I think again it's really very industry-specific, because if you're talking about risk—if you're talking about industries and organizations where many of the risks are insurable, then certainly those skills are readily transferrable.

But if you're talking about industries and areas where a lot of the risks are due to random processes—which certainly market price movements are random, weather is random—and weather impacts the energy business quite a bit, then you really need to have the additional...mathematical understanding of those random processes and the types of probability and statistics that go along with studying those things.

There are other areas as well where you might need to have a more fundamental understanding of basic security, both from an (information technology) perspective and from a...physical security perspective. So it really depends on the industry and the types of risk that the organization faces.

Q: What types of issues does a CRO deal with?

If you're moving away from just traditional financial risk management—and in both the energy and the banking industries I think we are beginning to move to a broader concept of enterprise risk management—then there are a lot of additional risks that you may pick up and that you may spend part of your day looking at.

One of the things that we're doing in moving to a broader concept of enterprise risk management here is thinking about what are the emerging risks from the standpoint of changes in the political environment, the global economic environment, the regulatory environment? What are the things that are coming at us that could fundamentally impact the basic assumptions on which our business plan is based?

And so those more strategic risks, I think, are going to become much more capturing of our day-to-day time and attention. And I think you're going to see



that becoming something that more and more people are interested in—moving away from a strict compliance focus on enterprise risk management to (asking) what is the strategic value added that enterprise risk management can give the organization in terms of understanding true impacts, both negative and positive, because the flip side of risk is opportunity. That will affect the business plan and the viability of the business over the long term.

Q: What are the greatest challenges facing a CRO?

It's balancing the tug-of-war between strategy and compliance. There are so many things on the compliance side that we can't ignore and we can't forget about. You know you still have to make sure that if you have a trading organization, for instance, that they're not taking risks that are outside the tolerance that your board of directors has set for those organizations. So you can't leave that stuff by the wayside.

But we really need to be spending as much of our time as we can today on the strategic side of things, which says the company's put out a five-year business plan. They're giving earnings guidance....What are the underlying assumptions to that plan and how might those assumptions be impacted by emerging risks? And so striking that balance is probably the biggest challenge.

And probably the second-biggest challenge is helping people understand that even though we come from very quantitative backgrounds, you really have to try not to quantify everything, because you're going to miss the qualitative thing that is more important than the things that you can quantify, just because you're afraid to go near it.

Q: Do you believe more enterprises will create CRO positions in the future?

I think that there probably will be more. Some of it will, unfortunately, be compliance-driven as people try to comply with some of the many things that are going to come out of Dodd-Frank (Wall Street Reform and Consumer Protection Act), for instance. There's going to be a need for compliance officers, if not chief risk officers. I think the two will be working very closely together.

And then from a strategic standpoint, I would hope that as enterprise risk management really takes off, people begin to see the strategic value and that whether they're called chief risk officers or not, there will be people with more of this type of quantitative background involved on the strategic planning side of business helping to inform the business plan from a devil's advocate-type of position and role.

Market Moves

Two brokerages join forces in merger

BURLINGAME, Calif.—Boston-based insurance brokerage Risk Strategies Co. Inc. has completed its merger with Burlingame, Calif.-based Cohn-Reid-O'Neill Insurance Services Inc.

The acquisition, for which terms were not disclosed, aims to expand RSC's brokerage and employee benefits services to the technology, agriculture, real estate and private-client sectors, Risk Strategies said in a statement.

As part of the acquisition, "founding principals Joe Cohn, Andy Reid and John O'Neill will continue to lead CRO's business with all of CRO's employees joining the newly combined" organization, Risk Strategies said.

CRO, which will continue to operate under its existing name, provides property/casualty insurance, private-client personal insurance and employee benefits brokerage services in California.

Gallagher acquires Las Vegas brokerage

LAS VEGAS—Arthur J. Gallagher & Co. has acquired retail insurance broker Aviation Insurance Services, the marketing arm of Aviation Holdings Inc.

The acquisition of Las Vegas-based AIS is intended to strengthen Arthur J. Gallagher's presence in Nevada and expand its aviation practice group, the Itasca, Ill.-based brokerage said in a statement.

AIS specializes in aviation and aerospace insurance, including insurance for aviation parts and accessories manufacturers, aircraft management and charter organizations, and fixed-based operators, according to the statement.

As part of the deal, AIS Chairman and CEO Ronald A. Hill and his staff will continue to operate in Las Vegas; Destin, Fla.; Miami; and Crystal Lake, Ill.

James G. McFarlane, western regional manager of Arthur J. Gallagher's retail property/casualty unit, will oversee the group.

Financial terms of the acquisition were not disclosed.

JLT acquires Norwegian broker

OSLO, Norway—Jardine Lloyd Thompson Group P.L.C. has acquired Oslo, Norway-based insurance and employee benefits brokerage TriPol A.S.

The acquisition expands JLT's presence in Norway with a focus on the real estate and construction industries, the London-based brokerage said in a statement.

"TriPol will add significantly to our increasingly important Nordic business activities and, with their acknowledged expertise in construction and real estate, they add

yet more strength to our international capabilities," Adrian Girling, chairman of JLT's continental European broking business, said in the statement.

JLT acquired TriPol for an undisclosed amount from seven employee shareholders, all of whom will remain with the business that will merge with JLT's operations in Norway.

TriPol Managing Director Ola Haalien will lead the unit, reporting to Henrik Rydén, CEO of JLT's Nordic operations in Oslo.

Wholesaler opens office in St. Louis

ST. LOUIS—Insurance Program Managers Group L.L.C. has

opened an office in St. Louis to expand its excess and surplus lines capabilities.

The office operates under the name IMPG St. Louis and is led by Leona Greeves, vp of brokerage services, according to a statement from the St. Charles, Ill.-based insurance wholesaler and program manager.

IMPG says the office will give agent partners' greater access to the E&S lines marketplace. The office also will place coverage with admitted markets for property/casualty and workers compensation insurance.

IMPG St. Louis' temporary location is 6685 Telegraph Road, St. Louis, Mo. 63129 as a permanent facility is built, according to a

spokeswoman. The phone number is 888-377-5845.

Lockton unit buys benefits firm

DENTON, Texas—Lockton Dunning Benefits has acquired employee benefits consulting firm Grizzaffi Darby L.L.C.

The acquisition aims to strengthen Lockton Dunning's health and welfare benefits consulting services in Texas, the Dallas-based employee benefits brokerage unit of Lockton Cos. L.L.C. said in a statement.

Denton-based Grizzaffi Darby specializes in employee benefits services, including human resources and legal and compli-

ance consulting.

As part of the acquisition, Grizzaffi Darby takes the Lockton Dunning name.

The combined operation employs 150 associates, Lockton Dunning said.

Financial terms of the acquisition were not disclosed.

TO SUBMIT ITEMS

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CRM: Businesses stuck with \$600M tab after alleged fraud

CONTINUED FROM PAGE 4

Today, the state faces a crisis in its group self-insured workers compensation trusts, which have a shortfall of at least \$600 million. A full 82% of that deficit is attributable to CRM, whose sudden collapse left business owners feeling duped.

"I think it's reasonable to expect our government—in exchange for considerable taxes—to protect us from scams and fraud such as that perpetrated by CRM," said another affected business owner, Jerry Hahn, president of computer furniture maker TBC Consoles Inc. in Edgewood.

Far from protecting the 4,500 New York-based small businesses in the CRM trusts—some 900 of which are located in New York City—the state is holding them responsible.

Mr. Teich thought he had washed his hands of CRM. But last year, he got a notice from the state saying he owed \$87,000 to cover his share of the liabilities. Mr. Hahn's bill came to \$350,000. Business owners were told that if they failed to pay, they would face a 22% penalty and a lawsuit filed by the state attorney general's office seeking to bar them from doing business in New York.

The battle lines were drawn. Threats of countersuits quickly followed. A resolution in the near future is unlikely unless Gov. Andrew Cuomo steps in.

Audits and court filings reviewed by Crain's New York Business, a sister publication of *Business Insurance*, tell the story of a good idea gone bad, one that led to the boom and bust of an industry and cast a pall over thousands of small businesses whose owners believe they've been victimized not once, but twice.

Promise gone sour

When CRM entered the workers compensation business in 1999, 6,614 employers participated in group self-insured trusts statewide. The trusts, which have been around for decades, are not insurance in the classic sense; employers do not pay an insurance company a premium to shoulder risk.

Instead, businesses within similar industries—such as transportation, health care, manufacturing, government, retail and even cemeteries—formed insurance funds out of which they would pay workers' claims. Outside administrators, such as CRM, are responsible for making sure the companies they let into the trusts have similar workplace safety records. They also are responsible for setting premiums high enough to cover claims.

The trusts held the promise that if businesses could work together to improve safety conditions, they could lower their workers compensation costs. The danger, of course, was that the opposite could occur. If injuries increased, their costs would go up. Either way, the firms all would be responsible—through joint-and-several liability—which would come back to haunt every business that signed on with CRM.

The men who launched CRM were small businessmen enjoying comfortable suburban lives.

President Daniel Hickey Jr. previously had worked at Hickey-Finn & Co. Inc., his dad's insurance agency in Poughkeepsie. Chief Executive Martin Rakoff already was in the insurance trust business. He had launched Consolidated Risk Services in 1996, and Mr. Hickey helped supply him with members, in exchange for a commission. In 1999, they teamed up to form CRM.

Like successful companies in any indus-

try, CRM won business by underpricing competitors' premiums.

For example, Frank Budwey, who owns two supermarkets in the Buffalo area, saved \$40,000 in premiums over five years when he joined a CRM-managed trust. CRM earned management fees based on the number of employees in the trusts and the value of premiums. In an unusual twist, however, CRM's fees were linked not to the premiums that employers paid, but to an industry benchmark. This meant CRM could offer discounts to companies with poor safety records and heavy claims without affecting its revenue.

According to Christopher Rosetti, an accountant at BST Valuation & Litigation Advisors L.L.C., which eventually would review CRM's operations, this practice put the trusts at risk.

"There's no incentive to make sure worthy candidates join the trust," Mr. Rosetti said.

CRM saw spectacular growth. From 2001 to 2007, the company collected at least \$70 million in fees, according to the state's lawsuit. The company completed an initial public offering on the Nasdaq in December 2005 that valued CRM at \$175 million. But its lax membership requirements and the steep discounts it offered eventually meant that as workers got injured on the job, the fund did not have enough money to pay the claims that were projected to mount up.

Store operator Mr. Budwey realized that the savings he'd achieved were illusory when he got a letter from CRM in 2007 say-

'These programs were approved by the state, monitored by the state; the state published reports every year about the adequacy of funding for the trusts. They were the regulators. And they failed.'

John Giardino, Phillips Lytle L.L.P.

ing that he owed \$17,000 to cover his share of the trust's costs. The next year, CRM said he needed to pay \$80,000.

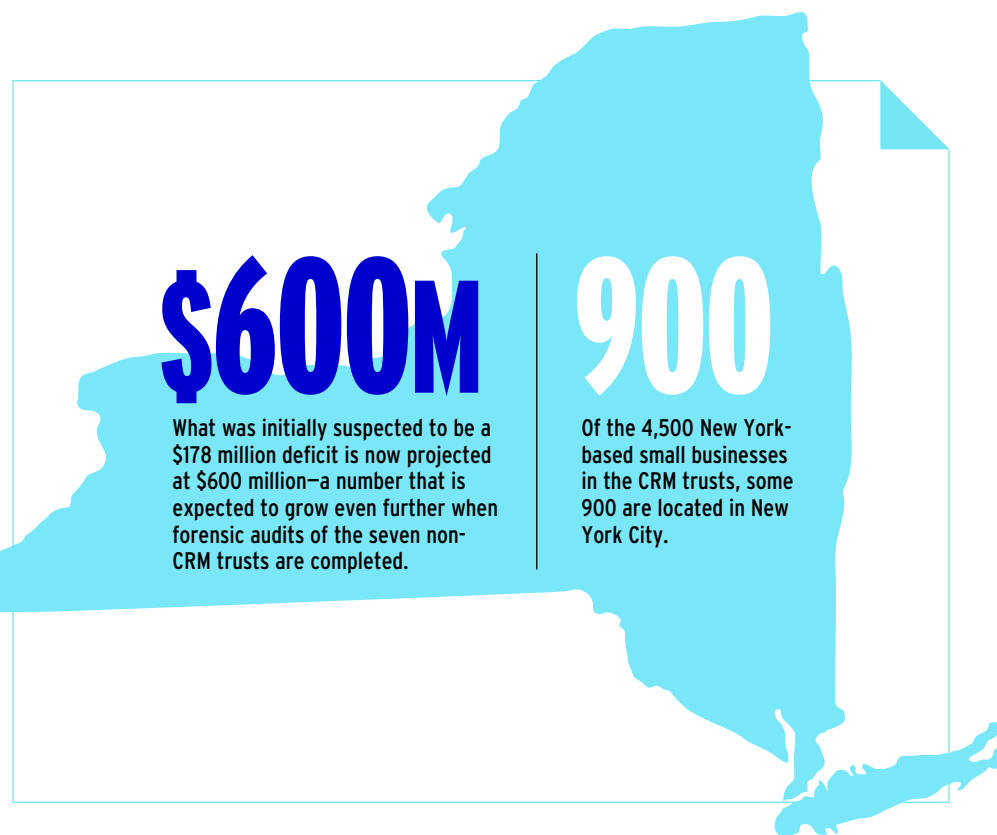
"That's when I was made aware that a lot of things didn't make sense," Mr. Budwey said.

As several independent reviews of CRM's operations later showed, the company was fraught with conflicts and mismanagement that led to—and obscured—the insolvency of its trusts.

CRM engaged in practices that looked like those of a Ponzi scheme, according to accountants' reviews. The company took cash paid by employers one year to cover deficits from the previous year. CRM avoided scrutiny by rarely—if ever—holding general membership meetings for trusts, though it was required to by law, and by controlling the trustees charged with overseeing management.

A review conducted last May by accounting firm Lumsden & McCormick L.L.P. showed that the trustees of the manufacturing industry trust, appointed to act as independent monitors, were handpicked by the very CRM managers they were supposed to oversee. One of the trustees was Mark J. Bottini, an owner of CRM. Additionally, some individuals were named as trustees but were never told that they had been appointed.

The state's lawsuit—in which the word



"fraudulent" appears a dozen times—alleges that CRM used another firm owned by Messrs. Rakoff and Hickey to provide claims management, independent medical evaluation and medical billing services to the trusts. The executives employed yet another company they owned to provide reinsurance to the trusts at above-market rates. CRM also used a brokerage company owned by one of its founders, Daniel Hickey Sr.

The state made annual reviews of whether each trust was adequately funded. But it did so based on the audited financial statements provided by CRM—statements that were based on "questionable data" that CRM gave its actuaries and accountants, a state report on the trusts says. It wasn't until the workers compensation board conducted its own audits that it discovered that the CRM trusts were insolvent.

In 2006, seven years after CRM first showed up on the New York scene, state regulators took over the trusts and began shutting them down. Mr. Rakoff left the firm in December of that year, but not before collecting a \$3.3 million severance package.

None of CRM's current or former executives would comment for this story. Nor would representatives from the state's attorney general's office or the workers compensation board.

State comes calling

Soon after the state took over, it sent letters to members saying that because of joint-and-several liability, they—not the state—were responsible for making the trusts whole. Jerry Hahn's share came to \$40,000. Frank Budwey's was \$88,000.

After the state asked independent auditors to review the bankrupt trusts, however, they concluded that the deficits were much larger than originally thought. What was initially suspected to be a \$178 million deficit is now projected at \$600 million—a number that is expected to grow even further when forensic audits of the seven non-CRM trusts are completed.

The figure represents the amount that the state will have to come up with to pay the medical claims and lost wages for workers injured on the job between 1999 and 2007, according to actuaries' estimates. Messrs. Hahn's and Budwey's debts keep growing; Mr. Budwey is now expected to pay close to \$400,000.

"We're struggling with the recession and trying to keep things going, and then to get hit with a \$350,000 bill?" Mr. Hahn said. "It's devastating."

Mr. Hahn sent the state \$10,000 as a "good faith gesture." Then he hired a

lawyer. He has no plans to pay a penny more.

Meanwhile, the state is using its authority to collect money from solvent trusts. Scores of organizations have responded by shutting down their trusts and suing the state to make sure the trusts' money is used to pay the claims of their workers.

The crisis has decimated the group self-insured trusts industry. Today, only about 4,000 employers participate. And while there's enough money to pay workers' claims, as of last summer, only \$33.8 million of the estimated shortfall had been collected.

New York's missteps

John Giardino, an attorney for 400 of the small businesses in the CRM trusts, says his clients shouldn't be targeted by the state because of its inability to oversee an industry that nearly tripled in size in the eight years CRM operated.

"These programs were approved by the state, monitored by the state; the state published reports every year about the adequacy of funding for the trusts," said Mr. Giardino, a lawyer with Phillips Lytle L.L.P. "They were the regulators. And they failed."

Mr. Giardino says the state made several bad decisions after it discovered the insolvencies. The first was revoking CRM's state insurance license, rather than instituting better management controls. That would have allowed the funds needed for claims payments to keep flowing into the trusts, he said.

Also, the state waited a year before suing CRM, losing valuable time to recoup money. New York sued for \$405 million. But a proposed settlement announced last fall would yield just \$41 million, of which only \$11 million would be in cash. The company has changed its name to Majestic Insurance Co., but two men named in the state's lawsuit remain with the firm.

So far, none of the executives at CRM has been charged with a crime. Daniel Hickey Jr. left the company in March 2009 with a severance deal worth \$3.3 million, while business owners like Mr. Hahn have been left holding the bill.

They have been told by the state that it will sue them and assess further penalties if they do not agree to pay 50% of their assessments. But the state has not yet put a cap on the size of the companies' liabilities.

"Workers comp insurance is mandated and overseen by the state to protect workers and their companies against catastrophic loss," Mr. Hahn said, "not create it."

Jeremy Smerd is a reporter for Crain's New York Business, a sister publication of *Business Insurance*.

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GOALS FOR NEW POSITION: To continue to build upon the services that we provide our client base. To make sure that (the services) are relevant to their needs and drive value back to them to help them operate their business and meet their operational guidelines. We always need to ensure and validate that we are driving value back to the clients, especially as the environment starts to change with health care reform and other regulatory controls. We need to make sure our clients are kept abreast of changes to ensure they are compliant. We want to help our clients make smart choices when it pertains to their employee benefits.

INDUSTRY CHALLENGES: The more regulatory changes put in place, the more onerous it

becomes to employers keeping abreast of those changes and staying compliant with whatever changes are made, whether they be federal or state. I think this will be a continuous burden for employers.

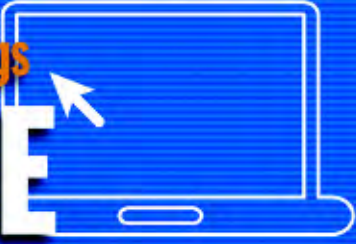
ADVICE: Know your business. At the end of the day, people are hiring you for the solutions that you create for them and the ability not only to understand the product but the business in general and how that fits with your clients. It's that intellectual capital.

OUTSIDE THE INDUSTRY, A DREAM JOB: I would teach business strategies in college. That's still my retirement plan.

FAVORITE BOOK: "Strategic Acceleration: Succeed at the Speed of Life" by Tony Jeary. It always reminds me of the three points you need to consider to be successful in business: clarity, focus and execution.

ON A SATURDAY AFTERNOON: Racing my bike and then spending time with my kids. I am at a lot of cheerleading events. My daughters compete in cheerleading events.

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TPAs: Pay deals with workers comp vendors raise buyer concerns

CONTINUED FROM PAGE 1

But brokers, several employers, vendors and some claims administrator executives said undisclosed fees remain an issue.

"There is no question that there is a lot of undisclosed profits, markups and add-ons that the TPAs hide behind their vendor programs," said Fred O. Pachón, vp of risk management and insurance at Santa Barbara, Calif.-based Select Staffing Inc. "The typical hideouts are under subrogation, utilization review, medical case management, investigative services and bill reviews. I am not aware of any TPA that is transparent or willing enough to disclose all of those profit venues."

Claims administrators often fail to disclose precise details about financial arrangements, which leads to a conflict of interest, said Judie Tsanopoulos, director of workers comp and loss control for St. Joseph Health System in Orange, Calif.

"It's amazing to me how evasive TPAs can be about that," Ms. Tsanopoulos said.

Employers, for instance, may not know of all fee markups claims administrators charge for interfacing their technology with a vendor, said Paul Braun, managing director at Aon Risk Solutions in Los Angeles. Or they may not know of all the fees charged for the service of providing employers with access to the vendors.

Most buyers understand that claims administrators must earn revenue for such services, Mr. Braun said. But if fee markups are not transparent, it hampers employers' ability to determine whether they are paying a competitive price, he said.

Claims administrators also may earn revenue by obtaining undisclosed discounts from vendors in return for pushing volume business to those vendors and then not passing those discounts on to clients, said Pam Ferrandino, executive vp and casualty practice leader for Willis HRH in New



York, a unit of Willis Group Holdings P.L.C.

Such undisclosed arrangements may be misaligned with employer interests, Ms. Ferrandino said. It raises questions of whether a vendor is selected because of its claims-servicing capabilities or because of its discounted pricing.

"There are different ways (vendors and claims administrators) can approach how they are going to get compensated," said Ken Martino, president and CEO of the Atlanta-based TPA Broadspire Services Inc.

For example, a case management company may enter into a revenue-share agreement with a claims administrator by saying,

"You give me X amount of cases and I give you X dollars per case, or I will give you X dollars based on the spend as a return," he said.

Broadspire uses its own in-house case management services rather than contract them out so clients are not exposed to that risk, Mr. Martino said.

Increasingly, large, sophisticated employers want to measure claims outcomes, leading them to inquire about claims administrators' revenue transparency, Ms. Ferrandino said.

"We are starting to hear more of the larger risk management buyers wanting more transparency and disclosure from the carrier and the TPA, and it's one of those questions that when it is asked there is not a direct answer and response" Ms. Ferrandino said.

More requests for proposals submitted to Dublin, Ohio-based Avizent for its TPA services are seeking information about the company's revenue transparency, said Jeff Steiner, Avizent's executive vp of claims administration in Fayetteville, Ark.

"There is lots of discussion and lots of questions around what fees are being paid to which vendors," Mr. Steiner said. "We want people to understand what they are paying for and if there are any arrangements from a revenue-sharing perspective that those are fully disclosed."

But most recent RFPs seeking revenue disclosure are coming

from brokers on behalf of their clients, rather than directly from employers, Mr. Steiner said.

Some RFPs require that TPAs fully disclose all fees or break them out by services provided.

But there are additional questions asked during the RFP process when a proposed per-claim fee appears significantly lower than that offered by a competitor, Mr. Steiner said. Buyers see low per-claim fees as a red flag that a TPA may be earning revenue through other means, he said.

Efforts by TPAs to earn revenue through undisclosed fees is not driven by malfeasance or dishonesty, said Joe Paduda, a consultant and principal at Health Strategy Associates in Madison, Conn. But their business models are under pressure from employers demanding discounts in per-claim handling fees while the recession has caused a steep fall in claims.

But Dave North, CEO of Sedgwick Claims Management Service Inc. disagrees. The TPA industry has been improving its disclosure practices and the quality of its services, Mr. North said.

"Our overall position is that...we have to deliver a value proposition to customers that makes their total costs of risk a good value," Mr. North said.

There may be many vendors participating in a single claim, depending on a customer's program demands, and each vendor may have a different compensa-

tion arrangement with Sedgwick, Mr. North said.

But that does not suggest collusion and all financial arrangements are disclosed to the customer, he said.

Several risk managers said they agree with Mr. North that their TPA relationship is based on their total cost of risk rather than individual fees and they believe their TPA selects its vendors, in part, on their service quality.

"If they can handle a claim appropriately and close a claim timely and shut down the cash flow from that claim, I am not as concerned about how we get there as long as we are not being gouged in any way," said Cameron Shirley, director of claims management for Starwood Hotels & Resorts Worldwide Inc. in Phoenix.

But Starwood is among employers that unbundle several services rather than purchase them through a TPA. It unbundles nurse case management, bill review and its PPO networks.

Like other employers, Starwood unbundles for cost savings, a closer relationship with the vendors and improved claims outcomes, Mr. Shirley said. But it also does so to help avoid undisclosed fees.

"It does factor into those decisions, absolutely," Mr. Shirley said.

Several large claims administrators did not return calls seeking comment for this story.

Comer: Mixed messages on global warming suits

CONTINUED FROM PAGE 1

The court last week rejected a petition to review *Ned Comer et al. vs. Murphy Oil USA et al.*, a case in which a group of Gulf Coast residents sought damages from more than 100 oil, coal and chemical companies for their alleged contributions to climate change, which the Mississippi plaintiffs alleged furthered property damage caused by Hurricane Katrina in 2005.

A federal judge dismissed *Comer*, saying it presented a political question that could not be decided by the courts. While the full 5th U.S. Circuit Court of Appeals agreed to review a three-judge panel's 2009 decision to reverse the lower court, most judges cited conflicts of interest for recusing themselves, prompting the 5th Circuit to dismiss the appeal and reinstate the district court decision last summer.

The global warming suit based on nuisance law that the U.S. Supreme Court agreed to hear is *American Electric Power Co. Inc. et al. vs. State of Connecticut et al.*, in which a group of states and conservancy groups seek to impose limits on greenhouse gas emissions by coal-fired power plants.

A federal judge dismissed the

case in 2006, saying global warming liability requires a "balancing of environmental, foreign policy and national security interests" that is reserved for policymakers. However, the 2nd U.S. Circuit Court of Appeals rejected the conclusion, holding that while new laws eventually may pre-empt public nuisance claims, "until that comes to pass, federal courts will be empowered to appraise the equities of the suits alleging creation of a public nuisance" by greenhouse gases.

The Supreme Court, which agreed to hear *AEP* in December (*BI*, Dec. 13, 2010), may be indicating that it doesn't think the judicial system is the proper venue for resolving such disputes, attorneys say.

That also is the position of the Obama administration, which filed a brief in August asking the Supreme Court to vacate the *AEP* decision and remand the case to the 2nd Circuit for further proceedings. The administration also cited its push to regulate greenhouse gases under the Clean Air Act.

"It's really of note that the Supreme Court agreed to hear *AEP*, which recognized the right to pursue the tort of climate nuisance, but did not grant cert in



AP PHOTO

Hurricane Katrina moves toward land on Aug. 26, 2005. The Supreme Court recently rejected a case in which a group of residents blamed companies' contributions to climate change on Katrina's severity.

Comer, which held there is no right to pursue climate change nuisance" litigation, said William F. Stewart, a partner at Nelson Levine de Luca & Horst L.L.C. "It tells us that they didn't like one of those decisions but were OK with the other."

"It's clear they wanted to close the book on *Comer*," said John Parker Sweeney, a partner at

Womble Carlyle Sandridge & Rice P.L.L.C. in Baltimore. "They basically slammed shut the most prominent lawsuit seeking to attribute damage from Hurricane Katrina to greenhouse gas emissions."

"The widespread disqualification of judges, where the 5th Circuit was unable to hear the case en banc, underscores that these ques-

tions are political in nature and not well-suited to be handled by the judicial branch," he said.

John Nevius, a partner at Anderson Kill & Olick P.C. in New York, suggested it is possible that "the Supreme Court didn't take up the *Comer* case because they liked the decision or because of its tangled procedural history. Also, memories are still fresh of at least two major environmental and political disasters in the Gulf."

"I would love for them to be signaling they're going to reverse *AEP*, but I don't think that was the only factor in their decision to reject *Comer*," said Megan Brown, a partner at Wiley Rein L.L.P. in Washington. "It's more a product of the procedural posture that *Comer* was up on and the tactical choices that the petitioners made."

Comer and *AEP* are two of three pivotal global warming nuisance cases wending their way through the U.S. court system as environmentalists attempt to use litigation to force utilities to reduce greenhouse gas emissions.

The third case, *Native Village of Kivalina et al. vs. Exxon Mobil Corp. et al.*, is pending before the 9th U.S. Circuit Court of Appeals. That court will decide whether a group of Eskimo villagers can seek damages from 24 oil, energy and utility companies for their alleged contributions to global warming, which the plaintiffs allege caused Arctic sea ice to diminish, threatening native fisheries.

Class action: High court agrees to review

CONTINUED FROM PAGE 3

Dresser Industries.

Writing for the 5th Circuit panel, Judge Thomas Reavley said the fund contended that investors lost money when Halliburton later issued disclosures correcting the false statements and the market declined. "In order to obtain class certification on its claims, (the) plaintiff was required to prove loss causation, i.e., that the corrected truth of the former falsehoods actually caused the stock price to fall and resulted in the losses," Judge Reavley wrote.

The U.S. District Court for the Northern District of Texas denied class certification because it held that the fund had not proved the causal relationship. On appeal, the appeals court panel upheld the lower court.

Before the justices agreed to hear the case last week, the acting solicitor general had urged the nation's highest court to take up the case. In its brief, the government argued that the appeals court panel "erred by onset" by considering loss causation at the class certification stage "without determining that it was relevant" to any federal prerequisites for class certification.

According to the government, the appeals court compounded its error by requiring the plaintiff to prove loss causation by a preponderance of the evidence. "As a result, the court requires plaintiffs to prove a significant element of their case at the class-certification stage, without the benefit of full discovery and without consideration of their claims by a jury," the acting solicitor general argued.

The 5th Circuit decision requires that if plaintiffs want to bring a securities class action, they



REUTERS/LANDOV

In a case brought by what then was called the Archdiocese of Milwaukee Supporting Fund Inc., Halliburton Co. is accused of misrepresenting its potential asbestos liabilities.

must show that the misrepresentation affected the company's stock price and the defendant's conduct was intentional, said Chris Appel, an associate in the public policy practice of Shook, Hardy & Bacon L.L.P. in Washington. What's at stake is how "large the window will be open to bring securities suits," he said.

"The whole issue (of) when should a class action be certified in a securities class action is kind of a hot issue," said Richard Samp, chief counsel at the Washington Legal Foundation. In practice, companies aren't very happy with the fraud-on-the-market theory and "they would like to make it more difficult for plaintiffs lawyers to certify these as class actions," he said.

The reason is simple—class actions are expensive to defend, he said. In fact, the cost can lead companies to settle even when the plaintiffs' case appears weak.

"If the case goes for Halliburton,

this would be a real breakthrough for corporate defendants," Mr. Samp said.

"If the court rules as I think it will and rejects the 5th Circuit standard, we're back to where most people thought where we were all along," said Mr. Bailey. "If the court does adopt the 5th Circuit standard, it in essence it could give the defendants a second bite at the apple."

"It's important to understand that what the Supreme Court holds as the actual standard may be more important than the resolution of the case," said Kimberly Melvin, a partner at Wiley Rein L.L.P. in Washington. "The guidance given to the district courts about the level of scrutiny of the merits—especially the loss causation issue—will determine whether class certification provides defendants with a real opportunity to test the merits of a securities class action."

Historically, class certification

was viewed as sort of a fait accompli after the Supreme Court adopted the fraud-on-the-market theory, said Ms. Melvin. "Now that the courts, including the 2nd Circuit and not just the 5th Circuit, are conducting a more rigorous analysis of the Rule 23 class certification requirements, class certification has become another potential tipping point in a securities class action cases."

"I think it is an important case. Clearly, there is a split among the circuits," said John LaBarbera, a member in the Chicago office of Cozen O'Connor P.C. "What probably gives the business community pause is over the tension between the apparent merits of the case itself, whether the class claims have merits vs. the process and procedures under Federal Rule 23 for certifying the class."

Publicly traded companies and their directors and officers have to be concerned about any allegation that they misstated or misrepresented the company's litigation risk as it related in this case to asbestos litigation, said Mr. LaBarbera.

He noted that the appeals court seemed to indicate that Halliburton had issued disclaimers about its litigation risk, the difficulty in assessing that risk and that it had updated its reserves for liability after receiving several adverse verdicts.

"Any publicly traded company has to be concerned that they may also fall victim to a claim similar to those asserted here because of an adverse litigation result, which is extraordinarily difficult to control. Depending on how the Supreme Court ultimately decides, that could certainly have an affect on other publicly traded companies including pharmaceuticals and other businesses that are susceptible to litigation," Mr. LaBarbera said.

Staff: BI appoints new editor

CONTINUED FROM PAGE 3

she was group publisher for Occupational Health & Safety magazine from 1998 to 2009. She also has served as publisher and editorial director of Fancy Food & Culinary Products magazine.

Ms. Stilwill received a bachelor of science degree in journalism and a bachelor of science degree in food science from Iowa State University in Ames. She can be reached via e-mail at [sstilwill@businessinsurance.com](mailto:ssstilwill@businessinsurance.com) and by phone at 312-649-5224.

Ms. O'Malley, the new audience marketing director at *Business Insurance*, previously was manager of direct response acquisition and retention marketing for the Chicago Tribune Media Group. Her prior experience includes marketing roles for GE Money, HSBC Corp. and Aon Corp.

She holds a master of business administration degree from Dominican University-Brennan School of Business in River Forest, Ill., and a bachelor's degree from Purdue University in West Lafayette, Ind.

From Jan. 24, she can be reached via e-mail at momalley@businessinsurance.com and by phone at 312-649-5248.



Ms. Gillikin

In addition, **Mallory Gillikin** has joined *Business Insurance* as editorial assistant in Chicago. She succeeds Mike Tsikoudakis, who previously was promoted to an associate editor. Prior to joining *Business Insurance*, Ms. Gillikin was a collaborations specialist with InterCall.

She also has worked as a freelance search engine optimization writer and catering sales director, and as a public relations and media assistant for the Wisconsin Alumni Assn.

She holds a bachelor of arts in journalism from the University of Wisconsin at Madison.

Ms. Gillikin can be reached at 312-649-5398 and at mgillikin@businessinsurance.com.

WEF: Governments urged to hire country risk officers

CONTINUED FROM PAGE 3

Greenhill, managing director and chief business officer of the Geneva, Switzerland-based nonprofit, during the London gathering introducing the report.

The insurance industry already plays a very important role in addressing risks identified in the report, through development of risk mitigation tools and expertise, Mr. Greenhill said.

The insurance industry can help in understanding such risks and developing crisis management codes, analysis and tools, he said. It also will play a core role in development of WEF's risk response network, he said.

Christian Mumenthaler, chief marketing officer of reinsurance and a member of the board of management for Swiss Reinsurance Co. in Zurich, said the industry has a role to play in helping governments transfer risks.

He pointed to the 1990s development of catastrophe bonds as an example of how the insurance

industry has worked with capital markets to successfully transfer the risks associated with large-scale natural catastrophes.

The fact that natural catastrophe risks can be uncorrelated with other financial risks has made this an attractive investment for capital markets, he said.

The insurance and reinsurance

comply with local laws, an issue that has become a key concern of stakeholders, said Rob de Jonge, risk consulting leader for Europe, the Middle East and Africa at Marsh Inc.

The risk report also cited concerns about volatility in commodity prices.

Commodity price volatility is

against fluctuations in fuel prices, as an example of how this can be achieved.

In the future, companies will place greater emphasis on managing commodity volatility risks, Marsh's Mr. de Jonge said.

There is, for example, a growing need for companies to better understand inherent risks of their

Commodity price volatility is likely to become the 'new normal.'

John Drzik, Marsh & McLennan Cos. Inc.

industry also can play a role in helping governments to transfer some risks associated with increased longevity, one of the major issues covered by the report, Mr. Mumenthaler said.

For example, he said, insurers and reinsurers have become active in transferring pension fund liabilities in Europe.

Insurers can help companies

likely to become the "new normal," said John Drzik, president and CEO of Oliver Wyman Group, a division of Marsh & McLennan Cos. Inc. Greater coordination and planning at a regional and global level are needed to help companies and societies deal with this volatility, he said.

He pointed to the aviation industry, which long has hedged

businesses and supply chains, he said.

The report, published in association with MMC, Swiss Re, the Wharton Risk Management and Decision Processes Center at the University of Pennsylvania and Zurich Financial Services Group, can be downloaded at <http://www.weforum.org/globalrisks2011>.

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LETTERS

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of repeal of the 2,700-page monstrosity should continue. How can one successfully, selectively gut this bill with over 1,600 HHS intrusions into our daily lives? The goal needs to be repeal. If we only attempt to reform the reform, we will miss a multitude of "reforms" that devastated the whole industry.

Repeal has to be the goal in order to draw attention to all that the bill encompasses.

The cost of health care (as opposed to the cost of insurance) will continue to rise with this

bill's onerous complications. As a business publication, this publication should surely be aware of that. If not, I would recommend hiring an editorial staff that understands the difference between insurance and health care and a staff that recognizes who purchases your publication. Knowledge of the business you are covering should be essential, at least in order to write an opinion piece such as you published in your Jan. 10 issue.

Jeff Seiler

President

S&S Benefits Consulting Inc.
Dundee Township, Ill.

Longtime insurance attorney named Tennessee insurance commissioner

By JERRY GEISEL

NASHVILLE, Tenn.—Tennessee Gov.-elect Bill Haslam has named longtime insurance attorney and regulator Julie Mix McPeak as commissioner of the Tennessee Department of Commerce and Insurance.

Ms. McPeak, 41, is an attorney in the Nashville, Tenn., office of Burr & Forman L.L.P. Previously, she was executive director of the Kentucky Office of Insurance, where she also served as

general counsel.

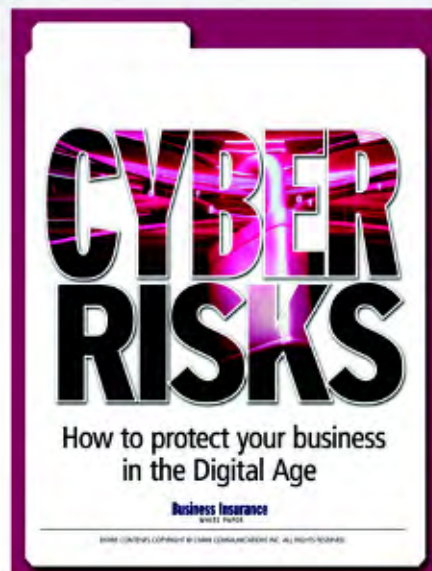
Ms. McPeak "brings a wealth of knowledge in insurance from the public and private sector, and I look forward to working with her as we tackle the specific challenges facing the industry and state," Gov.-elect Haslam, who takes office Jan. 15, said in a statement last week.

Ms. McPeak will succeed Leslie Newman, who was appointed in 2007 to the position by outgoing Gov. Phil Bredesen. Ms. McPeak also will take office on Jan. 15.

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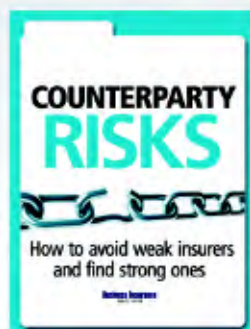
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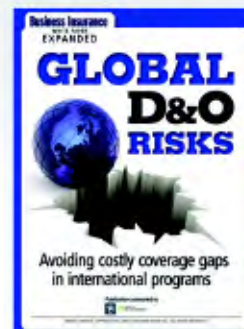


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Snow: New York learns lessons in managing wintry weather

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storm, New York declared a snow emergency and hired private contractors to remove snow.

The December New York blizzard arrived early in the winter, timing that created its own response issues, said Louis Gritz, vp and manager of research for Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global.

"Early snow is usually wet snow, and wet snow is heavy," said Mr. Gritz. "What that means is more equipment is needed to move the snow."

Ernest Sternberg, professor of urban and regional planning at State University of New York at Buffalo, said the city's response suffered from a lack of high-technology applications that can be used to recover from storms and should be in place in large cities where significant snowfall is likely.

Recovery efforts can be tracked on GPS systems to monitor what areas have been plowed and which are in need of snow removal, speeding the response, said Mr. Sternberg. Aerial surveys should be used to provide a clear picture of which areas remain immobilized by snowfall, he said.

"There is a lot of technology out there," he said.

A spokeswoman for Mayor Bloomberg said New York's Office of Emergency Management relies on forecasts from the National Weather Service to track storms and "maps a vast array of data" provided by city agencies to mitigate problems and

respond to a weather crisis.

When a snowstorm strikes, municipalities and businesses should be prepared to keep critical functions working, Mr. Gritz said.

"Have a plan for employees to be productive in case they are not able to get to work," he said. "That might be as simple as having them take home their laptops in the winter" so they can work from home if they cannot get to their office.

Backup generators should be in place to provide power if electricity is knocked out by a storm, he said. As for property, make sure roofs are well-maintained, building drains are cleared and inspections are conducted regularly to find weaknesses that could lead to structural failures under the weight of heavy snow, Mr. Gritz said.

Taking a page from Minnesota

Cities such as New York may want to look to municipalities often hit by snow for strategies in dealing with the impact of snowstorms.

For example, Bloomington, Minn., is responsible for 2,016 miles of streets, 250 miles of sidewalks and 512 cul-de-sacs, said Amy Larson, risk and litigation manager for the city. In early December, a storm dropped 18 inches of heavy, wet snow on the town, just less than the amount that blanketed New York.

In Bloomington, however, "the roads were taken care of within 24 hours after the snow had stopped," Ms. Larson said.

If more than 3 inches of snow is forecast in Bloomington, a snow emergency is



AP PHOTO

A security barricade in front of New York's City Hall last week. City authorities have been criticized for their response to a series of snowstorms that hit the Northeast recently.

declared and street parking is banned until plows move through. A brine solution is sprayed on major roadways before the storm arrives to keep snow from sticking and ice from forming, Ms. Larson said.

"Some of our trucks are equipped with GPS," Ms. Larson said, which allows the city to accurately map which areas have been plowed.

"New York, for some reason, was caught off-guard," probably because of the volume of snow that fell so quickly, Ms. Larson said. Bloomington's response is to get ahead of the storm, preparing the streets when a storm is predicted and, as soon as the bad weather arrives, beginning the plowing.

"When the storm starts, we start the cleanup procedure," Ms. Larson said.

JIF: Results improve

CONTINUED FROM PAGE 4

not the kind you want over trend."

Asked whether companies' ability to release prior-year reserves to boost current-year results has been largely exhausted, Kristian P. Moor, president and CEO of Chartis Inc. in New York, said, "I would be surprised if the significance we've seen in the past couple of years continues through 2011."

Several executives indicated they're seeing signs of an improving economy, though it may take time before it's reflected in insurers' business.

On the commercial side, Mr. Moor said, "We've definitely seen a bottoming of the economic situation." But as the economy continues to improve, "it's going to take a little while before we start to see the effects."

"We're not seeing evidence of exposure growth anywhere in the portfolio, maybe in very small spots," said Mr. Kuczinski.

Mr. McGee said Hartford is see-

ing some rate improvements on personal lines, as well as signs that the small-business economy is starting to turn.

"I think for us, the challenge remains in the middle market and the higher end," Mr. McGee said, adding that the market for that business remains very competitive. "It's not rational right now."

Other executives also indicated they see considerable market competition.

"I think companies are looking at whatever way they can to hang onto market share they've got and strategies to grow that market share," said Jack Salzwedel, president and chief operating officer of American Family Mutual Insurance Co. in Madison, Wis.

Mr. Kuczinski noted that on the commercial side, the industry is almost six years into a declining rate environment. "We're at rate levels that are 2001 or prior," he said.

On the reinsurance side, he said, "I think generally speaking the reinsurance industry is healthy," and has been "relatively" more disciplined in this soft market period than in the past.

Despite the improving economy, the climate remains a difficult one for brokers, according to some panelists. "I think it's really tough

to be a commercial lines broker," said Privilege Underwriters' Mr. Buchmueller.

For agents and brokers looking for organic growth, there is increasing recognition that they can't rely solely on product. Instead, they need to position themselves more as a solutions provider, said Hartford's Mr. McGee. "Agents are looking to provide more value added to their customers," he said.

In turn, he said, those agents and brokers are looking to insurers to help them provide those sorts of solutions.

The panelists said they felt the insurance industry basically had fared well in federal financial regulatory reform efforts.

"I think we all feel that we dodged a bullet" Mr. Salzwedel said. Still, with new agencies coming into operation and regulations yet to be written, "it's critical for us to keep an eye on it and make sure scope creep doesn't happen," he said.

"The key is how is the (Federal Insurance Office) going to operate and I think the creep question is the right question," Mr. Moor said.

"I think the last (financial) crisis proved the current regulatory environment works for policyholders," he said. While saying the existing state-based regulatory system might not be the most efficient system for insurance providers, Mr. Moor said he'd want to see any new regulatory scheme preserve the best aspects of the existing system.

Outlook: New regulations pose risk for insurers

CONTINUED FROM PAGE 4

Institute.

As for the Federal Insurance Office established under Dodd-Frank, Mr. Wrynn said the industry is always monitored to identify changes that can be made to improve it.

Others were more pessimistic.

"When push comes to shove, federal regulation was, is and always has been a catastrophe," said Brian P. Sullivan, editor of the personal and commercial auto insurance newsletter Risk Information Inc.

Among other regulatory changes the panel discussed was Solvency II, the European regulatory regime for insurers that is to get into effect in 2012. Solvency II "will have a profound indirect impact on the U.S. market," said Leo Grepin, New York-based senior partner and property/casualty insurance practice leader at McKinsey & Co.

Several large U.S. companies are adopting part or all of the requirements, so they'll be building a type of "shadow" Solvency II compliance, he said.

The industry is in "a better spot than a year or two ago, but I think a number of unanswered questions still exist," Mr. Grepin said. As an example, he cited the Feder-

al Reserve Bank's need to prop up the economy with low interest rates sets up the medium-term risk of inflation.

Despite noting numerous challenges, some panelists suggested last week that insurers might have learned some lessons from the tough economy.

Vincent J. Dowling, managing partner at Dowling & Partners Securities L.L.C., a Stamford, Conn.-based institutional stock broker specializing in the U.S. reinsurance, said property/casualty insurers were "the last man standing" during the financial crisis. But even insurers that had "rock-solid" balance sheets saw that if a catastrophe happened, they wouldn't be able to raise capital. "They're thinking they need extra capital and that has implications going forward," he said.

Howard Kunreuther, Cecilia Yen Koo professor of decision sciences and public policy and co-director of the Center for Risk Management and Decision Processes at the University of Pennsylvania's Wharton School, said insurers need to engage in longer-term thinking in order to heal.

"One challenging area," Mr. Kunreuther said, "is how do you move away from myopia and thinking (only) about the next quarter?"



'I think for us, the challenge remains in the middle market and the higher end.'

Liam McGee, Hartford Financial Services Group Inc.

Aetna: Insurer buys reinsurance coverage for group health

CONTINUED FROM PAGE 1

a preliminary rating of "BBB-" from Standard & Poor's Corp., while the Class B notes received a "BB" preliminary rating. Based on risk modeling provided by Milliman Inc., S&P cites pandemic as the biggest risk of loss in the transaction.

HSBC Bank (Cayman) Ltd. is providing administrative services to Vitality Re, while Goldman Sachs & Co. is marketing the notes to finance the reinsurance.

Such debt-financed reinsurance transactions, called insurance-linked securities, are common in the property/casualty insurance industry and usually are in the form of catastrophe bonds, but ILS transactions are rare in the health

insurance industry, experts say.

"To our knowledge, the complicated transaction is the first of its kind among managed care companies, and management described the transaction as 'the first step in a larger program,'" Kevin Fischbeck, a research analyst at Bank of America Merrill Lynch, said in an update about Aetna last week.

According to a transcript of remarks that Joseph M. Zubretsky, senior executive vp and chief financial officer of Aetna, made during the JPMorgan "Healthcare Conference" last week, "over time you'll see us introduce more tranches of this into our capital structure if, in fact, the market appetite for this type of security stays as active as we just recently

experienced it to be."

State insurance regulators require health insurers to maintain certain risk-based capital levels for fully insured business, and companies typically maintain multiples of the minimum to protect against an adverse capital scenario and achieve targeted subsidiary debt ratings, which are important when marketing to employers.

As of Sept. 30, 2010, Aetna had \$7.1 billion of risk-based capital, representing 645% of the required minimum, according to the analysts' note. "While it is unclear to us how much incremental capital Aetna could free up through similar transactions, every 10% of risk-based capital unlocked represents \$710 mil-

lion (5.5% of market cap) of incremental deployable capital."

During the JPMorgan conference, Mr. Zubretsky described the reinsurance transaction as "a new way to capitalize the business."

"We recognized that (risk-based capital) formulas arbitrarily allocate more capital to the underwriting cycle than an economic model would suggest you need. So in order to monetize that disparity, you introduce a third party and say, 'Are you willing to take this risk?' and, if you are and you're allocating less capital than is implied by risk-based capital formulas, then you basically have just played an arbitrage between economic capital and risk-based capital," according to the transcript of Mr. Zubretsky's remarks.

"The way to think about this is we replaced equity capital at an equity cost of 11% pre- and post-tax with equity capital at a cost of 2.7%, the cost of BBB debt. The debt is nonrecourse to Aetna, it does not count as Aetna leverage and does count as risk-based capital, all signed off by a host of state insurance regulators and the rating agencies," Mr. Zubretsky said.

BofA analysts said they expect other large managed care companies that generally maintain capital levels similar to that of Aetna's to follow Aetna's lead. However, smaller plans and government-focused plans that tend to have risk-based capital in the 300% to 400% of the required amount appear less likely to benefit from such a transaction, they said.

Best: Firms give mixed outlook for U.S. insurers

CONTINUED FROM PAGE 6

the same positives Best noted in its analysis of commercial lines insurers as well as some of the same challenges.

McKinsey noted that from 2003-2009, the U.S. property/casualty industry produced \$99 billion in pre-tax earnings in excess of the cost of capital, reversing a loss of \$108 billion during the period from 1988-2002.

The improved performance is based on several factors, according to McKinsey, including:

- The exit of undisciplined capacity from the market, including eight major companies with \$1.5 billion in premiums leaving the industry from 1992 to 2003;

- Strengthened risk management skills in the areas of enterprise risk management, capital management, product market management and transaction execution; and

- Improvements in performance management, financial discipline and talent management in the U.S. property/casualty industry.

"While we expect industry profitability to remain strong on a normalized basis, we believe that the industry's overall growth levels will remain sluggish, driven by excess capacity, an increasingly competitive environment and declining exposure bases," McKin-

sey concluded in its report.

"The near-term outlook for the industry is challenging: Rates have lost ground to loss cost inflation, and interest rates remain depressed," the report said. "But we believe pricing will firm up and longer-term returns will be far healthier than they were before the paradigm shift."

For the reinsurance sector, Best said most reinsurers continue to maintain very strong capitalization, which should enable them to withstand the soft reinsurance market that is entering its fifth year.

While 2010 "is proving to be a reasonable underwriting in terms of underwriting performance," reinsurers' top line is under pressure as they continue to maintain underwriting discipline and ceding companies retain larger shares of their books of business, according to the briefing.

"This discipline, however, is absolutely necessary to mitigate future underwriting losses, which inevitably will emerge from underpriced long-tail casualty classes and could be compounded by the future threat of inflation," Best said in the briefing.

Best also said in a separate report last week that its outlook on health insurers remains "negative" despite improvement in overall 2010 net income.

Insurers' 2010 earnings are expected to beat 2009 because of

INSURER EXITS

Companies that have exited the U.S. property/casualty market or been acquired

YEAR OF EXIT	INSURER	AVERAGE COMBINED ratio*	AVERAGE NET EARNED PREMIUM [IN BILLIONS OF DOLLARS**]
1992	Crum & Forster Inc.	123%	\$3.0
1993	Continental Corp.	111%	\$3.7
1993	USF&G Corp.	113%	\$3.0
1999	CIGNA Corp.	122%	\$3.1
2001	Reliance Insurance Co.	110%	\$1.7
2002	Prudential Financial's PruPac	114%	\$1.9
2003	Kemper Insurance Cos.	113%	\$3.0
2003	Royal & Sun Alliance Group P.L.C.'s U.S. operations	119%	\$2.2

*Average combined ratio from 1988-2002 or 1998-year of exit if before 2002

**Average net earned premium from 1988-2002 or 1998-year of exit if before 2002

Sources: A.M. Best Co. Inc. and McKinsey Co.

higher investment income, better underwriting results due to a milder-than-expected flu season and a decline in medical utilization as a result of the economic downturn, Best said in the briefing.

But Best also said it expects health insurer profit margins to fall this year as a result of several factors, foremost of which are changes in pricing and benefits that are required to meet new minimum medical loss ratio rules set by the federal health care reform law.

Health insurers must meet a minimum MLR of 80% for individual and small-group business and 85% for large-group business. The ratio will be calculated on a state-by-state basis, and health insurers will be required to give

rebates to policyholders if they fail to meet the minimums.

Health insurer margins also may be squeezed by an expected return to normal utilization levels as the economy recovers, Best predicted.

"There also is some concern that utilization also could increase beyond what is considered normal because individuals may have been postponing necessary treatment" during the economic downturn, Best said in the briefing.

Copies of the McKinsey study are available in hard copy or PDF form by e-mailing FS_External_Relations@mckinsey.com.

Senior Editor Joanne Wojcik and Special Projects Editor Rodd Zolkos contributed to this report.

Vermont licensed 33 new captives

By JERRY GEISEL

MONTPELIER, Vt.—Vermont licensed 33 new captive insurance companies in 2010, down slightly from the prior year when 39 captives were formed, but more than double the 16 set up in 2008.

The new formations include 19 single-parent captives, nine special-purpose captives, four risk retention groups and one industrial insured captive.

Well-known companies forming captives in Vermont last year include Aetna Inc., Lincoln Financial Group, NBC Universal Inc., Nationwide Financial Services Inc., PricewaterhouseCoopers L.L.P., Procter & Gamble Co. and Towers Watson & Co.

"I am extremely proud of the outstanding performance and leadership that Vermont delivers to the captive insurance industry. As the new governor of Vermont, I will continue to do whatever necessary to keep pace with the needs of this important sector," Vermont Gov. Peter Shumlin said in a statement.

The new formations brought the total captive tally in Vermont, which is the largest domestic domicile and the world's third-largest, to 576 at year-end 2010, up from 560 a year earlier.

Growth will continue in 2011, with three captive applications now pending, said Dan Towle, director of financial services.

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Wife can't spy on husband's secret salary

A South Korean intelligence agent whose wife is seeking a divorce settlement no doubt is thankful over how broadly South Korea's Supreme Court interprets privacy rules.

According to published reports, South Korea's high court held that the unnamed agent's salary is a state secret and cannot be revealed to his wife. The reports said that the agent's wife, a 46-year-old woman who local media said is surnamed Oh, filed suit against the country's National Intelligence Service in 2008 seeking details of her husband's pay, pension and severance package so she could pursue a divorce settlement.

But lower courts held that such pay and benefits information is a confidential matter that not even spouses can breach, and South Korea's Supreme Court recently agreed.

NIS employees' pay is part of the service's spending, which is defined as confidential under the nation's law, according to the reports.

Previous court rulings have held that the intelligence service's spending has to be kept secret even during parliamentary budget reviews, for fear that disclosure would allow parties to estimate the scope of NIS' operations.

Given the high court's privacy ruling, it would appear that Ms. Oh is fated to remain the spy's ex-wife who had to stay out in the cold, or at least in the dark where calculating a divorce settlement is involved.



Business Insurance END PAGE

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REUTERS/LANDOV

Last year's "Kreuzberg vs. Neukoelln" snowball fight in Berlin drew 500 people.

City tosses plan for snowball fight

Authorities in Berlin have forced organizers to cancel a snowball fight because of security concerns and potential damage to trees and bushes.

The event, dubbed "Kreuzberg vs. Neukoelln" for the two battling districts of Berlin, was organized by Ruwen Warnke and drew 500 hundred snow warriors in January 2010.

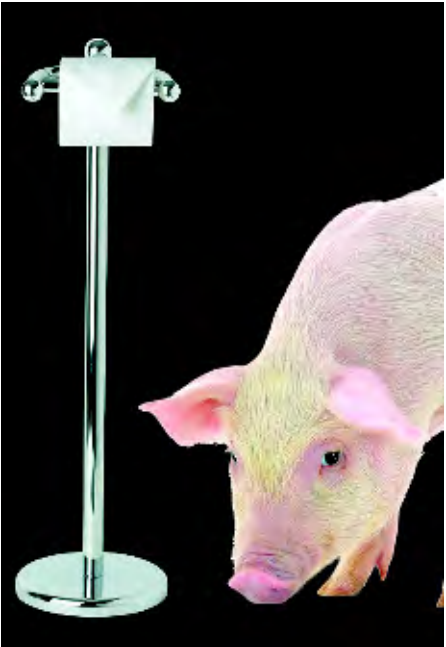
According to reports, Mr. Warnke advertised this year's battle on Facebook, YouTube, Twitter and MySpace and sought official approval to use Hasenheide Public Park as the battleground due to the size of the onslaught.

But Neukoelln officials threw cold water on the skirmish that had grown to 8,000 participants.

"A crowd of that size would be uncontrollable and that is too much to ask of the police," said a public works official, who asked not to be named in the news report. "Plus, if you had masses of people, there would inevitably be damage to the greenery in the Hasenheide."

Germany has some experience with snowball fights gone wrong. In late November, two Leipzig police officers were injured during a snowball fight that reportedly turned into a melee involving 500 people throwing fireworks, bottles and stones.

Mr. Warnke reportedly was looking at runways of an old airport as a possible venue for the epic snowball fight, but officials said they had not received an application.



Pig potty plan pushed to keep poop in pen

Some little piggies likely won't be going to the market in Taipei—unless they keep their feces to themselves.

After learning about a pig breeder's success at potty training his 10,000 pigs, Taiwan's environmental authorities last week reportedly said they plan to promote potty training for all pigs to help curb water and waste pollution on the island.

To dissuade his animals from defecating in nearby rivers, the breeder set up special commode areas for the pigs, covering the areas with feces and urine to attract them, the Taiwan Environmental Protection Administration said.

Aside from reportedly reducing the amount of waste in nearby water supplies up to 80%, the deterrent also helped reduce illness among the swine and boosted their fertility rates as much as 20%, according to Taiwan's EPA.

Taiwan has about 6 million pigs, and the Taiwan EPA says it regularly receives complaints about waste from livestock farms polluting the water supply for the population that was estimated last year at about 23 million.

Such a change could give new meaning to the phrase "going wee, wee, wee all the way home."

COP PROPELS HIMSELF INTO TROUBLE

Abuse of a company vehicle often involves running errands or traveling cross-country in a car or truck, but there are times when it involves a helicopter.

Take the case of Dave Dennison, a helicopter pilot for the Tampa Police Department. Last week, he was suspended for five days without pay as a result of an internal affairs investigation into an unscheduled flight last fall, according to reports by Tampa, Fla., media.

Mr. Dennison, a helicopter pilot for the department since 2002, flew the chopper about 15 miles to St. Petersburg-Clearwater International Airport last fall during his shift. The purpose of the trip, a spokeswoman for the department told reporters, was to drop off a fishing net to a friend.

The airport tower notified the police department the next day to let the department know about Mr. Dennison's errand.

The Tampa Tribune reported that Mr. Dennison also was suspended for four days without pay in December for unauthorized helicopter use, but also said he was honored for helping save three people from a fire in 2005.

"He has a lot of value to the police department, but we didn't take this lightly, which is why he was disciplined so harshly and so swiftly," Marc Hamlin, the department's assistant chief, told the newspaper.

The spokeswoman told reporters that Mr. Dennison humbly admitted his actions during an administrative hearing.



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