

**Travelers reserve addition
a surprise to industry / 3**

**Cuts in mental benefits
raise costs elsewhere / 4**

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\$4



The District of Columbia is one of four urban areas the Insurance Services Office Inc. has designated a high hazard for terrorism.

Terror rate analysis drawing criticism

By MEG FLETCHER

Regulators in the District of Columbia and New York are blasting a terrorism risk analysis that advises commercial insurers to charge policyholders in a handful of jurisdictions more for terrorism coverage than elsewhere.

The analysis, which was drawn up by the Insurance Services Office Inc. from a model created by its Boston-based AIR Worldwide Corp. subsidiary, is being used as part of terrorism insurance rate filings that ISO is making on behalf of commercial property/casualty insurers.

Jersey City, N.J.-based ISO's analysis organized geographic areas into three tiers based on modeling their potential for future terrorism losses. In addition to the District of Columbia and all New York City boroughs, ISO said other tier-one, or "high hazard," risks were Cook County, Ill.,

which includes Chicago; and San Francisco County, Calif.

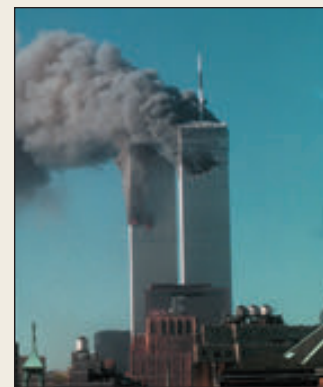
ISO identifies tier-two, or "moderate hazard," areas as: Harris County, Texas, which includes Houston; King County, Wash., which includes Seattle; Los Angeles County, Calif.; Philadelphia; and Suffolk County, Mass., which includes Boston. The rest of the United States was found to be tier-three, or "low hazard," areas for terrorism risks.

District of Columbia Insurance Commissioner Larry Mirel said ISO told him that terrorism premium charges for a high-hazard area could increase policyholders' terrorism insurance premiums for most commercial property/casualty risks by 50% to 150% for the first year.

New York Insurance Superintendent Gregory Serio said he understood that the potential ter-

See **TERROR RISKS**/page 18

Late News



WTC leaseholder suing Zurich for defense costs

World Trade Center leaseholder Larry Silverstein is suing Zurich-American Insurance Co., alleging the insurer is trying to avoid paying defense costs for third-party claims relating to the complex's destruction. World Trade Center Properties L.L.C., a Silverstein Properties Inc. affiliate, charges that, under a binder issued before Sept. 11, 2001, Zurich provided more than \$50 million in coverage and is obligated to pay defense and liability costs for claims against the company. The suit states that Zurich tried to limit its liability in a policy issued after Sept. 11, 2001. Zurich, in a separate suit, says "the Silverstein interests" had agreed the coverage would not include defense costs.

Kemper sells some renewal rights

Kemper Insurance Cos. sold the renewal rights to several books of business as it works to improve its financial condition following ratings downgrades. Kemper sold the renewal rights to some of its large-risk national accounts to Old Republic Insurance Co. Renewal rights to its environmental liability business were bought by Zurich Financial Services Group, and The Hartford Financial Services Group Inc. bought the rights to Kemper's group captive business. Terms were not disclosed.

ABB proposes \$1 billion asbestos fund

Swiss-Swedish electrical equipment manufacturer ABB Ltd. has proposed a bankruptcy plan for Combustion Engineering that will establish a fund of more than \$1 billion to pay asbestos plaintiffs with damages claims against the unit. Under the proposal, ABB will

See **LATE NEWS**/page 3

PBGC woes spur talk of reforms

Falling surplus gives impetus to stabilization efforts

By JERRY GEISEL

WASHINGTON—Alarmed by the rapid erosion of the once hefty surplus in the government's pension insurance program and the near certainty of mounting deficits, federal pension officials now are considering broad reforms to ensure the program's financial stability.

Given what a Pension Benefit Guaranty Corp. spokesman describes as a "dramatic reversal of fortune" in the agency's insurance program, which is funded in part by mandatory premiums paid by employers with defined benefit plans, agency officials are examining a wide range of potential reforms.

"It is important to look at what happened and to see what can be done to prevent" fu-

See **PBGC**/page 16

Weather risk deals create legal whirlwind

By DOUGLAS McLEOD

NEW YORK—A federal judge is allowing a United National Group Inc. unit to pursue fraud charges involving a former managing general agent who fled to Thailand after binding the insurer and several others to weather derivative policies that have produced more than \$65 million in losses.

U.S. District Judge Lawrence M. McKenna in New York last month rejected a motion to dismiss a suit filed by United National's Diamond State Insurance Co. against Worldwide Weather Trading L.L.C., a defunct company owned by former MGA Harold Mollin.

Hammond, Ind.-based Diamond State alleges that Mr. Mollin fraudulently bound it as a reinsurer on weather derivative contracts covering Enron Corp. and others, then covered up his actions by issuing "dummy" policies that concealed details of the transactions.

The complaint is part of a web of disputes that has ensnared several companies that dealt with Mr. Mollin on similar derivative deals. Apart from Bank of America N.A.—which financed the derivative contracts—they include London-based

Terra Nova Insurance Co. Ltd.; Stamford, Conn.-based General Star Indemnity Co.; and Bermuda-based reinsurers PXRE Group Ltd. and PartnerRe Ltd.

General Star, a unit of GeneralCologne Re, settled litigation over its part in the deals last fall, but several cases involving the others are still pending.

MGA absent

Not present for any of the proceedings is Mr. Mollin, who abandoned his Manhasset, N.Y.-based Customized Worldwide Weather Insurance Agency Inc. and affiliate Worldwide Weather Trading after the alleged schemes unraveled in 2000.

He surfaced in Bangkok in 2001 and is now involved in other legal troubles. According to published reports, Mr. Mollin is suing a Thai air force vice marshal for allegedly defrauding him of about \$1 million in a series of real estate, foreign exchange and other deals.

Mr. Mollin requested police protection last year after his Thai interpreter was shot to death

See **WEATHER**/page 17

International

HIH PROBE MULLS CRIMINAL CHARGES

Begins on page 13



January 20, 2003

Travelers reserves get a boost

Scale of \$2.45 billion addition for asbestos catches industry by surprise

By JOANNE WOJCIK

HARTFORD, Conn.—The size of Travelers Property Casualty Corp.'s asbestos reserve boost took industry analysts and rating agencies by surprise, even though the insurer had announced last year that it was conducting a comprehensive review of its asbestos liabilities.

Other insurers are likely to follow suit, analysts predict, in response to the new wave of asbestos litigation sweeping through U.S. courts,

which is targeting companies that previously were not expected to become defendants. And, as insurers boost their asbestos reserves, they may see their ratings downgraded, rating agency executives warn.

"When they were spun off from Citigroup, the \$800 million backstop gave investors a fair amount of comfort," said Jay Cohen, first vp at Merrill Lynch & Co. in New York, referring to the funds Citigroup Inc. pledged for Travelers' outstanding asbestos liabilities when it spun the

insurer off in August 2002.

"They were perceived to be a company that had its hands around the issue. But the trends, and how they emerged in 2002, we would not have forecasted," Mr. Cohen said.

"We were surprised it was as much as it was," said Alan Murray, senior credit officer in property/casualty insurance at Moody's Investors Service Inc. in New York. "It's somewhere near a tripling and

See **ASBESTOS**/page 7



PHOTO: AFP

Travelers' increase in asbestos reserves took industry analysts by surprise.

CONTINUED FROM PAGE ONE



add cash and ABB stock to Combustion Engineering's \$812 million in capital to establish a trust for the claimants. The agreement will be sent to asbestos claimants next week.



Northwest stock pension contribution proposed

Northwest Airlines Inc. could contribute the stock of a regional affiliate airline to its three underfunded pension plans in lieu of cash, under a proposed Labor Department exemption. The exemption would allow Northwest to contribute shares of Pinnacle Airlines to satisfy all or part of Northwest's minimum funding requirements to the plans. The financial arrangement would help Northwest satisfy funding requirements while maintaining financial liquidity.

Late News

PHOTO: AFP



President Bush has proposed caps on noneconomic damages in medical malpractice cases.

Bush proposes cap on med mal damages

President Bush wants to cap noneconomic damage awards in medical malpractice cases at \$250,000 as a means of making health care more affordable. "The medical malpractice system is broken," he said. He blasted what he called "junk lawsuits" that drive up health care costs and called for unspecified limits on punitive damages and for the reform of joint and several liability as it applies to medical malpractice cases. "It is a national problem that needs a national solution," he said.

University of California to sue WorldCom alone

The University of California intends to pursue its own securities-related suit against WorldCom Inc. officers and directors, analyst Salomon Smith Barney and auditor Arthur Andersen. The university will file suit in a California court rather than

continue participating in the class action before a federal court in New York. The UC stands to obtain better results by filing a separate suit under California law, said James E. Holst, the university's general counsel. The university's pension fund lost \$353 million in 2002, when WorldCom's stock value plunged.

Denial of infertility claim not bias: Court

Employers do not violate anti-discrimination laws when they deny health care coverage of infertility treatments for female employees, a federal appeals court ruled. The ruling upheld a 2000 decision by a federal trial court that dismissed the case against Franklin Covey Co. The court ruled that discrimination exists only if coverage is inferior for one sex compared to another. And because infertility affects both women and men with equal frequency, excluding infertility treatment does not discriminate against either sex.

GAB Robins forms insurance consulting unit

Third-party administrator GAB Robins has formed a consulting unit to help insurance company managers improve operations. GAB Robins says the unit, GAB Robins Capital Partners Consulting Group, will assess insurer operations and advise on workflow, customer service, litigation management, financial management and other

operations. GAB Robins has hired Michael Flaharty to head the unit. Mr. Flaharty

most recently was a partner in the insurance claims consulting practice at PricewaterhouseCoopers L.L.P.



ERC takes shine off GE results

Employers Reinsurance Corp. is dragging down the financial results of its ultimate parent, General Electric Co. Although GE reported a record \$15.1 billion in earnings for 2002, its GE Global Insurance Holdings business, which includes ERC, posted a \$1.83 billion loss for the year and a \$1.52 billion loss for the fourth quarter alone. Much of the loss stemmed from a \$1.4 billion after-tax charge related to reserve strengthening. In a statement, GE Chairman and CEO Jeff Immelt described ERC as a "major disappointment."

Briefly noted

Gregg Lehman has resigned as president and chief executive officer of the **National Business Coalition on Health** to become president and CEO of Gordian Health Solutions, a Nashville, Tenn.-based risk management and disease management company. Mr. Lehman's resignation is effective Feb. 3....**Madoline Corp.**, a subsidiary of Brown & Brown Inc., has acquired from Trenwick America Reinsurance Corp. the reinsurer's 25% interest in Florida Intracoastal Underwriters Ltd. Co. Madoline now owns the managing general agency outright.

Check out Businessinsurance.com

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

Online this week:

- **Searchable directories** of all the listings of industry vendors found in *BI's* Market Sourcebook.

- The **Datebook** calendar lists upcoming industry meetings and events and lets you add your own.

- New **Opinion Poll** for readers: How likely is Congress to enact President Bush's proposed malpractice liability reforms?

- Exchange ideas and pose questions in the **Online Forum**.

Reading *Between the Lines*

A new column in *Business Insurance* is making its debut in this issue on page 12.

Between the Lines, compiled by Senior Editor Joanne Wojcik, seeks to inform and entertain readers by offering observations and insights on people and events in insurance, risk management and employee benefits that may

fall outside our regular news coverage.

The column will run biweekly in *BI*, alternating with commentaries written by other senior editors.

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

Inside

Lawmakers don't grasp some benefit concepts

Many employers think that lawmakers do not have a solid understanding of the employee benefit-related legislation they pass, a survey by the American Benefits Council finds. **Page 6**

Doctor threats prompt tort reform efforts

Editor Paul Winston notes that nothing spurs interest in tort reform like the possibility of doctors walking off the job. **Page 6**

Time to consider PBGC changes

In light of the Pension Benefit Guaranty Corp.'s rapidly deteriorating financial condition, it's time for careful consideration of possible changes to the agency's insurance program, one of this week's editorials says. **Page 8**

New health plan model needs some tweaks

With interest in consumer-directed health plans growing rapidly, certain problems in the basic design of the plans need to be addressed, Robert E. Patricelli writes in Perspectives. **Page 10**

Aon obtains license to operate in China

Aon Corp. hopes to become the first foreign insurance broker licensed to provide a full array of services in China. **Page 13**

Departments

Advertiser Index	18
Between the lines	12
Books & Ideas	10
Classifieds	14
Comings & Goings: Industry	11
For the Record	19
Insurance Services Guide	12
International	13
Legal Briefs	10
Letters	8
Opinions	8
Perspectives	10
Ticker	19
World News	13

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

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PHOTO: AFP

Cutter & Buck Inc. sponsors Ladies Professional Golf Assn. players such as Annika Sorenstam.

Cutter & Buck fights to keep D&O coverage

Rescission suits spreading

By DOUGLAS McLEOD

SEATTLE—Sportswear wholesaler Cutter & Buck Inc. has filed a lawsuit to block its directors and officers liability insurers from rescinding coverage following the company's restatement of earnings last year.

Seattle-based Cutter & Buck charges that primary D&O insurer Genesis Insurance Co. has wrongfully tried to void its policies after being properly notified of shareholder claims and after agreeing to renew the coverage at substantially higher premiums.

The suit is the latest in a surge of court actions over D&O insurers' attempts to rescind policies for reasons ranging from alleged misrepresentations of financial results in policy applications to fraud by company officials. Along with widely publicized cases involving Enron Corp., Adelphia Communications Corp. and WorldCom Inc., these actions have included lawsuits by D&O insurers of Homestore Inc., an online real estate company whose former chief operating officer and chief financial officer have pleaded guilty to securities fraud.

Cutter & Buck, a marketer of golf apparel and other sportswear with reported sales of \$174 million in fiscal year 2002, discovered potential problems in its revenue recognition practices after a change in top management last year. The company launched an internal investigation in July 2002 and notified its D&O insurers in late July and early August that it would likely need to restate its financial results for 2000 and 2001, Cutter & Buck's court filings say.

Genesis, a unit of GeneralCologne Re, wrote a \$10 million primary D&O policy for the company, while Chubb Corp. unit Executive Risk Indemnity Inc. provided a \$5 million first excess layer, and Lumbermens Mutual Casualty Co. wrote a \$5 million layer above Chubb.

The program was set to expire on Aug. 8, 2002, but the insurers—which had been notified of the accounting issues and likely restatements—agreed to renew for another year at substantially tougher terms, according to Cutter & Buck's lawsuit. In addition to doubling the company's retentions, for example, Genesis increased its premium for the \$10 million primary policy to \$430,500 from the previous year's \$155,000, the suit says. Executive Risk similarly boosted its premium to \$200,000 from \$50,000 and Lumbermens to \$150,000 from \$38,000, according to the suit.

Soon after the renewal, Cutter & Buck publicly disclosed that it had erroneously booked \$5.8 million in consignment shipments as sales of inventory and that it would restate results for its 2000 and 2001 fiscal years. Most of the restatement, the company noted, related to

See **D&O**/page 17

Mental health cuts could bring quick savings, long-term regrets

By MICHAEL PRINCE

Employers may be tempted to rein in rising health care costs by trimming mental health benefits, but experts warn that cuts that save money in the short term could cost employers much more in the future.

Benefit consultants note that a traditional way to trim mental health benefits has been to redesign the plans so employees pay higher copayments. Some employers have also cut the overall number of visits covered by their plans or eliminated the benefit outright, the consultants say.

"Many employers have either chosen to not cover mental health benefits or to reduce them significantly," said Ruth Donahue, director of business development at The Segal Co. in Chicago.

For 2003, mental health benefits have

"been a chopping-block item," said Eric Wurzel, a partner with Travers, O'keefe, a benefit consulting firm in New York.

Generally, the cuts have been made in the non-network portion of a plan,



with coverage dropping from 70% to 60% or even 50%, said Patrick Leary, a consultant with Watson Wyatt Worldwide in Washington. Mr. Leary noted that, on average, behavioral health care costs are up between 5% and 9% in 2003.

Employers "have a desire, in the midst of a difficult time, to meet some short-term needs," said Bill Barr, executive vp at Magellan Health Services Inc. in St. Louis.

Many small employers are moving to stripped-down plans that cap out-of-network coverage at \$25 per visit and \$750 for the entire year, Mr. Wurzel said. That is the standard offering from some insurers.

Even for employers that have not reduced mental health benefits, "it's definitely part of the conversation" with

See **MENTAL HEALTH**/page 16

ATRA's Schwartz, ATLA's Baron face off

Efficacy of tort reform debated

By MARK A. HOFMANN

WASHINGTON—Don't expect the new Congress to approve sweeping tort reforms, a leading civil justice reform advocate says.

"There's not going to be a bailout liability bill in Congress—there has to be a very real problem," said Victor Schwartz, general counsel of the American Tort Reform Assn., during a debate with Frederick Baron, immediate past president of the Assn. of Trial Lawyers of America. Despite the belief of some pro-reform observers that the Republican congressional majorities have set the stage for large-scale reform, just as many had hoped would be the case back in 1994, Mr. Schwartz said he does not believe the "tort reform tank will roll like the tanks will roll into Iraq."



PHOTO: DAVID HITTLE

According to Victor Schwartz of the American Tort Reform Assn., it's not likely the 'tort reform tank will roll like the tanks will roll into Iraq.'

ton office of the Kansas City, Mo.-based law firm of Shook, Hardy & Bacon L.L.P.

Mr. Schwartz cited as examples of such legislation the General Aviation Revitalization Act of 1994, the Biomaterials Access Assurance Act of 1996 and the Teacher Protection Act that became part of the No Child Left Behind Act

signed into law by President Bush early last year.

Mr. Schwartz said that the current asbestos litigation situation is being recognized as a real problem, but he warned that the business community would have to unite behind a proposal that is

fair to the American public if the system were to be changed. "For the first, there is some division—and I don't want to overstate it—in the trial bar," he said, referring to calls by some plaintiffs attorneys for changes in the system of compensating victims of asbestos-related illnesses.

Not surprisingly, Mr. Baron, a shareholder in the Dallas law firm of Baron & Budd P.C., disagreed. In fact, he said that the only true federal tort reform that has ever been enacted was the General Aviation Revitalization Act. He noted that ATLA analysis indicated that the

See **TORTS**/page 19

Hit by losses, Europe's reinsurers opt to pull back from U.S. market

By SARAH VEYSEY

Losses and the need to boost reserves are among the factors prompting some European reinsurers to scale back their U.S. business, despite the allure of increasing rates in the United States.

During the past few months, French insurer and reinsurer groups AXA S.A. and SCOR S.A. have announced plans to restructure and cut down their underwriting in the United States. Gerling Global Re, the reinsurance arm of Cologne, Germany-based Gerling Konzern Allgemeine Versicherungs A.G., has withdrawn from the reinsurance market altogether, in part because of losses from U.S. business. And even the world's

biggest reinsurer, Munich Reinsurance Co., was forced to increase reserves at its U.S. subsidiary, American Re-Insurance Co., by \$2 billion after a wide-ranging review of the Princeton, N.J.-based company's reserve situation.

Last week, Paris-based AXA announced a shake-up of its reinsurance activities and plans to put three of its U.S.-based reinsurance entities into runoff.

Philippe Donnet, chief executive officer of AXA Corporate Solutions Group, announced that AXA would withdraw from the U.S. financial guarantee reinsurance business written by AXA RE Finance and would cease underwriting and renewing contracts on the life and

nonlife reinsurance carried out by its U.S. subsidiaries AXA Corporate Solutions Reinsurance Co. (U.S.) and AXA Corporate Solutions Life Reinsurance Co. (U.S.).

AXA said the move was intended, in part, to bring its ailing AXA Corporate Solutions unit back into profit, an intention first signaled after AXA Corporate Solutions announced estimated losses related to the Sept. 11, 2001, terrorist attacks at about 350 million euros (\$370.3 million).

AXA Corporate Solutions Reinsurance Co. (U.S.) had gross written premiums of 533 million euros (\$537.8 million) in 2001, while the AXA Corporate Solu-

See **REINSURERS**/page 18

But 70% say legislators are willing to hear employer views Survey finds employers believe Congress isn't benefits-savvy

By JERRY GEISEL

Most employers think members of Congress lack a solid understanding of the benefit laws they pass and that lawmakers don't give enough priority to legislation that would strengthen employee benefit plans, a new survey shows.

Nearly eight of 10 employers responding to a survey conducted by the Washington-based American Benefits Council said Congress lacks a sufficient understanding of the laws and regulations governing employee benefit plans.

In addition, 72% of respondents said legislators don't understand the role that employers play in providing benefits.

The survey, which was conducted online, drew responses from 337 individuals, all of whom work for organizations represented by the ABC.

Certainly, some congressional moves have demonstrated a lack of understanding and appreciation of benefit plans.

In the mid-1980s, for example, Congress—with no public discussion—passed a set of nondiscrimination rules for health care plans. Those rules were so complicated—and, according to many employers, unworkable—that legislators, amid a huge storm of employer protest, repealed them three years later, just before they were to take effect.

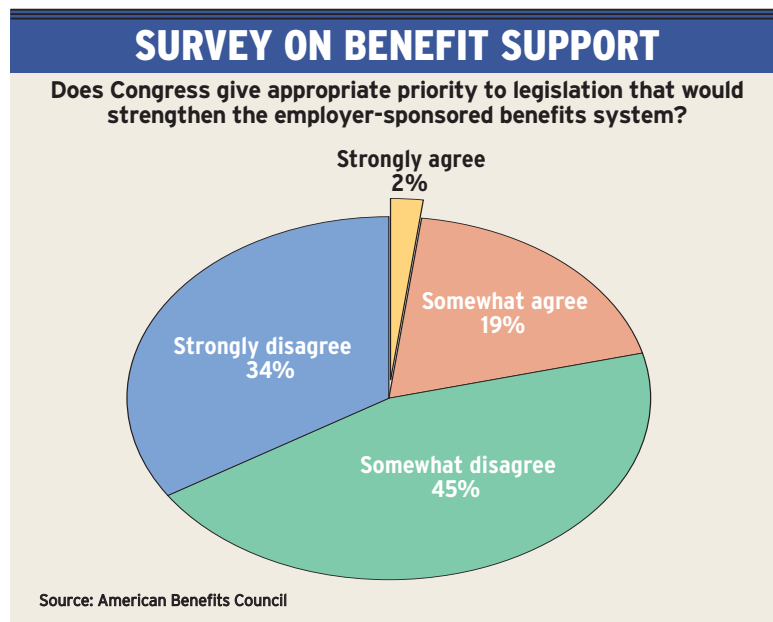
ABC President James Klein said that the complexity of benefit issues may explain, in part, why legislators do not always understand them.

Still, Mr. Klein, who spoke last week at a briefing on the survey, said there is a puzzling "disconnect" among some members of Congress on benefit-related issues.

For example, he noted that many lawmakers have championed the cause of curbing the liability of medical providers because of the impact of court awards on health care costs. At the same time, some of those same individual lawmakers have supported legislation that would expand the liability of employers and health plans when coverage has been improperly denied, which would increase health care costs.

Such positions, Mr. Klein said, "go in the opposite direction."

Still, while employers believe Congress doesn't understand many of the benefit laws it has passed, they do believe that legislators will open their doors to employers when considering benefits legisla-



tion. Just under 70% of respondents either somewhat or strongly agreed that Congress is willing to seriously consider employer views on benefit issues.

And survey respondents believe there is a wide range of employee benefit issues on which Congress should act.

Eighty percent of respondents said lawmakers should make it a priority to pass legislation to provide new tax incentives for retiree health care coverage.

Nearly 75% of respondents said legislation overturning or clarifying a 2000 federal appeals court decision, known as the *Erie County* case, should be a high priority for lawmakers. Under that decision, employers with retiree health care plans can be sued for age discrimination for the common practice of providing lower health care benefits to Medicare-eligible retirees than to younger retirees.

Mr. Klein said a ramification of that decision is that employers will cut benefits for younger retirees. The Equal Employment Opportunity Commission has agreed—at least for now—not to enforce the decision.

Eighty percent of respondents said lawmakers should make it a priority to pass legislation to provide new tax incentives for retiree health care coverage.

In addition, 90% of respondents said President Bush and lawmakers should make it a priority to find ways to reduce the number of people without health insurance, while 93% said a priority of lawmakers should be to make the Medicare program fiscally sound and 84% said that adding a prescription drug benefit to Medicare ought to be a legislative priority.

On the other hand, there are several benefit areas where most employers do not want congressional action. Eighty-five percent of respondents said Congress shouldn't give much of a priority to patient protection legislation that would expand the right of health plan enrollees to sue for improper coverage denials, while 83% said legislation mandating mental health care benefits parity should be either a somewhat low or very low legislative priority.

Not directly related to legislation, all respondents said they were concerned about their ability to continue to offer quality health care coverage if costs continue to increase at current rates.

And respondents aren't very sanguine that cost increases will slow anytime soon, with 59% saying that single-digit annual increases are unlikely to happen in the next five years. Costs now are increasing at a 12% to 15% annual clip.

"There is a health care crisis," and respondents are pessimistic about solutions, Mr. Klein said.

Copies of the American Benefits Council's "2003 Membership Survey" are available online at www.americanbenefitscouncil.org.

Paul Winston A med mal cure tops symptomatic relief

State and federal lawmakers are engaging in legislative triage to try and limit the threat of a medical crisis brought on by malpractice insurance costs.

A handful of states have already passed med mal reforms to cap jury awards and defray coverage costs, and nearly a dozen more are likely to take some sort of action this year. Even President Bush has jumped on the bandwagon, calling for a \$250,000 limit on noneconomic damages in malpractice awards nationwide—though it is unclear how such a federal proposal would govern what are largely state court issues.

Compared to the usual glacial pace of tort reforms, the speed and level of this legislative activity is astonishing.

Why the urgency now?

Because doctors are threatening to walk off the job if states don't act and, in several cases, have already done so. There's nothing like holding the health of the public hostage to bring the authorities to the negotiating table. While I believe it unlikely that doctors would have

ignored people in need, no one was willing to call their bluff.

Last July, the first doctor revolt occurred in Las Vegas, where doctors walked out of emergency rooms to draw attention to their soaring malpractice insurance premiums. Then, on Jan. 1, surgeons in the panhandle of West Virginia went on "strike," and New Jersey doctors may similarly walk off the job next month. In these and other states, doctors have also quit practicing or have relocated their operations—all in response to the high cost and limited availability of insurance.

It will be interesting to see what effects these legislative efforts have on the cost and availability of insurance. While immediate changes in rates and capacity are unlikely, I'd be surprised if the improving climate did not induce some companies to return to this market in the near future. After all, a law that caps policyholders' exposure makes coverage far easier to price than does the risk of unpredictable jury awards that led to the current situation.

It also will be interesting to see whether health care cost inflation abates as a result of these proposals—especially if Congress approves the sort of uniform malpractice code that President Bush has proposed. If providers' liability costs are a leading cause of their own high charges to patients—as they claim—then state and federal efforts that result in lower

malpractice insurance costs should, in turn, help ease the high cost of health care. It sounds logical enough, but I won't hold my breath.

While limits on noneconomic damages are desirable, ultimately, more must be done so that the problem is cured rather than simply put into temporary remission. That's because we've been here before. Similar med mal crises erupted in the 1970s and 1980s. Although not as organized as today, doctors and nurses then also refused to practice because of soaring med mal costs.

One suggestion for more lasting reform might be to look beyond simply capping plaintiff recoveries.

Why not also introduce requirements in health plan

contracts for binding arbitration (I know that hold-harmless agreements would never fly)? Or adopt the proposal of Common Good, an anti-litigation advocacy group that has called for the establishment of special medical courts to hear cases involving medical judgment, instead of using the existing jury system?

Perhaps also toughen existing laws that require the reporting of disciplinary actions against doctors for misconduct or negligence, so that the truly poor-performing practitioners do not harm other patients or ruin the risk financing market for their innocent peers. If the public is bailing out the medical profession with these tort reforms, it has a right to expect that physicians who are incompetent not be supported by the system. State review boards and the Health and Human Services Department could provide better guidance on what sort of errors should be reported and enforce that reporting.

And reform of insurance is also called for. A big reason med mal is a cyclical crisis is that insurers get tough about underwriting only when they are losing money, even though the threat of big lawsuits remains virtually constant.

In the current market, many insurer managements are pledging to remain disciplined about underwriting even after profits return. It's not unlike the patient given a new lease on life by heart surgery, who pledges to improve his diet, stop smoking and give up his slothful ways.

In both cases, though, sticking to that pledge may be the most important step to keeping the patient out of the operating room again in the near future.

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



Paul Winston

Errors & Omissions

• Due to a reporting error, a Jan. 13 World Updates brief misidentified the managing director of Aon Ltd.'s new U.K. business development unit in London. Alun Evans, who previously was a senior vp at Cap

Gemini Ernst & Young, is the head of the new Aon unit.

• Due to an editing error, incorrect telephone and fax numbers for Atlanta-based insurance brokerage Hobbs Group L.L.C. appeared in

Business Insurance's 2002/2003 Market Sourcebook, which was distributed to subscribers in late December. Hobbs Group can be reached by phone at 404-949-3200 and by fax at 404-949-3216.

January 20, 2003

Asbestos: Travelers reserve boost surprises analysts

Continued from page 3

a quadrupling of its reserves. On a percentage basis relative to the base, it's a huge re-evaluation."

The magnitude of the charge, coupled with the fact that the insurer's recapitalization is in the form of new debt being issued, prompted Moody's to lower Travelers' ratings "by a notch," to Aa2 from Aa3, Mr. Murray said. But, he added, "in the big picture of things, that's the smallest possible adjustment in rating. We still see Travelers as a very

'The reserve strengthening reflects a conservative view of trends that have become clearer over the last few quarters, and our estimate of the projected ultimate cost of our asbestos liabilities.'

*Robert I. Lipp
Travelers Property Casualty Corp.*

solid company with strong core earnings expectations."

Both A.M. Best Co. and Standard & Poor's Corp. affirmed Travelers' financial strength ratings of A++ and A- with a negative outlook, respectively.

Travelers' asbestos reserve, which was increased to \$3.4 billion from \$950 million, includes a provision for all settlements, both final and proposed. Among those is a proposed settlement with PPG Industries, which Travelers earlier said would total \$240 million after tax (BI, May 20, 2002).

Separately, Travelers announced it was boosting its environmental reserves in the fourth quarter by \$100 million, bringing the total to \$386 million. However, it reduced its reserves for cumulative injuries other than asbestos by \$95 million, to \$554 million.

"The reserve strengthening reflects a conservative view of trends that have become clearer over the last few quarters, and our estimate of the projected ultimate cost of our asbestos liabilities," Robert I. Lipp, Travelers' chairman and chief executive officer, said in a statement announcing the reserve boost.

"The study was extremely comprehensive and included a review of past settlements, all active policyholders, litigation and potential nonproduct exposures. The study also considered the potential for new claims from unidentified policyholders, as well as exposures to insurance industry pools," Mr. Lipp said.

Because of the reserve increase, the Hartford, Conn.-based insurer will take a \$1.3 billion aftertax charge in the fourth quarter of 2002. The charge, one of the largest ever taken by an insurer for asbestos, is net of the remaining amount under the company's indemnification agreement with Citigroup, its former parent. For the full year of 2002, Travelers expects a net loss, including the fourth-quarter charge, of approximately \$27 million and operating income of about \$118 million. For the fourth quarter of 2002, Travelers expects a net loss of \$793 million and an operating

loss of \$925 million.

The insurer plans to release its results for the fourth quarter of 2002 on Jan. 23.

Travelers' move may cause other insurers to rethink their asbestos reserves, suggested Merrill Lynch's Mr. Cohen. "We have publicly stated we think ACE will take some action in the fourth quarter. We've said the chances are better than 50-50 that they'll do it," he said.

"There may be more to come," agreed Joyce Sharaf, a senior financial analyst at A.M. Best in Oldwick, N.J.

And, as other insurers adjust their

asbestos reserves upward, they also will likely see their insurance ratings decline, said Mr. Murray of Moody's. "We expect that loss development from asbestos claims will begin to appear more commonly as a ratings driver," he said.

"We've seen a few things happen since last year. One is these updated studies that...tend to do two things: move the best estimate of exposure up, and, also, at least in cases where we've seen an independent actuarial firm's evaluation, the range around those best estimates is increasing. So it's suggesting that the problem is bigger and more uncer-

tain," he explained.

"The uncertainty factor comes from the volatility of settlements...and also from these new classes of claims coming through, which could wind up just continuing to eat away and become a runaway issue. Or, alternatively, if there's some kind of legislation or a judicial decision that limits the ability to recover, that could tip the scales more favorably toward insurers," Mr. Murray said.

But, overall, "the numbers are bigger and the range of high-low estimates around that expected value is getting bigger, too," he said.

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Editorial

Med mal crunch needs a cure

PRESIDENTS OFTEN WAIT until the State of the Union address to lay out their legislative agenda for the new year.

President Bush deserves credit, therefore, for not delaying the unveiling of his plan for dealing with the country's medical malpractice liability crunch as a means of easing the health care cost spiral.

No one can quibble with the president's assertion that "too many of our citizens go without health care" because of rising health care costs. That some of his opponents did not even wait to hear the plan before criticizing it as little more than a sop to the insurance industry underscores just how serious the health care crisis has become.

The president's malpractice liability reform proposals won't cure the crisis by themselves. But, if enacted, the proposals would definitely restrain some of the forces that push health care costs ever upward.

While the president's plan would allow unlimited compensatory damages, he called for a \$250,000 cap on noneconomic damages and an unspecified limit on punitive damages as part of his package. He also called for modifications of joint-and-several liability in medical malpractice cases while ensuring that "somebody who has suffered at the hands of a lousy doc must be protected" and enjoy full access to the courts.

Even though the House passed a bill last year that contained much

of what the president called for last week, we have no illusions that crafting a legislative package to pass muster in both houses of Congress will be an easy task.

Lawmakers must decide where limits should be put on punitive damages and also whether a \$250,000 cap on noneconomic damages—a cap considerably lower than that provided under some state malpractice reform laws—is sufficient.

More difficult may be persuading enough lawmakers—including some prominent members of the president's own party—that the health care cost crisis has reached the point where Washington must pre-empt state laws to establish uniform national medical malpractice

liability standards.

Malpractice liability underwriters must be ready to move, too. If the federal government follows the lead of so many states and enacts reform, insurers must be ready to re-enter the marketplace in a timely and reasonable manner. Otherwise, they will lend credence to critics who claim that the malpractice liability risk is not to blame for this crisis as much as insurers reacting to balance sheet problems of their own making.

The president called the medical malpractice liability situation "a national problem that demands a national solution." The president has offered the framework for that solution. It's up to a careful Congress to transform that into reality.

Time to mull PBGC changes

Is this the time to make changes to the Pension Benefit Guaranty Corp.'s insurance program?

While we don't have the answer to that, we do know that, given the rapid deterioration in the agency's financial condition, it is time for the debate and careful examination of changes to begin.

It wasn't so long ago that the agency's surplus was so high—nearly \$10 billion—that many, including the PBGC's previous executive director and ourselves, said it was time to consider lowering the premiums employers with defined benefit plans pay the agency.

In the past year, though, the

agency has had the biggest pension plan takeovers and losses in its 28-year history, and that surplus is nearly gone.

And unless the economy soon improves and the stock market rebounds, even bigger losses and a soaring deficit seem certain.

A deficit in itself is no cause for immediate concern. The PBGC has sufficient assets—chiefly assets in pension plans it has taken over and the premium payments it has collected from employers—to cover for many years the benefit obligations it has taken on.

But eventually—and if current trends worsen, as we think likely—

the PBGC's income will have to be increased. And that will mean an increase, perhaps a big one, in the premiums that the PBGC charges employers.

No doubt, many employers, especially those who have kept their pension plans reasonably well funded, would resent paying such an increase. Indeed, escalating PBGC premiums certainly would be yet another reason for an employer not to offer a defined benefit plan.

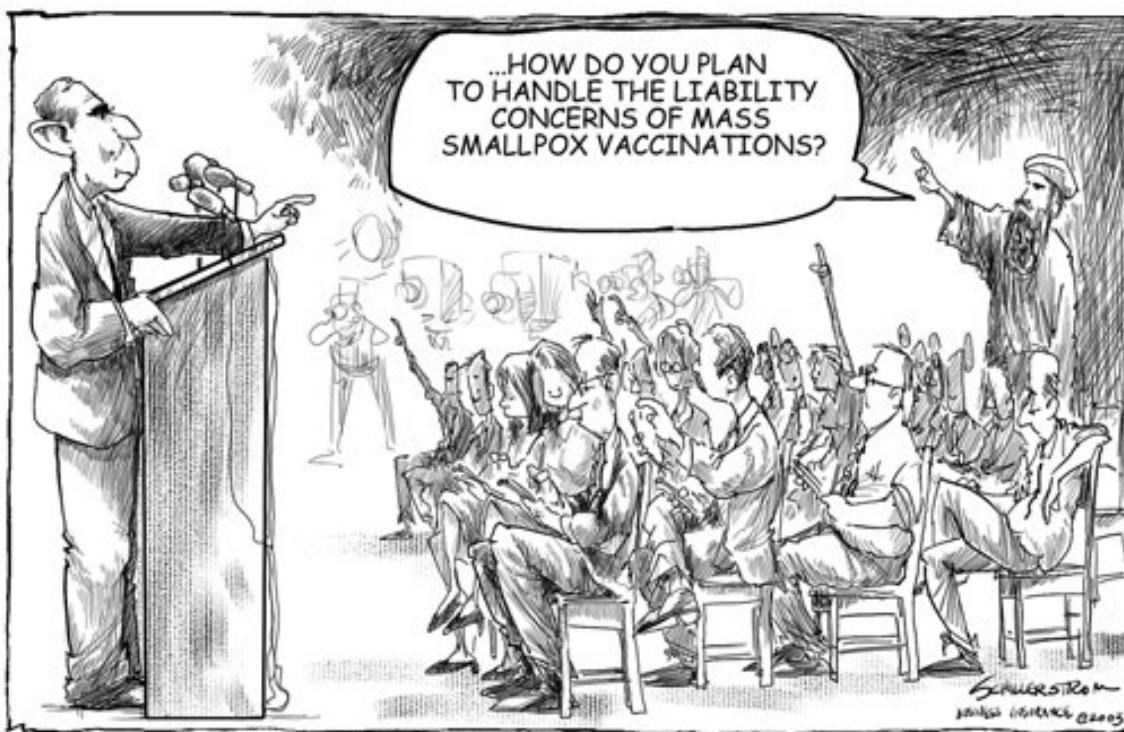
In view of that, what kinds of reforms are necessary? We don't know that yet, but we do know something is wrong when the termination of just one pension

plan—in this case a plan sponsored by Bethlehem Steel Corp.—can result in a \$3.7 billion loss to the PBGC.

PBGC officials have, as we report on page 1, floated various proposals for ensuring the agency's financial health. While we may not necessarily agree with those ideas, we applaud the officials' efforts to openly discuss those ideas with employers and to solicit their opinions.

With an open and free exchange of ideas, we are confident that a reform package can be crafted to ensure the good health of the PBGC without unduly burdening responsible employers.

Schillerstrom



• WILL THE TERROR NEVER END?... •

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Address health costs where they really lie

By Robert E. Patricelli

The hottest topic in employee benefits—consumer-directed health plans—is heating up even more thanks to Treasury Department guidelines affirming the tax-favored carryover feature of these plans.

To see the impact of that Treasury Department guidance (*BI*, July 1, 2002), it is helpful to review the basic structure of these plans.



The typical CDHP benefit design starts with a layer of employer funds, say \$500, for wellness expenditures, followed by a large deductible, such as \$3,000, for family health care coverage.

The true innovation in these plans comes from a tax-exempt pool of employer-provided funds, which the Treasury calls a "health reimbursement arrangement" or HRA. The HRA, which could total \$1,500 for a family, is available to cover any of the participant's initial health care expenses, reducing the deductible in our example by half. The key to the HRA, though, is that the consumer gets to carry over unused funds in the HRA to the next year, so these funds feel like his or her own money.

These new plans are an important first step in the right direction toward greater consumer involvement in health care. But do they go far enough and will they really produce desirable consumer behavior and cost savings? The jury is still out, but there are at least two grounds for concern.

First, employers are incurring costs they don't have by giving each employee an HRA whether or not he or she has expenses. We know that upwards of 20% to 25% of people in a health plan have low or no expenditures in any year, so the HRA is economically inefficient. Moreover, the HRA's effect is to return to first-dollar coverage—the antithesis of a cost-containing benefit design for the first \$1,500 in my example—so there is only the proxy of consumer "skin" in the game, not the real thing.

Second, and more fundamental, is the problem that the cost-saving incentives of the HRA and deductible operate at the wrong point in the spending continuum. One of the most important and yet most consistently ignored facts is that 70% of the health care expense is generated by 10% of the people. In other words, most of the money goes to sick people with high costs. Trying to save money in the area of first-dollar expenditure misses where the real costs are in the system.

To deal with these problems, I suggest a revised CDHP design, with five parts to its financial structure, in addition to the full array of consumer decision support tools that would be included. The five elements are:

- First, there would be a defined amount of

employer funding or set of services for wellness programs—a good idea from the current CDHP designs.

- Second, the bulk of health care expenses would be covered under a classic coinsurance arrangement, with enough consumer contribution—at least 30%—to provide a meaningful incentive for them to pay attention to mounting costs. A traditional out-of-pocket maximum would sit on top of the arrangement.

A return to significant coinsurance is critical—both to create point-of-service cost incentives for the consumer and to index cost-sharing between the parties going forward, in contrast to hard-to-increase flat copayments.

- Third—and here is a new idea—employers should provide 100% funding for proven disease management programs, with providers selected from an approved panel by the employee.

In financial terms, think of this as a vertical band of employer contribution sitting alongside the 70/30 shared-cost corridor, available to the employee whenever he or she qualifies for such a benefit. These case management-style programs, typically conducted by specially trained nurses, are aimed directly at the 10% of people who generate 70% of the costs.

- Fourth, an HRA would be arranged vertically alongside the 70/30 funding responsibility to assist employees with up to, say, half—or 15%—of their coinsurance responsibility. The idea here is not to have

the HRA return us to first-dollar coverage, but to maintain some true out-of-pocket funding as a financial incentive. So, in this example, the HRA would provide half of the coinsurance match on the first \$10,000 in total expenses after the wellness corridor, thereby stretching the cost savings incentive of the HRA over a much wider band of expense than the first-dollar model.

- Fifth, it is important for employers and health plans to aggressively market the often-overlooked health care flexible spending account to deal with the remaining out-of-pocket costs under this arrangement. The FSA is the most "consumer directed" of benefit plans, because it is both a defined amount, which the consumer can track and control, and it is the consumer's own money. Importantly, the new Treasury guidelines permit an FSA to be spent down first, before HRA funds are used, so the difficult "use-it-or-lose-it" feature of FSAs can be circumvented in most cases.

We are in the midst of a burst of employee benefits design creativity that seems to occur only once every 20 years or so. It is time now for the initial CDHP benefit designs to evolve into a product that offers a better chance to meet employer and consumer goals.

Robert Patricelli is the founder and chief executive officer of Evolution Health L.L.C. in Avon, Conn. Mr. Patricelli also founded and led Value Health Inc., a specialty managed care organization, until it was sold in 1997.

Alternative risk book is praiseworthy in a big way

"Alternative Risk Strategies," edited by Morton Lane.

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By Mark A. Hofmann

Don't say you weren't warned—it's there on "page xxx" of the introduction.

"This is a big book. It covers a lot of ground. Perhaps it covers too much," writes

Book review

Morton Lane, president of Lane Financial L.L.C. and editor of "Alternative Risk Strategies."

It is indeed a big book, at nearly 700 pages, and it does cover a lot of ground. But anyone interested in going beyond a facile overview of how to make the most of alternative risk opportunities will probably disagree that it covers too much ground.

Experts on virtually every aspect of alterna-

tive risk transfer have contributed to this volume. Broad topics include ART products, the price of risk, modeling—including an essay on quantifying terrorism risk for insurers—industry-specific practices and solutions, portfolio considerations and other perspectives on alternative risk questions.

Even so, Mr. Lane apologizes for not including chapters on such varied issues as the role of rating agencies and the weather derivatives market.

He shouldn't have felt it necessary to apologize. In terms of sheer scope and the expertise of its contributors, "Alternative Risk Strategies" sets a standard for reference vol-

umes of its type.

It is not easy reading, and few people—other than alternative risk scholars—are likely to read this cover to cover because of its very scope, which touches on life insurance issues as well as property/casualty aspects of the subject.

That caveat notwithstanding, this is a book that would be a welcome addition to the professional library of any financially sophisticated risk manager.

Mark A. Hofmann is a senior editor in Business Insurance's Washington bureau.

Fall is compensable despite pre-existing condition

An employer is liable if a workers compensation claimant's injury was due to a fall, even though the fall was caused by a pre-existing idiopathic condition, the Court of Appeals of Georgia ruled.

Martha Johnson, a supermarket cashier, was reshelving items shortly before closing. She was walking quickly and looking ahead for items left on the floor, as all employees were encouraged to do, when she fell and broke her leg. She filed for and was awarded workers comp benefits, but a trial court reversed the state board of compensation's decision.

On appeal, the employer argued, in part, that a fall arising from an unknown cause is compensable only when the claimant strikes a work-related object. But the court ruled that the majority of courts hold that, if an injury was due to a fall, the employer is liable, even though the fall was caused by a pre-existing idiopathic condition. The appeals court found that Ms. Johnson's fall arose from her

Legals

work. The trial court decision was reversed.

Johnson vs. Publix Supermarkets, Court of Appeals of Georgia, July 16, 2002 (BI/04/J.-\$10)

Worker injured in assault not eligible for comp benefits

The Court of Appeals of North Carolina ruled that the injuries an employee received at her place of employment when she was shot by a former boyfriend did not "arise out of the employment" for purposes of workers compensation benefits.

Janice Dildy was a cashier at an Amoco gas station and convenience store in Wilson, N.C., owned by MBW Investments Inc. Before her employment with MBW, Ms.

Dildy had lived with her boyfriend, Vernon Farmer, in an abusive relationship. After she left Mr. Farmer in 1995, he continued to threaten and harass Ms. Dildy, leading her to seek treatment for depression and anxiety. She subsequently obtained a restraining order, but the harassment continued. Ms. Dildy never told her employer or co-workers about her relationship.

In June 1996, Mr. Farmer entered the store and before leaving threw a six-pack of beer, hitting Ms. Dildy. She asked her supervisor to call the police. He refused and told her to continue waiting on customers. Mr. Farmer called the store and threatened to come back and kill Ms. Dildy if she hung up the telephone. She reported this threat to her supervisor, who again refused to call the police. About 20 minutes later, Mr. Farmer reappeared and shot Ms. Dildy in the hand and leg. Her claim for workers comp benefits was denied.

The appellate court said Mr. Farmer's

assault was entirely unrelated to the nature of Ms. Dildy's employment. "It was a personal risk that plaintiff brought with her from her domestic and private life," the court said, "and the motive that inspired the assault was likely to assert itself at any time and in any place." Furthermore, the court said that the supervisor's failure to call police or let Ms. Dildy leave the store did not make the risk of assault arise out of the nature of Ms. Dildy's employment. The denial of benefits was affirmed.

Dildy v. MBW Investments Inc., Court of Appeals of North Carolina, Aug. 6, 2002 (BI/02/J.-\$10)

These abstracts were prepared by Mayo H. Stiegler. Copies of these decisions are available, at \$10 each, by sending a check payable to Mayo H. Stiegler, to Business Insurance, 360 N. Michigan Ave., Chicago, Ill. 60601-3806. Provide the listed number for each opinion ordered.

INSURER TOPICS

A MONTHLY EDITORIAL SECTION SENT EXCLUSIVELY TO INSURERS AND REINSURERS

Web Strategies

Internet activities must mesh with overall insurer aims

By **RODD ZOLKOS**

For insurers and related companies, an Internet presence is considered a given, but if Web efforts are to be truly effective, they must be developed in line with a broader company strategy.

"There's definitely an expectation in the marketplace of being able to do business with insurance companies through the Web," said Judy Johnson, vp of insurance strategies at Sapiens America Corp. in Cary, N.C.

But beyond the expectations of insurance buyers, companies are also seeing the Web as a necessary extension of their sales channels, and as a way to provide a tool for interacting with agents and brokers.

Depending on the company's strategy, Web-based systems can provide a variety of roles, from a route to provide information to customers or agents and brokers, to a way to actually sell and deliver policies, or even purchase reinsurance.

In general, on the technology side, "there's a tremendous interest in business process modernization; companies understanding that they have to do that," Ms. Johnson said.

Overall, the insurance industry's Web efforts continue to move forward gradually, but there's increasing evidence that Web activities have become a high priority in many companies' executive offices.

"We definitely know that everybody's got constraints on the money they can spend," Ms. Johnson said. "Where companies are spending money, we see it either around core processing activities or Web enabling."

"A lot of these things are not coming out of IT budgets," Ms. Johnson said. "A lot of these things are coming out of funds that the CEO manages."

Where the projects are being funded in the organization suggests that, for many companies, these activities are being seen as a high priority at the highest level of the

organization.

While part of that is being driven by regulatory requirements related to how they handle customer information, insurers also are trying to find ways to increase profits from their insurance underwriting as they look to make up for a downturn in investment income.

"Another big piece in terms of cleaning up our act in processing is efficiency in accessing channels," Ms. Johnson said.

"It's definitely a focus on effectiveness and efficiency," Ms. Johnson said. As opposed to companies' initial Web initiatives, which they believed were going to provide some sort of business advantage, now insurers realize that they have to have a Web presence, "just to be in the game."

"Insurance companies have tried for years to interact more efficiently and effectively with agents and brokers, and certainly the way to do that most easily and cheaply is the Web," Ms. Johnson said. And in the past few years, many companies' Web strategies have begun to focus around the idea that "the Web is there for customer service and channel integration, with channel integration being the top priority," Ms. Johnson said.

Distribution channel

Beyond serving as a marketing tool, the Web can be used as a vehicle both for policy administration and distribution, according to Beryl Goldman, president and founder of Property & Casualty Management Systems Inc. in Richardson, Texas.

Mr. Goldman's company is currently working with a mutual company of agricultural cooperatives on a system that will allow each local co-op to administer policies out of its own location, he said.

"And, of course, (the Internet) is a definite distribution channel," said Mr. Goldman.

See **STRATEGIES**/next page



Online project aims to increase flow of business at Lloyd's / 10B

Zurich system promotes underwriting consistency / 10C

INSURER TOPICS

Strategies: Meeting company aims

Continued from previous page

"When you are able to say to independent agents" that they can get a policy for their clients on the site, "that gives you lots of pluses," he said. "Then, of course, the expedience of the application, of that submission, is increasing three, four, five times."

Also, because the agent can immediately report a risk, "the home office gives them authority to bind the risk right there, because the home office can underwrite the risk instantly," Mr. Goldman said.

"This is a very new technology, and it will take time to penetrate into the market," he said. Some companies already "get a great deal of business from the Internet."

"There are not very many companies that offer to actually bind and issue the policy over the Internet," Mr. Goldman said. "But, that is getting bigger and bigger."

"It's going to come naturally," he said. "Every day, as technology improves in this area, more and more companies are going to get into it."

The Hartford Financial Services Group Inc. is typical of a company that has been moving its Web efforts to a new level, more in line with the company's strategic focus.

Christine Castanguay, Internet marketing consultant for the Hartford, Conn.-based insurer, was in charge of launching the company's online insurance center for small businesses last year. The Hartford already had a Web site when it started crafting the online small-business center, she recalled, but, like those of many companies that jumped on the Internet bandwagon in the mid-1990s, the existing site was really a vehicle for "brochureware."

The goal of the small-business site was to educate and empower small-business owners regarding the risks they face. "We were really trying to provide them tools to do this," Ms. Castanguay said. "Trying to put on the hat of a small-business owner."

"The reason we were doing this is that the small-business area of The Hartford was really trying to

become an advocate for small-business owners," she said.

But The Hartford doesn't intend to sell policies through that Web site, or through the site for middle-

'The Internet has become a huge operational risk issue, and I believe for the next 24 months it will continue to be so.'

Judy Johnson
Sapiens America Corp.

market businesses patterned after it that the company launched in October. Instead, the sites were designed to work in keeping with the company's agent strategy.

"The objective is to drive that user to the agency locator," Ms. Castanguay said. "We're completely supportive of our agency plan."

Agents have responded favorably to the new systems, Ms.

Castanguay said, with the company hearing from numerous agents as soon as the sites were up and running that they'd like to be listed in the agency locator.

The sites offer users several ways to contact a Hartford agent, allowing them to identify a nearby agent through a geographic search, then contact the agent by e-mail, telephone or fax.

"There is no quick-quote capability in mind for these sites," Ms. Castanguay said.

Both sites also are designed to make it clear that they both are distinctly part of The Hartford.

"Even though the small-business and middle-market sites represent two different areas of Hartford's business, they are designed to have a common feel, ensuring that visitors recognize them as part of the same company," she said. "And users can enter either site, then be directed to the one appropriate for a company of their size."

Customer service tool

For Access Insurance Holdings Inc., an Atlanta-based managing general agent, the Web is a tool "to grow faster, cheaper and better," said Michael M. McMenamin, the company's president and chief executive officer.

"We use the Web site and the Internet as a true business engine," added Ned McCauley, Access Insurance's chief sales officer. "We deliver real-time data to our producers. Our producers use it as a customer service tool."

The Web tools that Access has been using for more than three years now are a way to increase efficiency, reduce cost, increase the speed of handling business and improve information accuracy.

In developing an online system, a company must ensure its other operating systems are consistent with the goals of the Web initiative, Mr. Goldman said. For example, if a company wants to transact business over the Web, it

must "have a system that is ready to accept those kinds of Internet transactions," he said. "We're talking about improving not just the communications technology but the operations systems technology as well."

For example, a company offering to deliver policies online has to be ready to make rapid underwriting decisions required to do so, he said. "If the system doesn't do the underwriting, it's going to deliver the application but they're going to have to get the same Joe out there and sit on it for three or four days," Mr. Goldman said.

Sapiens' Ms. Johnson cautioned that companies also must be aware of the risks inherent in their Web strategies.

"The one thing that basically has backfired is trying to put claims status on the Web," Ms. Johnson said. "Unless the company has an excellent claims process, putting claims status online is a bad idea, she cautioned, essentially providing a vehicle for angering customers more easily and more often."

"If your claims process is broken, you're basically allowing customers to be dissatisfied 24 hours a day," she said.

Also, Web business has a "significant impact in terms of how a company manages operational risk, and it certainly should have significant impact in terms of what information a company decides to put on the Internet," Ms. Johnson said. And because of the operational risks, such as reputational exposures, that can emerge from online operations, it's essential that Web activities be viewed in the context of an overall business strategy, she said.

"The Internet has become a huge operational risk issue, and I believe for the next 24 months it will continue to be so," she said. Those risks may extend beyond that time frame, but, given that "change is endemic" in the technology and online arena, it's impossible to look out any further reliably, she said.

Project at Lloyd's aims to awaken risk data exchange

By SARAH VEYSEY

Project Blue Mountain, a Lloyd's of London-backed electronic information exchange designed to increase efficiency and reduce costs for insurance buyers, brokers and underwriters, will be launched during the first quarter of this year.

Through the system, retail brokers will input risk data and make it available to wholesale brokers. Wholesalers can, in turn, transmit the information to Lloyd's underwriters. The information will be keyed in only once and will be securely tracked, said Ashok Gupta, chief executive of the project.

The system, which will be rolled out in "slow and steady" stages

during 2003, will be renamed, Mr. Gupta added. The Blue Mountain project name was a nod to Lloyd's of London's historical origins as a coffee shop, he explained; "blue mountain" is a type of coffee.

While the project initially will focus on increasing business at Lloyd's, it is expected eventually to expand to other insurance markets, he said.

The initial round of funding for the project was provided by Lloyd's, and Nick Prettejohn, the chief executive of the 314-year-old market, has publicly backed the project.

"The very enthusiastic backing of Lloyd's is key. It gives us credibility," said Mr. Gupta. But,

See LLOYD'S/next page

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January 20, 2003

INSURER TOPICS

Lloyd's: Project aims to reduce errors, costs

Continued from previous page

during further rounds of funding, new investors may be sought. A broader shareholder base will likely be added as the project develops, he noted. And users will also help to fund the system.

Mr. Gupta said the project was born after research undertaken by the Blue Mountain team revealed an alarming number of processing errors in insurance policies. "We did some analysis and worked out that 50% of every policy processed contains errors, and 65% of those errors are caused by rekeying," said Mr. Gupta.

"For every £100 spent in

'We did some analysis and worked out that 50% of every policy processed contains errors, and 65% of those errors are caused by rekeying.'

Ashok Gupta
Project Blue Mountain

commercial insurance, 10% of that is frictional costs," said Mr. Gupta. "There are huge inefficiencies."

The team's 18 months of research showed that something was needed "to enable people who trade with one another to communicate risk data electronically."

The Blue Mountain project team now has about 50 "launch companies," Mr. Gupta explained. These include brokers and insurers in the United States and the United Kingdom, he said, though he declined to identify any.

Once several of those companies have been "taken live" with the system, other users of the system will be lined up, he said.

Despite Lloyd's financial backing and involvement in the early stages of the project, the Blue Mountain system will not be Lloyd's-centric, Mr. Gupta noted, and will not be restricted to Lloyd's-licensed brokers and underwriters.

The Blue Mountain technology will "fit around existing systems—the way people already hold their data," said Charles Moore, marketing director of the project. The technology used is similar to that used in other industries such as securities trading,

he explained. "We don't want (users) to have to worry about how it works, so we have built our team around technological skills and people skills," he said.

"We realized we needed to be adaptable," said Mr. Gupta. "We asked what systems and processes people have and how they hold their data. We don't force you to hold your data in ways you don't want to."

"It is great news for brokers, because it is using their existing systems," added Mr. Gupta. A system such as Blue Mountain does not disintermediate, he said, adding that "commercial lines is a naturally intermediated market where brokers bring value to the customer."

Blue Mountain will bring several advantages to brokers, Mr. Gupta said. First, it will reduce costs and increase productivity; second, it will help brokers reduce their own errors and omissions exposures; and third, it will enable brokers to improve the service they offer clients, he claimed.

Project Blue Mountain will also free up time for brokers, Mr. Gupta said, and allow risk information to be efficiently and speedily passed to all participants in a transaction.

He cited the traditional Lloyd's practice whereby brokers stand in line at underwriters' boxes at Lloyd's. An electronic system such as Blue Mountain can help to speed up processes in areas such as this, he said.

And it is hoped the system will enable U.S. brokers to place more business at Lloyd's, added Mr. Gupta.

The system will bring cost savings to underwriters, said Mr. Gupta, as costly rekeying mistakes will be avoided. But there are other potential benefits, he added.

The system will allow insurers to see more clearly how their capital is being used, he said. Blue Mountain will also enable insurers to screen risks, he said, and will "help underwriters get better risk information."

The system will provide greater efficiency for insurance buyers too, claimed Mr. Gupta. It will speed up business completion and minimize conflict and confusion, he said. Blue Mountain will enable buyers to capture pertinent information, and will provide a clear audit trail, he noted.

The system will comply with ACORD data standards, said Mr. Gupta. "We are not imposing our own standards on people. ACORD is fantastic, so let's fit in," said Mr. Gupta.

The system is intended as an information exchange and not a mechanism to bind business online, Mr. Gupta noted.

"We are here to help people communicate, not do business online," he said, drawing a distinction between Blue Mountain and some other technology developments in insurance and reinsurance.

Zurich system promotes underwriting consistency

By RODD ZOLKOS

Using a new Web-enabled system of underwriting workstations, Zurich North America expects to be able to apply consistent underwriting discipline throughout the organization, always based on the company's best current underwriting thinking.

The online platforms are designed to link Zurich underwriters across the target markets in which they work, while providing a single, easily accessible site for information on the company's best underwriting practices.

"The derivation of it was really how do we apply our best underwriting thinking and deliver it to the underwriter to service our customers and make the best underwriting decisions every single time," said Rob Fishman, chief underwriting officer at Zurich North America.

Mr. Fishman also is chief executive officer of the Schaumburg, Ill.-based insurer's manufacturing services business unit, which is at the forefront of the underwriting workstations initiative, working closely with other Zurich North America units and the company's information technology department.

Because the system is Web-enabled, Zurich expects ultimately to be able to use it in interactions with brokers, customers and reinsurers, Mr. Fishman said.

"It speaks to efficiency, too, when you're talking about electronic transfer of data wherever possible," said Rick Harold, the Zurich Financial Services Group unit's Schaumburg-based director of workstation development.

At its heart, the new workstation system allows the company to monitor underwriting decisions as they are being made and respond quickly to underwriting trends or changes in exposure with appropriate underwriting training, Mr. Fishman said.

"It is Web-enabled," he said of the system, "and it has what we call a 'knowledge center' that is integrally part of the workstation."

The knowledge center provides a spot underwriters can check online for both internal and external information relevant to the type of exposure in question, as well as allowing the underwriter to contact others in the Zurich organization electronically for information or assistance. The knowledge center also provides a site for storing new information.

"What we want to think of the underwriter doing is going to a tool kit," Mr. Harold said. "We want to put in front of them those things relevant just to that account and market segment in an efficient way."

Mr. Fishman said the new system is already producing benefits in Zurich's underwriting. By providing a system for single data entry, the system is bringing increased efficiency, he said. Meanwhile, the ability to apply Zurich's best underwriting thinking consistently on all the company's underwriting decisions should reduce loss rates, he said.

And, Mr. Fishman said, the system should provide additional benefits down the road during future turns in the market cycle. "This really helps prepare us for when the market changes by having better selection of business and better data," he said.

The company started the

workstation initiative by rolling out an underwriting platform for its largest property accounts in 2002. Other workstation platforms are being modeled on the large property system.

Zurich is currently expanding the workstations to other property markets. Some system components are already in place for Zurich North America's workers compensation business, and the company is in the process of building systems for its auto and general liability underwriters, Mr. Fishman said.

All the workstations will be component-based, allowing underwriters to gain access to new features as they are installed. Typical workstation features include tools for catastrophe modeling, pricing, risk selection, location and building valuation, risk engineering, reinsurance, claims and customer relationship management.

In addition to providing underwriters with the online system, "we also surround it with extensive training and underwriting thinking as part of the deployment," Mr. Harold said.

To ensure the workstations' relevance across the company, Zurich involved cross-functional teams in the system's development and its testing, Mr. Fishman said.

The response from those using the underwriting workstations thus far has been overwhelmingly positive, Mr. Fishman said. "And we have other parts of the Zurich system outside of the U.S. who want to get access to it," he said.

"The feedback that I'm getting, both internally and externally, is that this is the right vehicle and it's state of the art and it will stand the test of time," Mr. Fishman said.

IT briefs

AIA appoints federal affairs vp

WASHINGTON—The American Insurance Assn. has appointed Moses Mercado, former deputy chief of staff to former House Democratic Leader Richard Gephardt, as vp of federal affairs.

Mr. Mercado becomes a key player in AIA's federal affairs department, which promotes AIA's public policy positions to Congress and to the federal executive and judicial branches.

Mr. Mercado, 39, was a top aide to Mr. Gephardt for five years, also serving as senior policy adviser and as the Missouri Democrat's chief adviser on Latino issues. Previously, Mr. Mercado worked as chief of staff for Rep. Gene Green (D-Texas), as an assistant attorney general in Texas and for the Travis County (Texas) Sheriff's Department.

Separately, the AIA announced recently that San Antonio-based

United Services Automobile Assn. has become the newest member of the property/casualty insurer advocacy organization.

Richard Berstein joins Selective Insurance

BRANCHVILLE, N.J.—Richard W. Berstein has been appointed executive vp and general counsel of Selective Insurance Group Inc. He is responsible for oversight of the Branchville, N.J.-based company's legal department and staff counsel offices, as well as regulatory, compliance, ethics, legislative and internal audit functions.

Mr. Berstein replaces executive vp and general counsel Thornton Land, who retired from Selective on Dec. 1, 2002, after 17 years with the company.

Before joining Selective, Mr. Berstein spent 24 years with Metropolitan Property and Casualty Insurance Co., where he also served as vp and general counsel. Mr. Berstein was also company secretary and the ethics and compliance officer, with

additional responsibility for regulatory and legislative affairs.

NAMIC merges two committees

INDIANAPOLIS—The National Assn. of Mutual Insurance Cos. has merged two existing committees into a new State Affairs Committee to deal more effectively with state legislative and regulatory insurance issues. The move merges committees that previously had focused separately on regulatory issues and state legislative issues.

The new committee will continue to meet in person at least four times a year, usually coinciding with the quarterly meetings of the National Assn. of Insurance Commissioners. It will also have teleconferences and e-mail exchanges as issues dictate.

Michael McCarter, vp of industry and regulatory affairs for American International Group Inc., has been named chairman of the new committee. Mr. McCarter previously served on NAMIC's Regulatory Steering Committee.

Insurer Topics

ADVERTISER INDEX

Issue of January 20

ADVERTISER PAGE #

GMAC 10D

Smart and Associates 10B

January 20, 2003

Pennsylvania Blues plans oppose bid to tax reserves

By LAURA B. BENKO

A Blue Cross & Blue Shield Assn. mandate designed to ensure the solvency of its member plans ironically could put Pennsylvania's four Blues insurers at a financial disadvantage if the state adopts a measure designed to ease its growing malpractice insurance crisis.

For years, the Chicago-based association has required all licensees to maintain capital reserves far higher than the minimums set by state regulators to assure providers and policyholders that money will be available to pay claims in the event of a financial or health crisis. But now, that same requirement could cost Pennsylvania's not-for-profit Blues plans tens of millions of dollars if the state Legislature approves a new proposal by Gov.-elect Edward Rendell to subsidize doctors' liability insurance by taxing insurers' reserves.

Gov.-elect Rendell is not the first to target the reserves. The state's four Blues plans have been under greater scrutiny by state regulators and face at least one class-action lawsuit for amassing what critics call excessive reserves at the expense of policyholders.

Gov.-elect Rendell is seeking to impose a one-time emergency assessment on all health insurers' cash surpluses, raising about \$220 million for a state-run malpractice insurance fund. Physicians then would have their 2003 payments to the fund reduced or eliminated.

The problem for Blues plans, however, is that the larger an insurer's reserves, the larger the levy—or, as they see it, the more prudent a company has been with policyholders' money, the more it is punished.

"We're looking at a quick-fix approach that's unfair to our customers, the very people who helped us build our reserves," said a spokesman for Highmark Blue

Cross & Blue Shield in Camp Hill, Pa., which had 2001 reserves of \$2.1 billion, four times its required minimum. "We've tried to keep our reserves at a level that provides our members with a strong sense of security. This proposal could affect our ability to do that," he said.

In 2001, the four insurers—Highmark, Capital Blue Cross, Independence Blue Cross, and Blue Cross of Northeastern Pennsylvania—held a

Insurers 'that hold down their spending and put that money into reserves for their members should be supported, not punished.'

James Mead
Capital Blue Cross

combined \$3.8 billion in reserves, or \$2.7 billion above the minimum required by state regulators. Faced with rising consumer complaints, the Pennsylvania Department of Insurance in September 2002 held hearings on the appropriateness of these reserve levels but has not issued any findings.

Gov.-elect Rendell's plan would apply only to surplus funds, or reserve money above the state's minimum requirements. It starts with a 2% tax on each insurer's entire surplus. Then, to tap into plans with larger reserves, it would levy a 5% tax on surpluses equal to 60 and 90 days' worth of claims and 10% on surpluses exceeding 90 days' worth.

James Mead, president and chief executive officer of Capital Blue Cross in Harrisburg, argues that such a graduated tax would unduly penalize the most financially conservative insurers. Presumably, 800,000-member Capital—whose 2001 reserves of \$610 million were seven times above its required mini-

mum, or enough to cover 160 days' worth of claims—would be hit much harder than, say, 2.9 million-member Independence, whose 2001 reserves of \$689.6 million were just 81% more than required and equal to 42 days' worth of claims.

"We would pay a much higher tax rate now than if we had reduced our reserves by spending liberally," Mr. Mead said. "This is precisely the opposite of good public policy. Insurance companies that hold down their spending and put that money into reserves for their members should be supported, not punished." Mr. Mead said that although the tax would not jeopardize Capital's financial health in the short term, it could throw a kink into the company's future growth plans and lead to higher premiums. That's because Capital has used interest income generated from its reserve funds to help limit premium increases, he explained. Lower reserves translate into lower interest income, forcing the company to find new ways to offset rising medical costs, he said.

Gov.-elect Rendell's proposal would eliminate 2003 premiums

paid into the state's Mcare fund by high-risk specialists such as neurosurgeons and obstetricians, and would cut those premiums by 50% for other doctors. Payments to Mcare represent one part of physicians' malpractice premiums. Doctors must buy private insurance to cover the first \$500,000 worth of their coverage. Mcare pays for catastrophic damages above that, up to \$1 million.

Gov.-elect Rendell has said the plan is designed to give physicians "short-term relief" while his new administration comes up with long-term solutions to a growing coverage problem that has led some doctors to change specialties, retire early or leave the state instead of paying the hefty premiums. He will be sworn in as governor Jan. 21.

For now, physicians say they'll take any break they can get.

"We support the proposal as an important step, though we recognize it's not a long-term solution," said a spokesman for the Pennsylvania Medical Society. "The state's liability insurance crisis is a complex problem, so solving it is going to require a lot of different groups to step up to the plate. We think in-

surers can play their part,"

Officials at the national Blues association, however, worry that if the proposal is approved in Pennsylvania, the notion of taxing insurers' reserves for various purposes may gain momentum elsewhere.

"We've not seen this proposal in other states," said a spokesman for the Blues association, "but we're concerned about the precedent it would set if it does pass."

The Blues' spokesman added that Blues licensees are held to a higher financial standard to protect the strength of the trademark. The association boosted its reserve requirements after being sued by 13 West Virginia hospitals for \$40 million in claims that were left unpaid when the state's Blues plan was declared insolvent in 1990. The hospitals claimed the trade group had ignored the insurer's deteriorating financial health and, therefore, was partly responsible for the bankruptcy. The association settled the suit in 1992 for \$8.6 million.

Laura B. Benko is a reporter for *Modern Healthcare*, a sister publication of *Business Insurance*.

Comings & Goings: Industry

Insurers:

Cincinnati-based Great American Insurance Co. has promoted **Vito C. Peraino** to senior vp. Mr. Peraino is responsible for overall claims strategy and oversight for Great American's specialty commercial operations. Mr. Peraino joined Great American in 1999 as a vp responsible for the management of all asbestos, environmental and other mass tort liabilities for Great American Insurance Group.

Dr. Patricia Salber has joined Blue Shield of California in San Francisco as senior medical director of its CalPERS Business Unit. In this position, Dr. Salber will oversee medical and quality management for Blue Shield's nearly 500,000 CalPERS members. Before joining Blue Shield, Dr. Salber was managed care director at Kaiser Permanente. CalPERS is the California Public Employee Retirement System, which provides health care coverage for public employees in the state.

David J. Castellani was named senior vp of sales and client relations for CIGNA Retirement & Investment Services' pension business. Mr. Castellani, who held senior sales and management positions with CIGNA throughout the 1980s and 1990s, is returning after co-founding Mi8 Corp., a technology and service firm specializing in hosted applications and managed services.

Brokers:

David J. Madara has been named executive vp of Bollinger Inc. of Short Hills, N.J., following the company's merger with The Madara Co. of Mount Laurel, N.J. He will manage both The Madara Co. and Bollinger's existing office in Princeton, N.J. Also at Bollinger, **Paul A. Coffee Jr.** was named senior vp. He also was a Madara executive.

Tod Swanson has joined Willis Group Holdings in Minneapolis as a senior vp focused on growing its commercial and construction practices throughout the region. Mr. Swanson previously held senior technical and client leadership positions at Marsh Inc.

Reinsurers:

William Fawcett has been named senior vp and head of claims at Endurance Specialty Insurance Ltd., the operating subsidiary of Bermuda-based Endurance Specialty Holdings. Before joining Endurance, Mr. Fawcett was deputy general counsel and managing director of Swiss Reinsurance Corp. in Zurich.

Princeton, N.J.-based American Re Corp. has named **Kathleen Quail** vp at Am Re and a senior vp of its credit enhancement department, to take over the management and strategic direction of American Re Credit & Surety. Her title will remain unchanged.

Other:

Dr. Navneet Kathuria was named national medical director for inpatient management programs at Cogent Healthcare Inc. of Irvine, Calif. Before joining Cogent, Dr. Kathuria served as associate chief in the division of general medicine at St. Luke's Roosevelt Hospital Center.

John Bosley has been named national sales manager responsible for the distribution of retirement services at GoldK, a provider of employer-sponsored retirement plans based in Waltham, Mass. Mr. Bosley formerly held the position of vp.

Mike Gioja has joined Workscape Inc. as executive vp of products and technology. Before joining the provider of Internet-based software solutions for benefits and workforce management, Mr. Gioja was president of Brass-Ring Systems. Workscape is based in Framingham, Mass.

Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers.

Please send news of recently promoted, hired or appointed senior-level executives to: Joanne Wojcik, Business Insurance, 777 E. Speer Blvd., Denver, Colo. 80203-4212; jwojcik@crain.com.

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Insurance Information Institute's Property/Casualty Insurance Joint Industry Forum

Insurers boosting discipline, but other factors check returns

By PAUL WINSTON

NEW YORK—Despite improved underwriting discipline in 2002, property/casualty insurers face other hurdles to achieving the returns they desire, a panel of analysts says.

In the current low-interest-rate environment, insurers' renewed focus on underwriting is all the more vital to profitability, analysts say. However, other challenges that insurers face include the need to boost reserves, the emergence of new exposures and pressure from buyers to relax rate increases.

"2002 saw a new realization of the need for underwriting profits in a low-interest-rate environment," said Vincent J. Dowling Jr., managing partner and senior insurance stock analyst of Dowling & Partners Securities L.L.C. in Hartford, Conn. Mr. Dowling took part in a far-ranging panel discussion at the Insurance Information Institute's Property/Casualty Insurance Joint Industry Forum, held last week in New York.

In the current operating environment, Mr. Dowling said, insurers need to achieve combined ratios in the 90s to be profitable, yet that's not happening in the industry overall, he said. Although companies made big improvements in combined ratios last year, they still are not where they need to be, Mr. Dowling said.

"The industry needs to do a better job of analyzing losses and trends on an ongoing basis" to improve its results, said Michael S. Pritula, a director of McKinsey & Co. in New York who leads the firm's global insurance practice.

Insurer reserves also need attention, analysts say.

"In 2002, the industry did not put up reserves as much as expected," said Alice D. Schroeder, a managing director at Morgan Stanley in New York. Even though rate increases were in the double digits, there was perhaps only a 2% growth in reserves, she noted.

'The (property/casualty) industry needs to do a better job of analyzing losses and trends on an ongoing basis' to improve its results.

Michael S. Pritula
McKinsey & Co.

One recent and large exception is Travelers Property Casualty Corp., Ms. Schroeder said, citing the insurer's \$1.2 billion boost to its reserves for asbestos.

"Travelers has set a new benchmark for disclosure about reserves," she said. As a result, more insurance companies "will have to scramble to keep up."

Mr. Pritula said that Travelers' move raises the question of why the insurer made such a big increase in asbestos reserves.

He asked whether the boost was prompted by a specific event on the claims side or simply by a new analysis of the existing losses facing the industry. If it was the latter, then other companies would need to make similar new analyses of their exposures, he said.

The possibility of inadequate reserves is one reason the property/casualty industry's surplus may not be as healthy as the numbers would suggest, Mr. Dowling said. Reserves, lower interest rates, taxes and other factors all erode the industry's surplus, he said, noting that the formerly held perception that the industry had excess capital is no longer true.

The consequence of having to plug these holes, Mr. Dowling said, could be prolonged rate firming in the primary commercial lines market.

Meanwhile, insurers are likely to face resistance from buyers to continued rate increases.

Mr. Dowling said that he is not expecting a lot of people to seek new risk financing alternatives to traditional insurance, though he does anticipate the expanded use of existing captives. Nevertheless, the availability of alternatives does limit insurers' ability to continue their rate increases as long as is necessary, he said.

Ms. Schroeder noted that risk managers also have concerns about insurer security in the current environment of frequent rating downgrades.

Some risk managers are upset because they bought coverage from companies they now think may not be creditworthy, she said. Buyers maintain that their brokers and the rating agencies should have identified companies with financial problems sooner, she added.

Sean F. Mooney, chief economist and research director for Guy Carpenter & Co. Inc. in New York, moderated the panel.

Between the lines

Compiled by Joanne Wojcik



The price of misbehavior

The hard insurance market may finally oust Tracy Baker, a county clerk from Colorado who has refused to resign over county board allegations that he misspent public money and used his position to benefit a co-worker with whom he had an affair.

Arapahoe County Risk Manager Pat Skahill told county commissioners that concerns about Mr. Baker's activities are raising the county's insurance costs.

Officials sought Mr. Baker's resignation last fall. His affair had been revealed through sexually explicit e-mails to a female co-worker that were discovered during a probe triggered by a sexual harassment complaint about Mr. Baker's work activities. Now, officials are raising Mr. Baker's public official bond requirement from \$10,000 to \$250,000. All other county officials' bond requirements remain \$10,000. Several insurers have declined to write bonds for Mr. Baker.

"I didn't expect to have trouble placing a bond. It's fairly easy to bond if you're willing to pay for it," Ms. Skahill told *Business Insurance*. "It had an influence on our renewal. We had one market decline to quote us" on the entire insurance program, citing the Baker situation in an e-mail to the county's broker, Marsh Inc., she said.

"My expertise, based on 20 years as a risk manager, leads me to conclude that there is little doubt that the Baker case played a role in the large increases in this year's insurance program," Ms. Skahill wrote to the county board.

Ironically, if Mr. Baker fails to meet the bond requirements by Valentine's Day, he will be forced to vacate his post.

Sandy the psychic?

Travelers Property Casualty Corp.'s announcement last week that it was nearly quadrupling its asbestos reserves may have surprised analysts, but it makes one wonder whether Sandy Weill, CEO of ex-parent Citigroup, had a premonition. Citigroup essentially capped its exposure when it spun off the insurer, pledging \$800 million against Travelers' excess asbestos claims. Travelers' IPO also came just days after shares in oil-services giant Halliburton Co. sank 43% amid investor anxiety about asbestos liabilities.



All's fair (game) in love and war

Every detail that the global accounting firm Ernst & Young told its American partners about its financial performance through late 2000 became public as part of a divorce case involving the firm's global chief executive, Richard S. Bobrow. As a private firm, Ernst & Young is not required to disclose financial information to the public. But the financial documents were released by the Indiana judge presiding over the divorce case. "There is no statute or case law that permits the court to seal trade secrets and/or confidential financial information after they have become part of the public record," he ruled.

Underwriters keep pace with 007



Challenging risks can inspire creative underwriting, as the James Bond films have for the past 40 years. Scott Milne, chairman emeritus of Aon Corp. unit Albert G. Ruben, says the Bond films are largely responsible for many innovative insurance products used in the entertainment industry today. In the early days of 007, the films were constantly breaking new cinematic ground using exotic locations and high-tech effects, requiring underwriters and loss control experts to develop new products.

Is there a dust deductible?

In the 1960s, stressed-out homemakers in the United Kingdom may have found some relief in the form of prescription medication, but today, "mother's little helper" may be an insurance policy. "MumsCover," a new disability policy available in Britain, provides financial assistance for up to six months in the event a mother is unable to cook, clean and look after her children due to accident or illness.

Joanne Wojcik can be reached at jwojcik@crain.com.

Products & Services Guide

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HIH probe may yield criminal charges

Attorney says potential criminal, civil breaches occurred at insurer

By MICHAEL BRADFORD

SYDNEY, Australia—Speculation that laws may have been broken in the undoing of HIH Group of Cos. is growing as the lengthy investigation into the failed Australian insurer nears its conclusion.

In testimony last week before the Australian Royal Commission, which is investigating the \$5.3 billion Australian (\$2.72 billion) insolvency of the insurer, Wayne Martin, a senior attorney assisting the commission, said there are hundreds of possible breaches of civil and criminal law related to the failure. Those possible violations are referred to in 29 written submissions that accompanied his report but had not been made public as of late last week.

No charges had been filed against former HIH executives or others connected with the insurer's collapse.

Sydney, Australia-based HIH, which had been Australia's second-

largest property/casualty insurer, went into liquidation in March 2001 (*BI*, March 26, 2001).

Mr. Martin suggested to Australia Supreme Court Justice Neville Owen, who heads the commission, that the justice turn over to the Australian Securities and Investments Commission and the Director of Public Prosecutions information suggesting that laws were broken. Justice Owen is scheduled to deliver a report on the insolvency to the federal government on Feb. 28. The justice's report will include a discussion on whether he thinks any laws were broken, Justice Owen said at last week's hearing.

The commission will consider the 29 submissions in meetings to be held through the end of this month.

Portions of Mr. Martin's testimony centered on how the company was run by its chief executive officer, Raymond Williams, and the activities of Rodney Adler, a former director of HIH and former CEO of

FAI Insurance Ltd. HIH's takeover of FAI, which eventually became insolvent, has been cited as part of the reason for HIH's eventual collapse.

Mr. Martin said Mr. Williams dominated senior management

that ran the insurer. Mr. Williams' "business judgment was, in the end, shown to be faulty," Mr. Martin said, according to a transcript of the hearing.

Mr. Adler quit the HIH board
See HIH/next page



Investigations into the HIH collapse have examined the activities of Rodney Adler, left, who was a director of HIH, and Ray Williams, right, who was the insurer's former chief executive officer.

World Updates

Tanker cleanup costs may exceed \$1 billion

The Spanish Finance Ministry announced that cleanup costs stemming from the Nov. 19, 2002, Prestige tanker oil spill could top 1 billion euros (\$1.06 billion). The Bahamian-flagged Prestige sank about 100 miles off Spain's Galician coastline while carrying more than 20 million gallons of fuel oil—more than 3 million gallons of which already has spilled. The tanker is insured by the London Steam-Ship Owners' Mutual Insurance Assn. Ltd.—a member of the International Group of P&I Clubs, which pools claims in excess of \$5 million. For claims of \$30 million to \$2 billion, the International Group buys reinsurance, led at Lloyd's of London.

Lloyd's U.S. business up 15% in 2002

U.S. business accounted for \$8.2 billion of Lloyd's of London's premium volume in 2002, an increase of 15% over the 2001 year, according to the market's new chairman, Peter Levene. Lord Levene said that the United States continued to be Lloyd's single biggest market, accounting for about 40% of the market's premiums. The new chairman, who took the reins at Lloyd's from Sax Riley on Jan. 1, said in a statement that recent reforms at Lloyd's had been driven, in part, by the need to compete in a "global market in which U.S. customer service standards are now the norm."

Staff changes at Mercer European practice unit

Divyesh Hindocha has been appointed head of the Ireland & Continental Europe Practice of Mercer Investment Consulting. Mr. Hindocha, a worldwide partner at Mercer, succeeds Tim Gardener, who will concentrate on his role as global practice head, Mercer said in a statement. Mr. Hindocha will be based in London. Amsterdam-based Frans Ballendux and Tom Murphy, based in Dublin, will join the Ireland & Continental Europe Practice. Mr. Ballendux will head the continental European manager ratings group, while Mr. Murphy will have responsibility for business strategy.

Zietsch to head board of SCOR Deutschland

Dietmar Zietsch has been appointed chairman of the management board of SCOR Deutschland, the German arm of French reinsurer SCOR S.A. Mr. Zietsch, who is currently head of the SCOR Life division in Germany, will take up the new post on March 1.

Fishjackings in Italy net a coverage ban

By GERARD O'DWYER

OSLO, Norway—Two Norwegian insurance companies have informed the country's fish products and trucking industries that they will no longer provide commercial coverage on trucks carrying fish products to southern Italy.

Gjensidige Nord AS and Vesta Forsikring AS, both based in Oslo, put the change into effect on Jan. 10.

Three other major insurers—Storebrand ASA, Skandia Norge, both based in Oslo and Stockholm, Sweden-based If Skadeforsikring—have attached strict conditions to policies covering fish transports to Italy. These three are considering whether to remain involved in this high-risk sector, according to spokesmen with the companies.

The decision to withdraw coverage follows a series of hijackings of Norwegian-registered refrigerated trucks delivering fish products to customers in Italy. Four hijackings, all involving the physical assault and kidnapping of drivers, took place over a three-week period in November and December of last year. According to Vesta, 32 Norwegian trucks have been hijacked since 1998. Ten trucks were hijacked in 2002 alone. The combined value of fish products stolen since 1995 is \$21.2 million.

No arrests have been made in connection with any of the reported robberies.

"The situation is very difficult. Like other transport companies, we endeavor to provide a price-competitive service to Italy," said Jens Knudsen, a transport logistics execu-



tive at Oslo-based Nor-Cargo AS. "We depend on adequate insurance cover for our personnel, trucks and cargo. How can we provide a low-cost service if we cannot secure insurance cover, or, if we somehow can secure cover, we pay massively for it?"

In a bid to appease insurers, Norwegian transportation companies decided in December, 2002, to introduce security measures—including Global Positioning System monitoring of trucks, trucks staffed by two drivers and armed private security personnel—to monitor deliveries.

Norwegian fish exporters are bearing the brunt of what executives in the trucking industry are calling the "Italian problem." Fish exporters face the choice of paying substantially higher premiums or abandoning Italy completely.

"We export to 50 countries worldwide, but Italy is special," said Arvid Nordheim, the head of transport logistics at West Fish AS, a fish-prod-

See FISH/page 15

Aon venture OK'd for Chinese license

By MICHAEL BRADFORD

SHANGHAI, China—Aon Corp. hopes to become the first foreign insurance broker licensed to provide a full array of services in China.

Aon and other brokers with representative offices in China currently are allowed only to offer consulting services and to place a limited amount of reinsurance outside the country for clients in China.

But under a joint venture arrangement with China National Cereals, Oils & Foodstuffs Import & Export Corp., Chicago-based Aon will be able to offer a full range of brokerage services across China. Chinese regulations require that foreign brokers operate as part of a joint venture with a domestic company, though that requirement eventually will be phased out.

Approval for the venture from the China Insurance Regulatory Commission means Aon will begin placing insurance when its license is issued in around six months, said Patrick G. Ryan, chairman and chief executive officer of the Chicago-based brokerage.

Aon currently has representative offices in Beijing, Nanjing and Shanghai. The new joint venture, called Aon-COFCO, will be based in Shanghai.

Bernard Fung, Hong Kong-based chairman and chief executive officer of Aon Asia, said it is difficult to project how much business Aon-COFCO will place. "It's hard to say. The share of premiums handled by brokers is

very low right now. Historically, it's been a direct market," he said.

"Our major priority is to support our global clients with operations in China," Mr. Fung noted. Over time, Aon-COFCO expects to become involved in China's growing infrastructure projects and eventually to work with major Chinese corporations.

Chinese law calls for foreign brokerages to have a staff that includes 35 qualified brokers, and "We will ramp up pretty quickly," Mr. Fung said. The Shanghai office currently has around eight employees, he said.

Risk managers will now be able to "see all of Aon in China," said Mr. Ryan, meaning they will be able to obtain all the services that are available in other countries where the broker operates. "We can now have more staff and intellectual capital there."

Mr. Ryan said that Aon, through its representative offices, has been advising several multinationals based in the United States, Europe and Asia on their operations in China. "There is already a pretty-good-sized market waiting on our resources," he remarked.

No other large broker operating in China has announced plans to pursue a full license.

Marsh Inc. has operated in China since 1993 from an office in Beijing. The CIRC recently granted Marsh authority to open offices in Shanghai and Guangzhou. A spokesman for the broker declined to say whether it is seeking a full license.

HIH: Investigation may yield criminal charges

Continued from previous page
three weeks before it collapsed, saying in testimony last year that he was "unhappy with the quality of information...being presented to me" (BI, July 1, 2002). He has denied suggestions that FAI was insolvent before its takeover by HIH and also denied knowledge of the use of alleged "sham" reinsurance contracts to improve FAI's balance sheet (BI, March 4, 2002).

Mr. Adler has faced legal sanctions in connection with his dealings with HIH. He was banned from directing a company for 20 years after he was found in a New South

Wales Supreme Court case to have breached his duties under the Corporations Law in relation to a \$10 million Australian (\$5.75 million) payment made by an HIH unit to Pacific Eagle Equities Pty. Ltd., a company for which Mr. Adler was a director.

In his testimony, Mr. Martin said evidence gathered over the course of the 16-month investigation suggests that HIH failed not only because it did not properly estimate claims liabilities but also because of the "use of financial products and accounting treatments to obscure and, in some cases, conceal the fun-

damentally unprofitable nature of the business.

"In other words, financial products and dubious accounting techniques were used to paper over the large cracks which had appeared in the fundamental structural elements of the group, concealing them from the gaze of investors, consumers and the regulators, enabling HIH to trade unprofitably until the cash simply ran out," Mr. Martin testified.

In one respect, HIH executives had more on their hands than they could handle, according to Mr. Martin.

HIH, which began out of a small office in Melbourne, "outgrew its management," Mr. Martin said. Management, he said, was "not up to the task of ensuring that proper systems and safeguards were installed in this very complex business to adequately protect the interests of policyholders and shareholders."

But the executives weren't simply in over their heads, according to Mr. Martin. He cited "corporate expenditure and executive self-indulgence that were characteristic of HIH even when on the brink of collapse and a demonstrable lack of

prudence with respect to a number of investments made by the group" as factors contributing to the company's insolvency.

There were four main reasons that HIH failed, according to Mr. Martin's testimony.

The first, he said, was a "chronic and recurrent failure" to estimate losses. Unprofitable business written in the United Kingdom and United States also contributed to HIH's collapse, and the insurer's acquisition of FAI was another problem that led to insolvency, according to Mr. Martin.

See HIH/next page

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LEGAL NOTICE

THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION

IN THE MATTER OF THE LIQUIDATION
OF OAK CASUALTY INSURANCE COMPANY)
) 02 CH 20927

NOTICE OF CLAIM FILING DEADLINES AND PROCEDURES

PLEASE TAKE NOTICE, that on November 19, 2002, the Circuit Court of Cook County, Illinois, entered an Agreed Order of Liquidation With a Finding of Insolvency ("Agreed Order of Liquidation") against Oak Casualty Insurance Company ("Oak"). Nathaniel S. Shapo, Director of Insurance of the State of Illinois, is the statutory and court-affirmed Liquidator of Oak (the "Liquidator").

TAKE FURTHER NOTICE, that pursuant to the Agreed Order of Liquidation, all rights and liabilities of Oak and its policyholders, creditors and stockholders, and all other persons interested in its property or assets, are fixed as of November 19, 2002, unless otherwise provided in subsequent orders of the Court.

TAKE FURTHER NOTICE, that on December 16, 2002, the Circuit Court of Cook County, Illinois, entered an Order Providing for the Filing of Claims and the Setting of Claim Filing Deadlines ("Claim Filing Order"). Pursuant to the Claim Filing Order, all persons, companies or entities who have, or may have claims against Oak, its property or assets, or against an Oak insured or policyholder, shall have the right to present and file with the Liquidator proper proofs of claim on or before November 19, 2003 at 4:30 p.m. (C.S.T.).

TAKE FURTHER NOTICE, that any insured under an insurance policy issued by Oak shall have the right to present and file with the Liquidator a proper proof of claim setting forth a contingent claim on or before November 19, 2003 at 4:30 p.m. (C.S.T.). No contingent claim shall be allowed for purposes of participating in any distribution of estate assets that may be made at the fourth priority level, 215 ILCS 5/205(1)(d), unless such claim has been liquidated and the insured claimant has presented and filed evidence of payment of such claim to the Liquidator on or before November 19, 2004 at 4:30 p.m. (C.S.T.). Any contingent claim for which a proper proof of claim is filed on or before November 19, 2003 at 4:30 p.m. (C.S.T.), but which is not liquidated on or before November 19, 2004 at 4:30 p.m. (C.S.T.), may be estimated pursuant to 215 ILCS 5/209(4)(b) for purposes of participating in any distribution of estate assets that may be made at the fifth priority level, 215 ILCS 5/205(1)(e), unless otherwise directed by the Court.

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

THE LAST DATE FOR THE FILING OF PROOFS OF CLAIM WITH THE LIQUIDATOR IS SET FORTH ABOVE. NO PERSONS, COMPANIES OR ENTITIES HAVING OR CLAIMING TO HAVE ANY CLAIM AGAINST OAK, ITS PROPERTY OR ASSETS, OR AGAINST AN OAK INSURED OR POLICYHOLDER, SHALL PARTICIPATE IN ANY DISTRIBUTION OF THE ASSETS OF THE COMPANY UNLESS SUCH CLAIMS ARE PROPERLY FILED WITH THE LIQUIDATOR ON OR BEFORE NOVEMBER 19, 2003 AT 4:30 P.M. (C.S.T.)

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HIH: Probe may yield charges

Continued from previous page

In addition, he said, the sale by Winterthur Insurance Co. of its majority shareholding in HIH in July 1998 and HIH's joint-venture deal with Allianz Australia Insurance Group in 2000 "had a causal relationship with the collapse."

The sale by Winterthur meant that when HIH "had a desperate need to raise further capital, it couldn't turn to a major shareholder with a large capital base," Mr. Martin noted.

There was a belief on the part of management that the Allianz deal would improve the group's financial circumstances, Mr. Martin said. But the "view of the majority was based on a failure to properly evaluate and appreciate the consequence of the transaction in terms of cash-flow available to the group to meet its current liabilities," he said. In addition, there was a "failure to give adequate weight" to terms of the transaction that called for the \$200 million payment by Allianz to go directly to a trust established as security for HIH liabilities, he noted.

Mr. Martin's testimony referred to reinsurance coverage written by GeneralCologne Re Australia Ltd. for FAI as among the transactions analyzed in the submissions. In a previous hearing, the commission heard that FAI had bought \$65 mil-

lion Australian (\$33.3 million) in reinsurance coverage from GeneralCologne Re to boost its June 30, 1998, financial results. Testimony indicated that a "side letter" was signed, in which FAI agreed not to make any claims on the policy, so

The Australian Prudential Regulation Authority 'missed every one of the many available opportunities to identify and react decisively to the looming financial problems of the group.'

Wayne Martin
Australian Royal Commission

no actual transfer of risk occurred.

William Thiele, senior vp of General Re Corp., the reinsurer's parent, said in a statement that GeneralCologne Re's "business dealings with FAI were legal and proper." He said the commission has heard testimony from accounting experts that FAI "improperly inflated the financial benefit that could legitimately have been derived from our reinsurance contract. The bottom line is that GCRA had no involve-

ment in FAI's accounting methodology or in its auditor's decision to sign off on FAI's accounting treatment."

Mr. Thiele said, "we are as much a victim as anyone in the demise of HIH. GCRA lost well in excess of \$50 million on business transacted with FAI and HIH during the period 1996-2000" and is pursuing "a wide variety of claims issues with the liquidator pertaining to HIH insurance policies on which we provided reinsurance."

Finite risk coverage for FAI written by National Indemnity Co., a unit of Berkshire Hathaway Co., also is questioned in the submissions, as are stop-loss contracts written for HIH by Hannover Reinsurance Co. and Swiss Reinsurance Co. Mr. Martin testified that regulators share some of the blame for the failure. The Australian Prudential Regulation Authority "missed every one of the many available opportunities to identify and react decisively to the looming financial problems of the group," he said.

APRA responded with a statement last week that said the agency "rejects the submission that it failed in its role as the prudential regulator of the financial services industry as being unbalanced, unfair, inaccurate and unsupported by the evidence."

Fish: Hijackings net ban on coverage

Continued from page 4

ucts company based in Trondheim, Norway. "It is the only European country where fish deliveries are hijacked on an almost serial basis. The general increase in our commercial premiums rose by 5% in 2002. In the case of Italy, the increase was 30%. Premiums like this make exports uneconomic."

And while exporters and trucking companies are facing changes, Norwegian insurers say they are less than impressed with promises by authorities in Italy to provide increased security for Norwegian trucks.

If Skadeforsikring and Storebrand have asked Norway's Ministry of Foreign Affairs to petition the Italian government to put effective measures in place to tackle the hijackings, about 98% of which took place on highways south of Rome.

"We have paid out on 10 claims resulting from hijackings in Italy," said Reidar Saether, If Skadeforsikring's director of security. "In more recent months, truck crews have not (only) been hijacked but also kidnapped and seriously assaulted."

The other 22 claims have or are being processed by Storebrand, Ves-

ta and Gjensidige.

"We have met with the chief of the agency charged with fighting crime on Italian roads," said Mr. Saether. "Their argument is that police authorities are willing to provide additional patrols to secure foreign trucks and their goods. Although Italian police accept content that more is being done, we have seen little improvement in overall highway security. It is obvious that the road transport movements of foreign cargoes are singled out by organized criminal gangs who operate along highways and secondary routes in southern Italy."

In Italy, government officials said police are using adequate resources to protect Norwegian trucks, drivers and cargo.

"All law enforcement agencies in Italy have been made well aware of the escalation in robberies of Norwegian fish consignments and assaults on drivers," said Guido Maldini, a senior security official with Italy's Ministry of Interior Affairs in Rome. "These are very serious crimes, and they are being carried out by very organized crime organizations. We cannot guarantee to protect every single Norwegian truck, but we are doing our best."



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Mental health: Benefit cuts may raise health care costs

Continued from page 4

health plans, Mr. Leary said.

But raising copayments makes it more likely that individuals would forgo needed mental health treatment, said Joe Marlowe, senior vp at Aon Consulting in Philadelphia. That's because mental illness is often harder for people to spot in themselves, Mr. Marlowe said, and because there is a stigma attached to mental illness. Toss in higher costs for treatment, he said, and the level of untreated illness rises, he said.

Rising costs "will create access problems for people," Mr. Marlowe said.

Employers are cutting benefits because they believe that only a small number of employees are affected by mental illnesses. And the stigma still connected to behavioral health—including such conditions as depression, anxiety and substance abuse—means that employees are less likely to protest changes.

"It's easier to cut where you don't think it will have a big impact on a large number of people and your employee base won't shout about it," Ms. Donahue said.

Mental illness, though, is not limited to just a few employees.

Widespread impact

Depression is the second-leading cause of hospitalization in the United States for women age 18 to 44, according to a report issued in December by the federal Agency for Healthcare Research and Quality in Washington. It is surpassed in that age group only by hospitalizations for childbirth. In addition, the National Institute of Mental Health stated in a 2001 study that mental illness was the second-leading cause of disability lost time in

developed countries around the world, surpassed only by heart disease.

By putting up barriers to mental health treatment, employers could be pushing up costs in other areas, causing them to spend more than they save.

"They are looking for short-term gains, and everything I see tells me it would cost them more money down the line," Segal's Ms. Donahue said. "If people don't have easy access to mental health care, they will be sicker and have higher rates of treatment with medical doctors."

Even the disparity between the coverage levels for treatment of mental illnesses and that for other medical conditions makes no sense to some.

"You take a brain and you put a tumor on it, you get it paid at 100%," Mr. Wurzel said. "Take the same brain and you distort it with schizophrenia, and you hardly get any coverage at all."

"I think it's a mistake to cut mental health," said Jeffrey Pettegrew, vp of risk management and insurance for Westaff Inc. in Walnut Creek, Calif. Westaff has not cut its mental health benefits for a number of years, he said.

Mr. Pettegrew said his experience shows that putting up barriers to access to the treatment of mental illness simply increases costs in other areas of the health plan. Such barriers also result in increases in disability and workers compensation costs, he said.

Studies support his view.

Data show higher costs

Watson Wyatt research shows that about 30% to 40% of disability cases stem from be-

havioral health and substance abuse problems, Mr. Leary said. Other research indicates that cutting mental health benefits increases claims in disability and workers compensation programs, "which will cost you more money in the long run," he said.

'If people don't have easy access to mental health care, they will be sicker and have higher rates of treatment with medical doctors.'

Ruth Donahue
The Segal Co.

Further, a study published in the September/October 1999 issue of Health Affairs that looked at a large but unidentified employer from 1993 through 1995 found that when the use of mental health care services dropped, the use of other health care services rose, as did the number of absences.

"In this corporation, reducing mental health care was associated with potentially adverse consequences for employees with mental health problems, with no gain for the employer's bottom line," the study states.

Perhaps a larger cost for employers would be a drop in productivity and a rise in absenteeism by employees with untreated illnesses, Aon's Mr. Marlowe said. "Many employers are taking a very short-term view of this," he said.

A study conducted by Magellan supports his contention. Magellan called the employees of one large telecommunications employer three months after they first contacted

their employee assistance plan or behavioral health plan. Ninety-four percent of the employees surveyed said they had missed fewer workdays after contacting the mental health plans, while 80% reported they were able to complete more work after making the contact.

But not everyone agrees that reducing mental health benefits would cost employers money in other areas.

"The whole argument is quite wrongheaded," said Roland Sturm, senior economist at RAND Corp. in Santa Monica, Calif.

Mr. Sturm said that the most costly individuals to cover are those who are usually too sick to work. And current benefit levels are sufficient to cover most other people's mental health issues, he said.

So individuals' treatment needs are either not very expensive and they are getting the coverage they need or their needs are very expensive and they are unable to work and are thus not part of any employer's plan, Mr. Sturm said. As long as the benefit covered the majority of individuals who need just a small amount of treatment, it would not hurt productivity, he explained.

But some employers take a different view. Sbarro Inc. has not made any cuts in its mental health benefits in years and is considering adding an employee assistance program, said Ash Kilada, vp of risk management and benefits for restaurateur Sbarro Inc. in Commack, N.Y. "At the very least, I won't touch (the level of) mental health benefits," Mr. Kilada said.

He said reducing mental health benefits wouldn't save money because it would increase absenteeism and reduce productivity.

"I think we should be encouraging the use of the benefit," he said.

PBGC: Agency considers ways to improve stability

Continued from page 1

ture losses, the spokesman said.

One possible change that PBGC Executive Director Steve Kandarian has discussed with business groups is linking the amount of the PBGC premium to the type of assets held by pension plans, with higher premiums imposed on plans with more volatile assets, such as equities.

Another possible change would be linking, at least in part, the premium rate an employer pays to its financial condition.

Either idea would be a radical change from the current premium structure, in which premiums are based solely on the funding level of pension plans. Plans that are fully funded pay a base premium of \$19 per participant, while underfunded plans pay an additional premium of \$9 per \$1,000 of plan underfunding.

Any change to the PBGC's premium structure would have to be approved by Congress.

Employer groups, while welcoming the floating of potential reform ideas, are decidedly cool to either proposal.

"The idea that the government effectively would say one company is stronger than another would cause us major heartburn," said Janice Gregory, vp at the ERISA Industry Committee, a Washington-based benefits lobbying group representing many of the nation's largest employers.

But perhaps employers' biggest concern is that the controversial insurance program reforms would be linked and thus could slow action on what they see as the key pension reform issue Congress should address: replacing the current index—based on the 30-year Treasury bond interest rate—that employers use to value pension liabilities. Employers say the low interest rate on 30-year Treasury bonds

has the effect of overstating pension liabilities, forcing employers to contribute more to their pension plans than is necessary and diverting corporate resources that could be better used elsewhere.

"Fixing the index, which has been seriously out of whack for years, is an imperative, and I would hate to see it get bogged down with other proposals that should and would take" legislators a long time to consider, said Chris Bone, chief actuary for Aon Consulting Inc. in Somerset, N.J.

Indeed, Mr. Bone notes, the most significant changes Congress has made to the PBGC's insurance program occurred in 1987, roughly eight years after discussion of those changes began. The 1987 law, among other things, set a variable rate premium under which employers with underfunded plans are assessed an additional premium. Previously, the premium rate was the same for all employers, regardless of the funding levels of their pension plans.

"Broader reforms, which are not fully developed, will take a very long time to resolve. The 30-year Treasury issue has to be addressed now," Ms. Gregory says.

But the PBGC spokesman, while emphasizing that no decision has been made, said that, given the extent of plan underfunding, "We would be uncomfortable if (the index change) were the only change that went through."

The fundamental changes to the PBGC's insurance program currently under consideration would have been nearly inconceivable just a few years ago. Aided by a strong economy, a roaring stock market and the lack of big pension failures, the PBGC by 2000 had amassed a nearly \$10 billion surplus in its single-employer insurance program. That pro-

gram pays benefits to participants in underfunded pension plans that the PBGC has taken over from financially distressed or failed employers.

The financial condition of the PBGC then was so robust that discussion about possible changes to the insurance program centered on reducing the PBGC premium. But, over the last two years, as the both the stock market and the economy have soured, the PBGC's financial condition has rapidly deteriorated as more companies have failed and the value of assets held in their pension plans declined in tandem with the fall in equities markets.

In less than a year, the PBGC has been hit with the two biggest claims in its history—the termination of failed steelmaker LTV Corp.'s pension plan, which the PBGC estimates will cost its insurance program about \$1.7 billion, and the takeover in December of bankrupt Bethlehem Steel Corp.'s pension plan at a cost of more than \$3 billion.

Those losses, and several other major financial hits, likely have all but exhausted the PBGC's surplus. The agency is not expected to report its financial results for 2002 until next month.

Unless the economy rebounds soon, more big losses, such as from struggling airlines, are virtually certain. In all, the PBGC estimates that pension plans it insures had at the end of



This Bethlehem Steel Corp. plant in Bethlehem, Pa., sits idle. The Pension Benefit Guaranty Corp.'s recent takeover of the bankrupt steelmaker's pension plan resulted in the PBGC's largest loss.

PHOTO: WILLIAM THOMAS CAIN/GETTY IMAGES

last year about \$300 billion in unfunded benefits, up from \$164 billion in 2001 and just \$39 billion in 2000.

While business groups acknowledge that the PBGC's financial condition has worsened, they question whether there is any need for immediate congressional action on insurance program-related reforms.

"While the PBGC has experienced a real change in its position, the existence of a deficit does not indicate an inability for it to meet its long-term financial obligations," said James Delaplane, a partner with the law firm of Davis & Harman in Washington.

"There is no need for gloom and doom," ERIC's Ms. Gregory said.

The PBGC has sufficient assets to pay current benefit obligations for the next 17 years, even if it didn't collect any premium income from employers, she added.

Weather: Derivatives deals lead to coverage disputes

Continued from page 1

in Bangkok. Police investigating the murder questioned and released the air force vice marshal, who denied involvement. The vice marshal has also denied defrauding Mr. Mollin and has sued him for defamation, Thai press reports indicate.

Meanwhile, Terra Nova representatives have provided documents relating to Worldwide Weather to federal prosecutors and U.S. Postal Inspection Service investigators in New York, court records show. An investigation of the insurance agency remains open, according to a Postal Inspection Service spokeswoman, who said she could not provide further details. A spokesman for the U.S. Attorney in New York declined comment.

Mr. Mollin has a history of legal and regulatory problems in the United States, court filings say. In 1989, Chubb Corp. sued Mr. Mollin's previous agency for writing more than \$350 million in drought insurance for Midwestern farmers when the agency was authorized to write only up to \$30 million, court papers say.

In the early 1990s, Worldwide Weather used an unauthorized Barbados insurer fronting for an unlicensed California surety company to write rainout coverage for a Garth Brooks concert and hurricane insurance in Florida. A Florida court later ordered Mr. Mollin to pay \$10,000 in restitution and a \$5,000 penalty for alleged wrongful conduct in the state, court papers say.

The Connecticut Insurance Department revoked Mr. Mollin's and Worldwide Weather's licenses in November 2000 after finding that he pocketed the \$490,000 premium on a Terra Nova weather insurance policy he wrote for a Connecticut home heating oil company. Oregon

and New York regulators also later revoked the agency's licenses.

Storm clouds gather

The weather derivative business that created the current tangle of disputes began in mid-1999 and continued for nearly a year until the last of Worldwide Weather's insurers, General Star, rescinded the agency's authority in April 2000, court records show.

The derivative contracts covered energy traders and others—including Enron, Koch Energy Trading Inc., American Re Capital Markets Inc. and Geneva-based Vitol S.A.—against losses resulting from unexpectedly warm weather over defined periods.

Most of the contracts were written by Palladium Insurance Ltd., a Bermuda rent-a-captive then managed by Powerscourt Management Ltd. Palladium and its Platinum Indemnity Ltd. unit secured their obligations with letters of credit from Bank of America. The LOCs required reinsurance, and Palladium and Platinum placed reinsurance through Worldwide Weather with a succession of companies that comprised Terra Nova from May to October 1999, Diamond State from the fall of 1999 to the spring of 2000 and General Star from March to April 2000, court papers say.

By mid-2000, all three reinsurers had repudiated their contracts, charging variously that they were unaware the coverage had been bound and that Worldwide Weather had exceeded its authority.

The energy traders, meanwhile, had made claims under the derivative contracts and drawn down the letters of credit, triggering a cascade of suits by Bank of America, Palladium and Platinum against the reinsurers and by the reinsurers against

others, including Mr. Mollin.

The bank and Platinum, for example, sued Diamond State in U.S. District Court in New York in 2001, charging they are owed \$29 million under multiple reinsurance agreements and that any fraud resulted from Diamond State's failure to investigate Mr. Mollin before signing him up as an agent.

Diamond State filed a separate action against Mr. Mollin, alleging he knew the deals exceeded his authority and that he used his agency's New York-based derivatives trading affiliate, Worldwide Weather Trading, to conceal the business from Diamond State.

Worldwide Weather's contract with the insurer allowed it to write rainout, snow removal and other weather-related insurance but limited the amount of derivative business it could accept, Diamond State says. The contract also barred the agency from writing reinsurance policies or accepting business from non-U.S. policyholders.

Nevertheless, Mr. Mollin wrote 11 reinsurance policies covering Platinum and Palladium derivatives business in 1999 and collected \$7.4 million in premiums. Knowing he could not report the business to Diamond State, he then executed 11 parallel dummy insurance policies naming "Worldwide Weather"—later identified as Worldwide Weather Trading—as the insured. He passed on the \$7.4 million in premium under these policies, Diamond State charges. If Platinum made claims under the reinsurance contracts, Mr. Mollin planned to file claims under the dummy policies to cover the obligations, Diamond State charges.

The insurer says it discovered some of the agency's unauthorized underwriting during a November 1999 audit and suspended World-

wide Weather's authority. Diamond State didn't discover the dummy policies until a February 2000 audit, but accepted Mr. Mollin's offer to cancel the policies in exchange for return of the \$7.4 million premium. Diamond State says it does not know what became of that money.

Even after his authority was suspended, Mr. Mollin issued 10 more Diamond State reinsurance policies to Platinum and collected "millions in additional premiums" before fleeing the country, the insurer charges.

Worldwide Weather Trading, which Mr. Mollin owned and headed as chairman, filed a motion to dismiss Diamond State's complaint, arguing it did not participate in the alleged fraud and should not be held liable for the actions of Mr. Mollin and the Worldwide Weather agency.

Judge McKenna, however, rejected the motion last month, finding Diamond State had outlined its fraud case clearly enough to go to trial.

Ongoing battle

Diamond State's situation is further complicated, meanwhile, by its simultaneous battle against its own reinsurer on the derivative business, Bermuda-based PartnerRe.

According to Diamond State, PartnerRe's U.S. branch first approached it about writing business through Worldwide Weather: PartnerRe wanted to assume weather risks but needed a licensed fronting company to do so.

Under the agreement, Diamond State appointed Worldwide Weather as its agent and retained 10% of the business the agency produced, ceding 90% to Partner Reinsurance Co. of the U.S. PartnerRe's Bermuda underwriting unit later replaced the

U.S. unit as reinsurer under a novation agreement.

Diamond State contends that PartnerRe should have investigated Mr. Mollin's background and should be held liable if Diamond State is ultimately found negligent and required to pay the derivative losses.

Diamond State is arbitrating the dispute with PartnerRe's Bermuda unit, and Judge McKenna ruled last month that it must also arbitrate claims against Partner Re's U.S. unit.

The series of Diamond State disputes represents only one front in the legal war. Complaints have also been filed by:

- Bank of America and Palladium against Terra Nova—now known as Markel International Insurance Co. Ltd.—from which the bank and Palladium are trying to collect \$27 million in derivative losses.

- PXRE against Terra Nova. A jury in U.S. District Court in Newark, N.J., last summer ordered Terra Nova to pay \$9.8 million to PXRE under two reinsurance policies written by Worldwide Weather covering derivative contracts PXRE entered into with Koch and Duke Energy Trading & Marketing L.L.C.

Terra Nova argued that Worldwide Weather's authority was limited to \$500,000 per risk but it bound the two deals for limits of \$6 million and \$4 million. Mr. Mollin later admitted to a Terra Nova investigator that he used the premium from the two policies to pay a \$1.6 million debt to an unrelated client, Terra Nova filings allege. Terra Nova is appealing the jury award.

- General Star, which sought to avoid liability to Bank of America and Platinum under several policies issued by Worldwide Weather. The two sides settled the dispute on undisclosed terms last October.

D&O: Courts see a surge of rescission actions

Continued from page 4

the timing of revenue recognition and resulted in virtually no change to the company's cumulative income and net worth for the three fiscal years ending in April 2002.

Still, Cutter & Buck's stock,

which had begun to slide in May from more than \$7 per share, dropped to \$3.50 by the end of August, and the company was hit with several shareholder class-action suits in the weeks following the announcement.

Cutter & Buck notified its insurers of the suits and in October met with a lawyer appointed by Genesis to discuss a strategy for defending the cases, according to the company's suit.

On Dec. 6, though, the Genesis lawyer notified Cutter & Buck that the insurer intended to rescind both its 2001 and 2002 policies "as a result of the circumstances underlying" the company's restatement of its results, according to Cutter & Buck.

In its lawsuit, filed in U.S. District Court in Seattle, the company charges Genesis with breach of contract and bad faith, arguing that the attempted rescission is "unreasonable...and motivated by greater concern for (Genesis') own financial well being than for the interests of its insureds." Cutter & Buck also said it expects Executive Risk and Lumbermens to try to void their policies in the wake of the Genesis action.

In addition to damages, the suit seeks a declaratory judgment that the policies remain in force.

Genesis and the other insurers have not yet filed answers to the suit. A Genesis official could not be reached for comment on the litigation.

In its lawsuit, Cutter & Buck Inc. argues that the attempted rescission is 'motivated by greater concern for (Genesis Insurance Co.'s) own financial well being than for the interests of its insureds.'

Meanwhile, Genesis and several other D&O insurers are pursuing lawsuits to void coverage they wrote for Homestore, which is the subject of an ongoing investigation by the Securities and Exchange Commission and federal prosecutors.

Four former Homestore officials, including its former COO and CFO,

have pleaded guilty since last October to securities fraud or insider trading charges stemming from a scheme to inflate the company's earnings.

The SEC has charged that company officials engineered a series of "round-trip" transactions, transferring cash to third parties and re-assuming the money as revenue. The transactions inflated Homestore's advertising revenues by \$46 million in the first three quarters of 2001, the agency charges.

Genesis, which issued a D&O policy to Homestore effective in August 2001, is suing in U.S. District Court in Los Angeles to rescind the coverage, charging that the company knowingly provided false financial information when it applied for the policy.

Similar suits have been filed by several other Homestore D&O insurers, including Lumbermens, Chubb's Federal Insurance Co., Royal Indemnity Co., Clarendon National Insurance Co. and TIG Insurance Co. of Michigan, court records show.

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Terror risks: Regulators blast ISO analysis

Continued from page 1

rorism premium increase for commercial property risks in New York City could be 150%, which he called "outrageous."

The outcry comes at a time when insurers in nearly every state are working to quantify the risk of terrorist threats and notify businesses of the premium they would charge to insure the risk. Policyholders would then have the option to buy or refuse the terrorism coverage.

The Terrorism Risk Insurance Act of 2002 was designed to encourage insurers to write terrorism coverage for businesses by creating a federal backstop, in which the government will cover 90% of damages in excess of \$10 billion, up to \$100 billion. Because the law did not create a pooling mechanism, the law relies on free-market forces to set rates.

According to Mr. Mirel, ISO's near-complete filing advises insurers on what they should charge for terrorism coverage of commercial property and liability risks in the first year:

- In tier-one areas, 14 cents per \$100 of insured value.
- In tier-two areas, 7 cents per \$100.
- And in tier-three areas, 0.16 cents per \$100.

Based on that preliminary filing, for each \$1 million of terrorism coverage, a policyholder would pay a premium of \$1,400 in tier one, \$700 in tier two and \$160 in tier three.

"I understand that insurers have to charge more for terrorism risks and they are looking to rating agencies to tell them how much. But the

rating advice has to be reasonable, logical and defensible and, to me, ISO's assumptions are off the wall," Mr. Mirel said.

For example, he said, the analysis considers the District of Columbia alone and not as part of a larger metropolitan area. Consequently, neighboring Arlington, Va.—where terrorists flew a plane into the Pentagon—is considered part of a "low hazard" third-tier area, despite in-



'The rating advice has to be reasonable, logical and defensible and, to me, ISO's assumptions are off the wall.'

Larry Mirel
District of Columbia
Insurance Commissioner

curred actual terrorism losses, he said.

A spokesman for AIR said that it was asked to model its data on a county-by-county basis, which resulted in the District of Columbia being considered as a separate entity.

Mr. Mirel also questions the model's terrorism threat assumptions. For example, he said he was told that ISO's catastrophe consultants are anticipating that there will be one terrorist attack each year for the next 20 years.

Meanwhile, New York's Mr. Serio said, "We are extremely curious to see how they can rationalize an increase" without more historical data.

Both regulators say they will carefully scrutinize ISO's final terrorism filings for their tier-one jurisdictions, once they receive it.

Mr. Mirel said that if the District of Columbia filing resembles the preliminary data he saw, he would reject it.

Depending upon a jurisdiction's law, ISO could appeal any such rejection or let the filing stand, though an insurer using it to justify

and the Defense Department. It also created a comprehensive database of more than 300,000 national landmarks, said S. Ming Lee, an AIR senior vp.

While the terrorism model reflects a general assumption that landmarks and potential targets would enhance their security efforts to foil terrorists, AIR is looking into providing an individualized program that would help companies to design security plans, he added.

While it is understandable that regulators and policyholders may be concerned about ISO's efforts to determine a price for terrorism protection, "federal law does not provide any mechanism for spreading the cost of coverage," said Carole J. Banfield, ISO executive vp.

The stakes are high, though. ISO's terrorism risk assessment could determine a community's economic viability, because some property owners may flee expensive, high-risk areas for inexpensive, lower-risk ones.

Risk managers so far have little to say about the impact of the process on their organizations. Many have not yet received the premium notices from their insurers.

"The marketplace is currently dictating the cost of coverage, which affects the appetite of the potential policyholder," said Lance J. Ewing, executive director of risk management at Park Place Entertainment in Las Vegas. He is also first vp and chief risk officer for the New York-based Risk & Insurance Management Society Inc.

"The marketplace can be vicious, at times," he said.

rates could itself face regulatory scrutiny and possible sanctions.

ISO expects to have a final filing for tier-one areas "in coming weeks," after it finishes evaluating modeling data related to nuclear, biological and chemical terrorism risks, according to Stephen Noceti, vp-government relations for ISO.

The ratemaking organization already made similar filings in the tier-two and tier-three areas, "though this is not a static, one-time thing...because of the developing science and information base," he said.

ISO defended the terrorism risk analysis. In developing its model, AIR employed a team of counterterrorism specialists from the CIA, FBI

TERRORISM RISK TIERS

<p>Tier 1 High hazard</p> <p>Cook County, Ill. (Chicago)</p> <p>New York City (all boroughs)</p> <p>San Francisco County, Calif.</p> <p>Washington D.C.</p>
<p>Tier 2 Moderate hazard</p> <p>Harris County, Texas (Houston)</p> <p>King County, Wash. (Seattle)</p> <p>Los Angeles County, Calif.</p> <p>Philadelphia</p> <p>Suffolk County, Mass. (Boston)</p>
<p>Tier 3 Low hazard</p> <p>Remainder of the U.S.</p>
<p>Source: ISO</p>

Reinsurers: Europeans cutting back on U.S. business

Continued from page 4

tions Life Reinsurance Co. (U.S.) had gross written premiums of 134 million euros (\$135.2 million), AXA said. AXA Re Finance had gross written premiums of 74 million euros (\$74.7 million).

AXA stressed that it would continue to write U.S. reinsurance business via its Paris-based subsidiary AXA Re, focusing primarily on property catastrophe, nonproportional reinsurance.

AXA's decision to run off the U.S. units was likely fuelled by a desire to focus on efficient use of capital, said Greg Carter, an analyst at Fitch Ratings in London. If capital is tied up in the United States, it has to be used to write U.S. business, he said, but by moving that capital back to Paris, AXA can use it either to write U.S. reinsurance out of Paris or to write other lines, he noted.

Other major European reinsurers have made similar moves in recent months.

After announcing an estimated loss of 425 million euros (\$449.6 million) for 2002, SCOR's newly appointed chairman, Denis Kessler, late last year announced a turnaround plan for the group. That plan included a push to reduce the Paris-based company's premium volume by 600 million euros

(\$605.4 million)—or 10%—in the coming year and to adopt a "very selective underwriting policy."

Underwriting in the United States and Bermuda will be significantly cut back, Mr. Kessler said. He predicted that SCOR's writings in U.S. property/casualty business

'Across the board, in almost every market in the world now, rates are going up, and you can grow. ... And I think people say, "Well, let's grow at home; let's do what we do best."'

John R. Berger
Chubb Re

would be cut by about 30% in 2003. In 2001, North American property/casualty business accounted for about 1.57 billion euros (\$1.58 billion) in premiums.

SCOR's projected loss for 2002 stems, in part, from 340 million euros (\$343.1 million) in reserve increases and from investment losses, the reinsurer said. Reserve boosts include an addition of 154 million euros (\$155.4 million) to the reinsurer's U.S. unit, SCOR U.S., bring-

ing its reserves to 2.6 billion euros (\$2.62 billion). The reserve increases apply largely to expected losses for business written between 1998 and 2001 and to program business, which SCOR exited at the end of 2001.

The years 1997 to 2000 produced poor results for reinsurers writing business in the United States, not just Europeans, according to John R. Berger, president and CEO of Bearardville, N.J.-based Chubb Re. Those results may—despite the lure of increased rates last year and this—have prompted the management boards of some European companies to question the appropriate extent of their presence in the United States.

And while the balance sheets of some of the big European reinsurers are "still incredibly strong, they are nowhere near as strong as they used to be," said Mr. Berger.

European companies' investment in equity portfolios has traditionally been much higher than that of their U.S. counterparts, he noted, and the recent troubled equity markets have served to reduce the market capitalization of many European companies.

"Across the board, in almost every market in the world now, rates are going up, and you can grow,"

said Mr. Berger. "And I think people say, 'Well, let's grow at home; let's do what we do best.'"

Prior year liabilities, such as long-tail asbestos claims, have plagued many companies writing reinsurance in the United States, according to Steven Bolland, senior vp of the New York-based intermediary Gill & Roeser Inc.

It has been a tough time for the European reinsurers—they have basically had a "double whammy," Mr. Bolland said. "Reserve developments in the U.S. have been very bad, but also, as a general rule, European companies tend to hold more of their investment portfolio in stocks rather than bonds, and, therefore, they seem to be having to

write down their investment results," he said.

"I think they've said, 'In a market where pricing is very good but we have still got problems regarding prior years, maybe we should go back and look at our business and see where the best opportunities are,'" Mr. Bolland said.

Companies may feel that they have greater control over their results nearer to home, he added. "I think nearly every office says, 'I can control an office very close to me a lot easier than I can control an office thousands of miles away,'" he said. "And with electronic transfers of information and all the modern gadgets, do you need an office in the U.S.?"

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INDEX

Issue of January 20

ADVERTISER	PAGE #
Aetna Corporate	5
Aon Corporation	2
Business Insurance	9, 10A/D
Lloyd's of London	7
Risk and Insurance Management Society	15
Royal & SunAlliance	20

January 20, 2003

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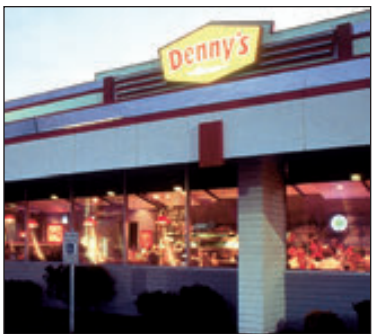


PHOTO: AP/WIDE WORLD

Denny's liable for comp claim after buying cover

Denny's Inc. placed itself in the position of a private insurer, making it entirely liable for a workers compensation claim that continued after the company stopped self-insuring, a California appeals court found. The restaurant chain had argued that, as its insurer was insolvent, the California Insurance Guarantee Assn. should shoulder 80% of the workers comp claim, because that portion of the claim occurred after the company purchased coverage.

disability business and the renewal rights to its life insurance business. Terms of the deal were not disclosed, but the purchase should add about £40 million (\$64 million) in premium revenues to UnumProvident's U.K. unit. The transaction is subject to regulatory approval.

Former AXA Re exec moves to Partner Re

Jean-Marie Nessi, formerly head of AXA S.A.'s reinsurance operations, has joined PartnerRe Ltd. as a senior executive at its international reinsurance unit. Mr. Nessi was named head of the property/casualty business unit of PartnerRe Global. He previously headed AXA's reinsurance and large commercial insurance unit until he left after a series of management changes at AXA last year to establish a \$700 million reinsurer in Bermuda to be called D'Artagnan Holding Ltd. Those plans were shelved, though, after the company failed to attract sufficient capital, according to sources.

ERC loss prevention unit merged into IRI division

GE Commercial Insurance has merged its Global Asset Protection Services unit into Industrial Risk Insurers. The move came shortly after IRI increased its primary limits to \$25 million, an increase from the \$10 million available last year. The integration of GAP Services—which provides loss prevention services—

into an expanded IRI will allow the unit to provide insurance capacity, unbundled loss control services or a combination of both, according to an IRI statement.



PHOTO: ALEX WONG/GETTY IMAGES

Steve Kandarian, executive director of the PBGC, told Congress that it shouldn't give U.S. Airways decades longer to meet pension obligations.

PBGC opposes plan to ease airline's pension burden

The head of the Pension Benefit Guaranty Corp. warned a congressional committee that a "dangerous precedent" would be set if Congress passes legislation to give US Airways Inc. decades longer to meet its massive pension obligations. Under that legislation, the PBGC would terminate the airline's plans and then restore them to the bankrupt airline. But passage of this "special relief" would give other financial distressed companies a "blueprint" to seek the same approach, said PBGC Executive Director Steve Kandarian.

P/C insurers struggle despite rate hikes: Fitch

Commercial insurers have managed

to push through significant rate increases over the past year, but reserve increases and growing loss costs are dragging down their results, according to rating agency Fitch Inc. Commercial insurers will likely report a 104.6% combined ratio for 2002, compared with a 116.8% ratio for 2001, Fitch said. "Several trends...have continued to drag on commercial lines underwriting. These include additional asbestos and environmental losses, increased reserves strengthening from prior accident years—particularly 1997-2000—additions to Sept. 11, 2001, losses, and a continued rise in loss costs," Fitch said.

Supreme Court declines automaker asbestos case

The U.S. Supreme Court declined without comment to take up *DaimlerChrysler vs. Official Claimants of Federal-Mogul Global Inc.*, in which automakers sought to move certain asbestos-related state liability lawsuits stemming from the use of asbestos in brakes into federal bankruptcy court. DaimlerChrysler

and other automakers wanted to be named "related parties" in the bankruptcy of automobile parts manufacturer Federal-Mogul Global Inc., so that claims against the automakers could be consolidated in federal court. But both a federal district court and the 3rd U.S. Circuit Court of Appeals rejected the car makers' arguments.

Briefly noted

California Insurance Commissioner John Garamendi said he will ask an appeals court to review a lower court's ruling that upheld settlements reached between former Insurance Commissioner Chuck Quackenbush and several personal lines insurers. The settlements involved claims stemming from the 1994 Northridge earthquake... Property/casualty insurers last year were collectively **underreserved by \$38.5 billion**, compared with \$16 billion in 2001, according to Conning Research & Consulting Inc. The 2002 reserve deficit grew despite an 8% increase in insurer reserves last year, Conning estimates.



UnumProvident acquires U.K. book of business

UnumProvident Corp. has agreed to buy Sun Life Financial Services of Canada Inc.'s U.K. group long-term

Torts: Major reform not likely

Continued from page 4

other two acts cited by Mr. Schwartz would not have barred a single previous lawsuit that had been filed.

Mr. Schwartz, of course, disagreed with Mr. Baron and the ATLA's contention, holding that about a dozen tort reform measures had received congressional approval over the years.

Mr. Baron, who stressed that he spoke only for himself and not for the ATLA in the debate, called tort reform a modern movement designed to create an advantage for business. "More money has been spent on lobbying" for reforms than would have been saved if the reforms sought had become law, he charged.

Mr. Baron—who made his reputation representing people suffering from asbestos-related maladies—questioned whether an asbestos "crisis" actually exists. The overwhelming majority of asbestos claims are settled before trial, he said. "It's a myth that the seriously injured victims are not being com-

pensated," he said.

Mr. Baron added that there might be some ground for consensus regarding the compensation of victims of asbestos-related illness because labor and the trial bar would like to compensate victims more quickly and effectively while

'More money has been spent on lobbying' for reforms than would have been saved if the reforms sought had become law.

*Frederick Baron
Assn. of Trial Lawyers of America*

businesses would like to retire their liabilities. But any such consensus could not diminish anyone's rights to seek redress, he said.

Both lawyers also addressed the growing issue of medical liability, which has been underscored by a physicians strike in West Virginia over medical malpractice insurance

costs. If doctors lobby hard for reform, "this thing could have legs," said Mr. Schwartz, who said that physicians who treat lawmakers ought to make their concerns known to their legislator-patients.

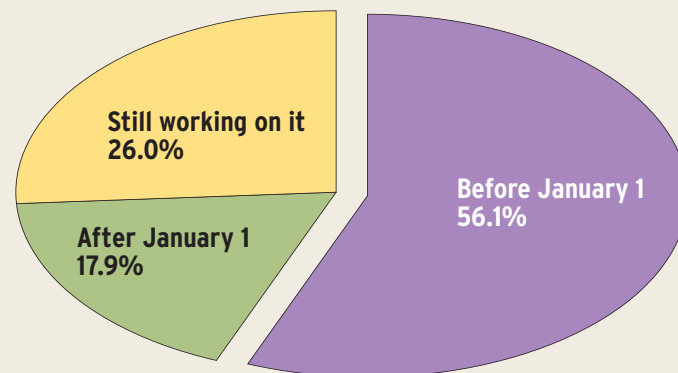
Mr. Schwartz said that Congress would step in if the states failed to act, noting that some doctors have moved their practices across state lines to escape what they perceive as an unjust liability exposure. "Doctors should practice where patients need them, not where tort laws seem favorable," he said.

"We're dealing with a regulatory problem at the state level," countered Mr. Baron. Medical malpractice crises happen when insurers' investment portfolios have taken a hit, he said. State insurance regulators need to deal with the question of rising rates, he said, and state agencies need to do more to remove bad doctors from the practice of medicine, he said.

The ATRA-sponsored debate took place at Washington's National Press Club.

Online Poll [1/13 - 1/17]

When were your year-end renewals completed?

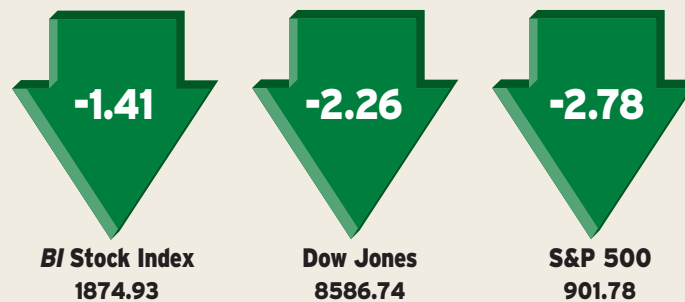


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BI Stock Index [1/13 - 1/17]

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Percentage change of BI Stock Index vs. key indicators



Largest gains

Gainsco Inc.	16.67%
WellChoice Inc.	11.71%
Sierra Health Services	10.19%
Hub International	9.58%
NYMagic Inc.	5.88%

Largest losses

Zenith National Ins.	-10.46%
Odyssey Re Holdings	-9.01%
Vesta Insurance Co.	-7.33%
Argonaut Group	-7.25%
Ohio Casualty Co.	-6.67%

Weekly change by market segment

Brokers	-1.74%
Insurers/Reinsurers	-2.01%
Managed Care Organizations	3.36%

Source: CNET Investor (investor.cnet.com)